

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Alison Renee Lee, Circuit Court Judge

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S.C. Supreme Court

JEREMY BATTS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000840

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE CIRCUIT COURT OF
FIFTH JUDICIAL CIRCUIT
2009-DR-40-10337;10338
10446;13217

STATE OF SOUTH CAROLINA.,)
PLAINTIFF,)
-V-)
JEREMY MAURICE BATTS.,)
DEFENDANT.)

TRANSCRIPT OF RECORD

APRIL 26, 2010
COLUMBIA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE L. CASEY MANNING, JUDGE.

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

MR. DAN GOLDBERG
MS. LUCK CAMPBELL
ASSISTANT SOLICITOR'S
FIFTH JUDICIAL CIRCUIT
COLUMBIA, SOUTH CAROLINA
FOR THE PLAINTIFF

MS. NICOLE SINGLETARY
MS. JENNIFER DAVIS
ASSISTANT PUBLIC DEFENDER'S
FIFTH JUDICIAL CIRCUIT
COLUMBIA, SOUTH CAROLINA
FOR THE DEFENDANT

ORIGINAL

WANDA NELSON, CVR
OFFICIAL COURT REPORTER
SIXTEENTH JUDICIAL CIRCUIT
AT LARGE

1 (ON THE RECORD AT 3:40 P.M..)

2 THE COURT: Thank you very much, ladies and gentlemen,
3 please take your seats.

4 SOLICITOR GOLDBERG: The State calls Jeremy Batts.

5 MADAME CLERK: Raise your right hand please.

6 (WHEREUPON: JEREMY BATTS,
7 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:).

8 THE COURT: Yes, sir, Solicitor.

9 SOLICITOR GOLDBERG: Yes, Your Honor, may it please
10 the court. Before you is Jeremy Batts with his attorneys
11 Nicole Singletary and Jennifer Davis. Mr. Batts is before
12 you to plead guilty on five true bill indictments one for
13 assault and battery with intent to kill; one for assault
14 with intent to kill and one discharging a firearm inside a
15 vehicle, one use of a firearm during the commission of a
16 violent crime and one CDC 2nd. The State will be noll
17 prosing three assaults with intent to kills. From my
18 understanding in speaking to Your Honor's office and
19 counsel it's everyone's intention to accept the plea and
20 reserve sentencing and mitigation and the like for a
21 mutually convenient time later in the week.

22 THE COURT: Is somebody at a funeral?

23 SOLICITOR GOLDBERG: Our victim.

24 THE COURT: Were these his people or relatives?

25 SOLICITOR GOLDBERG: Yes, sir, Your Honor.

1 THE COURT: All right. I will take the plea and give
2 everybody a chance to do their best job. Is that fair
3 enough?

4 MS. SINGLETARY: Yes, Your Honor.

5 THE COURT: This displaying a firearm into a vehicle
6 what's that five years or ten?

7 SOLICITOR GOLDBERG: I believe it's five is it not?

8 THE COURT: Like discharging into a dwelling the same
9 thing? I'm guessing I don't know for sure.

10 MS. SINGLETARY: It's suppose to be five, Your Honor.

11 THE COURT: I guess I will take your word for it even
12 though you are from Lake City.

13 MS. SINGLETARY: Yes, Your Honor.

14 THE COURT: Ms. Singletary and Ms. Davis, you all
15 represent Jeremy Batts; is that correct?

16 MS. SINGLETARY: Yes, Your Honor, we do.

17 THE COURT: Have you all explained to Mr. Batts the
18 charges contained in these five indictments the possible
19 punishments and his rights including his constitutional
20 right to a jury trial?

21 MS. SINGLETARY: We have, Your Honor.

22 THE COURT: And in your opinion does Mr. Batts
23 understand the charges and the punishment and his rights?

24 MS. SINGLETARY: He does, Your Honor.

25 THE COURT: How does he indicate to you he wishes to

1 plead guilty or not guilty?

2 MS. SINGLETARY: Guilty, Your Honor.

3 THE COURT: Do you both agree with his decision to do
4 so?

5 MS. SINGLETARY: Yes, Your Honor.

6 THE COURT: All right. From your investigation of the
7 facts and circumstances surrounding these cases do you feel
8 that the state could produce sufficient evidence to
9 convince a jury here in Richland County of Mr. Batts guilt
10 beyond a reasonable doubt if he were to stand trial on
11 these charges his convictions would be probable?

12 MS. SINGLETARY: Yes, Your Honor, we've done extensive
13 investigations. We had an investigator on the case; we
14 also had three expert witnesses, Your Honor. We also had
15 two crime scene experts as well as a GSR expert, Your
16 Honor. And at the conclusion after speaking with Mr. Batts
17 and looking at the facts we came to the conclusion that
18 this was the best decision for him.

19 THE COURT: All right. Now you are Jeremy Batts; is
20 that correct?

21 MR. BATTS: Yes, sir.

22 THE COURT: Mr. Batts, before I can accept your plea
23 of guilty it stands, sir, for me to make certain that you
24 are making this plea freely and voluntarily. To do that,
25 sir, I need to ask you a series of questions. At any point

1 during my questioning of you if you do not understand
2 anything I say or any words that I use just stop me and I
3 will be more than happy to repeat or explain anything else
4 to you, Mr. Batts. Additionally Mr. Batts I will be more
5 than happy to stop this plea and allow you as much time as
6 you may need to consult with your lawyer's Ms. Singletary
7 and Ms. Davis; do you understand, sir?

8 MR. BATTIS: Yes, sir.

9 THE COURT: How old are you, Mr. Batts?

10 MR. BATTIS: Twenty-eight, sir.

11 THE COURT: How far did you go in school?

12 MR. BATTIS: To the eleventh grade.

13 THE COURT: The eleventh grade.

14 Is something wrong? Okay.

15 What kind of work have you done, Mr. Batts?

16 MR. BATTIS: I worked at a tree company.

17 THE COURT: Mr. Batts, have you ever been treated for
18 the abuse of alcohol or drugs or for mental illness?

19 MR. BATTIS: No, sir.

20 THE COURT: Have you taken any medications, drugs or
21 alcohol in the past twenty four hours?

22 MR. BATTIS: No, sir.

23 THE COURT: Are you today aware of any physical,
24 nervous or emotional problems that might keep you from
25 understanding what you are doing?

1 MR. BATTS: No, sir.

2 THE COURT: You know what you are doing, Mr. Batts; is
3 that fair enough?

4 MR. BATTS: Yes, sir.

5 THE COURT: Do you agree, Ms. Davis and Ms.
6 Singletary, Mr. Batts understands, knows and appreciates
7 what he is doing here today?

8 MS. SINGLETARY: I do, Your Honor.

9 THE COURT: Now, Mr. Batts, you heard Ms. Singletary
10 speak for both of your lawyers tell me that they have
11 explained to you the charges contained in these five
12 indictments and the possible punishments and your rights
13 including your constitutional right to a jury trial and
14 that you understand these things. Is that correct, Mr.
15 Batts?

16 MR. BATTS: Yes, sir.

17 THE COURT: Mr. Batts, you are first before me on
18 Indictment No. 2009-10338 the State versus Jeremy Batts.
19 This is an indictment for displaying a firearm into a
20 vehicle while occupied which means shooting into a car. Do
21 you understand this charge, sir?

22 MR. BATTS: Yes, sir.

23 THE COURT: This indictment, Mr. Batts, alleges that
24 you did here in Richland County on or about December the
25 11th of 2008 discharged or caused to discharge unlawfully a

1 firearms at or into a vehicle while it was occupied. Do
2 you understand this allegation, Mr. Batts?

3 MR. BATTS: Yes, sir.

4 THE COURT: This is what you want to plead guilty to?

5 MR. BATTS: Yes, sir.

6 THE COURT: Do you realize that by pleading guilty to
7 shooting into a car, Mr. Batts, you could go to jail for
8 five years?

9 MR. BATTS: Yes, sir.

10 THE COURT: Knowing then, sir, that you can go to
11 prison for five years for pleading guilty to this charge do
12 you still wish to plead guilty to it?

13 MR. BATTS: Yes, sir.

14 THE COURT: All right. Next, Mr. Batts, I have before
15 me Indictment No. 2009-10446 the State versus Jeremy Batts.
16 This is an indictment for assault with intent to kill. Do
17 you understand this charge, sir?

18 MR. BATTS: Yes, sir.

19 THE COURT: The indictment, Mr. Batts, alleges that
20 you did here in Richland County on or about December the
21 11th of 2008 with malice aforethought commit an assault with
22 intent to kill Doris Clark that you shot at her. I think
23 you might have grazed her or something like that. I can't
24 remember but you understand the charge don't you?

25 MR. BATTS: Yes, sir.

1 THE COURT: And this is what you want to plead guilty
2 to is that correct?

3 MR. BATTS: Yes, sir.

4 THE COURT: Do you realize that by pleading guilty to
5 assault with intent to kill, Mr. Batts, that you can go to
6 jail for twenty years?

7 MR. BATTS: Yes, sir.

8 THE COURT: Knowing then, sir, that you can go to
9 prison for twenty years by pleading guilty to this charge
10 do you still wish to plead guilty to it?

11 MR. BATTS: Yes, sir.

12 THE COURT: All right next, Mr. Batts, I have before
13 me Indictment No. 2009-13217 State versus Jeremy Batts this
14 is an indictment for assault and battery with intent to
15 kill. Do you understand this charge and the distinction?

16 MR. BATTS: Yes I do, sir.

17 SOLICITOR GOLDBERG: If I may, I hate to interrupt.
18 The previous charge you mentioned the assault with intent
19 to kill only carries up to ten years.

20 THE COURT: Okay. That's right assault with intent to
21 kill carries ten years so back up a little bit. Assault
22 and battery with intent to kill carries up to twenty years
23 what I'm about to agree to you now

24 MR. BATTS: Yes, sir.

25 THE COURT: Do you understand that?

1 MR. BATTS: Yes, sir.

2 THE COURT: Assault is shooting at somebody or missing
3 them or trying to hit them and miss them. Assault and
4 battery is when you connect with something so Indictment
5 2009-13217 is assault and battery with intent to kill. And
6 the allegations are, Mr. Batts, that you did here in
7 Richland County on or about December the 11th of 2008 with
8 malice aforethought commit an assault and battery upon one
9 Doris Clark. It says with the intent to kill the victim.
10 You understand this allegation don't you?

11 MR. BATTS: Yes, sir.

12 THE COURT: This is what you want to plead guilty to
13 is that correct?

14 MR. BATTS: Yes, sir.

15 THE COURT: Realizing that by pleading guilty to
16 assault and battery with intent to kill, Mr. Batts, you can
17 go to jail for twenty years?

18 MR. BATTS: Yes, sir.

19 THE COURT: Knowing then, sir, that you can go to
20 prison for twenty years by pleading guilty to this charge
21 do you still wish to plead guilty to it?

22 MR. BATTS: Yes, sir.

23 THE COURT: All right. Next, Mr. Batts, I have before
24 me Indictment 2009-10337 State versus Jeremy Batts this is
25 an indictment for use of a firearm during the commission of

1 a violent crime. Do you understand this allegation? I
2 mean do you understand this charge?

3 MR. BATTS: Yes, sir.

4 THE COURT: All right. The indictment alleges that
5 you did here in Richland County on or about December the
6 11th of 2008 possess or visibly display a firearm or visibly
7 display a knife during the commission or attempt the
8 commission of a violent crime where there is an assault and
9 battery with intent to kill. You used a gun is basically
10 what they are saying. Do you understand this allegation
11 and do you want to plead guilty to the use of a firearm
12 during the commission of a violent crime, is that correct?

13 MR. BATTS: Yes, sir.

14 THE COURT: Do you realize that by pleading guilty to
15 this charge, Mr. Batts, you can go to jail for five years I
16 think it is?

17 Am I correct on that, Solicitor?

18 SOLICITOR GOLDBERG: Yes, sir.

19 THE COURT: Do you understand that?

20 MR. BATTS: Yes, sir.

21 THE COURT: Knowing that, Mr. Batts, that you can go
22 to jail for five years on this charge you still want to
23 plead guilty to it?

24 MR. BATTS: Yes, sir.

25 THE COURT: Next, Mr. Batts, I have before me

1 Indictment No. 2009-5844 the State versus Jeremy batts.
2 This is an indictment for criminal domestic violence 2nd
3 offense? Do you understand this charge?

4 MR. BATTIS: Yes, sir.

5 THE COURT: The allegations are, Mr. Batts, that you
6 did here in Richland County on or about May 24th of 2008
7 cause physical harm or offer to attempt to cause physical
8 harm to the victim Tina Marie Tillman a household member
9 with apparent present ability and circumstances reasoably
10 creating fear of imminent peril and you had been previously
11 been convicted of criminal domestic violence making it a 2nd
12 offense pretty much. Do you understand that allegation?

13 MR. BATTIS: Yes, sir.

14 THE COURT: And you want to plead guilty to CDV 2nd is
15 that correct?

16 MR. BATTIS: Yes, sir.

17 THE COURT: Do you realize that by pleading guilty to
18 criminal domestic violence 2nd offense that you can go to
19 jail for up to one year but certainly no less than thirty
20 days I think it is.

21 Is that right?

22 MS. SINGLETARY: Yes, Your Honor.

23 THE COURT: Do you understand that, Mr. Batts?

24 MR. BATTIS: Yes, sir.

25 THE COURT: Knowing then, sir, that you can to go to

1 prison for one year by pleading guilty to this charge do
2 you still wish to plead guilty to it?

3 MR. BATTS: Yes, sir..

4 THE COURT: Now, Mr. Batts, are you currently on
5 probation or parole for any prior offenses?

6 MR. BATTS: No, sir.

7 THE COURT: Mr. Batts, I can run these sentences on
8 these five indictments consecutively that is put one after
9 the other. This I think you are looking at fifty-one years
10 in jail.

11 Is that right? Did you all add that up? Is it fifty
12 one years?

13 MS. SINGLETARY: No. Yeah it's going to be forty one,
14 Your Honor.

15 SOLICITOR GOLDBERG: Forty one.

16 THE COURT: Forty one years. All right. All right,
17 Mr. Batts, it's forty one instead of fifty one. Something
18 must have been dropped. Let me make sure. Five years.
19 Assault and battery twenty years that's twenty-five. See
20 if I ran these sentences stack them on top of each other in
21 this stack for these five indictments you are pleading

22 guilty to you are looking at forty one years in jail. Do

23 you understand that do you not?

24 MR. BATTS: Yes, sir.

25 THE COURT: Knowing then, sir, that you could go to

26 this stack for these five indictments you are pleading

guilty to you and looking at forty one years in jail. Do

jail for forty one years by pleading guilty to these five

charges do you still wish to plead guilty to them?

MR. BATTS: Yes, sir.

THE COURT: Now, Mr. Batts, when you plead guilty you have to give up certain basic rights. First of all you have to give up your right to remain silent. Now this is your right against self incrimination, Mr. Batts. This is your right to say nothing at all. No one can compel you to come into court to provide evidence so to testify against yourself. Do you understand this, Mr. Batts?

MR. BATTS: Yes, sir.

THE COURT: Do you?

MR. BATTS: Yes, sir.

THE COURT: Secondly, Mr. Batts, when you plead guilty you have to give up your right to a jury trial. That is your right for a jury here in Richland County to decide whether you are guilty of these five charges beyond a reasonable doubt. A jury would base it's decision on whatever evidence the State would introduce at trial against you and also on whatever evidence you and your lawyers Ms. Singletary and Ms. Davis may wish to introduce. Now, Mr. Batts, I emphasize you may wish to introduce, sir, because at a trial you would be presumed innocent you would not have to prove anything and you could not be convicted unless the state convinced all twelve jurors of your guilt.

1 beyond a reasonable doubt. The jury's decision would have
2 to be unanimous all twelve would have to agree that you are
3 guilty on all five of these charges. Do you understand
4 that, Mr. Batts?

5 MR. BATTS: Yes, sir.

6 THE COURT: Thirdly, Mr. Batts, when you plead guilty
7 you give up your right to confront and to be confronted by
8 the witnesses against you. That is your right to see, hear
9 and cross examine any witnesses the state may call to
10 testify against you during a trial. And also, Mr. Batts,
11 when you plead guilty you give up your right to subpoena
12 and call witnesses on your own behalf. Do you understand
13 that, sir.

14 MR. BATTS: Yes, sir.

15 THE COURT: Now do you understand these rights I just
16 mentioned to you, Mr. Batts?

17 MR. BATTS: Yes, sir, I do.

18 THE COURT: Do you understand, sir, that when you
19 plead guilty you have to give up these constitutional
20 rights? Now is that what you want to do?

21 MR. BATTS: Yes, sir.

22 THE COURT: You want to give up your constitutional
23 rights?

24 MR. BATTS: Yes, sir.

25 THE COURT: Now you realize you will not receive a

1 jury trial on any of these five charges by pleading guilty
2 to them. You understand that don't you?

3 MR. BATTS: Yes, sir.

4 THE COURT: Now once again, Mr. Batts, you are
5 pleading guilty to the use of a firearm during the
6 commission of a violent crime that carries up to five years
7 in jail. You are pleading guilty to assault and battery
8 with intent to kill that carries up to twenty years in
9 jail. You are pleading guilty to assault with intent to
10 kill that carries up to ten years in jail. You are
11 pleading guilty to discharging and displaying a firearm
12 into a vehicle while occupied that carries five years. And
13 you are pleading guilty to criminal domestic violence
14 second offense which carries one year. I've explained to
15 you already, sir, that you are facing forty one years in
16 the penitentiary by pleading guilty to these five charges.
17 And of course you are giving up all your constitutional
18 rights, Mr. Batts. Considering what I just said to you,
19 Mr. Batts, I ask you once again how do you wish to plead to
20 these charges guilty or not guilty?

21 MR. BATTS: Guilty, sir.

22 THE COURT: Do you realize, Mr. Batts, that when you
23 plead guilty you admit the truth of the allegations
24 contained in these five indictments against you. Do you
25 understand that?

1 MR. BATTS: Yes, sir.

2 THE COURT: I tell you that, sir, because you may have
3 some defenses to these charges, Mr. Batts. Of course I
4 have no way of knowing that but you need to realize that by
5 pleading guilty here today you give up any defenses you
6 might have. Do you understand that, sir?

7 MS. SINGLETARY: I beg the court's indulgence.

8 THE COURT: Take your time.

9 (PAUSE.)

10 MS. SINGLETARY: Your Honor, my client is trying to
11 get clarification for what you meant when you said that
12 when you plead guilty you give up all defenses.

13 THE COURT: I mean your constitutional right to a jury
14 trial and to remain silent and that sort of thing. But you
15 don't give up all your rights. There's still plenty of
16 attended rights to follow even the guilty plea that I will
17 explain to you later on but you give up your right to a
18 jury trial; do you understand that?

19 MR. BATTS: Yes, sir.

20 THE COURT: That's basically what I'm saying.

21 MR. BATTS: Yes, sir. I'm sorry.

22 THE COURT: Do you understand that now?

23 MR. BATTS: Yes, sir. I apologize.

24 THE COURT: Mr. Batts, this is why I said to you from
25 the very beginning anything you don't understand; any

1 words, anything, just let me know and I will be happy to
2 stop and let you talk as long you need to. This is a most
3 important period of your life probably. So I understand
4 your hesitations and if you are not sure please stop me and
5 I really mean that. My job is to make sure you know what
6 you're doing. That's why I ask these questions sort of
7 over and over two or three different ways to make sure that
8 you understand what you are doing. So do you understand
9 the three rights that I just mentioned to, to remain
10 silent, a jury trial and the right to confront the people
11 who will testify against you? You are waiving all of those
12 by pleading guilty that's what I meant. Do you understand
13 that?

14 MR. BATTS: Yes, sir.

15 THE COURT: Now I tell you that because additionally
16 when you were arrested by the Richland County Sheriff's
17 Department you may have given some type of incriminating
18 statement that is made some admission or confession about
19 your guilt. You realize that by pleading guilty here today
20 you waive your right to later on challenge or contest if
21 you gave any statements whether or not they were taken or
22 obtained from you freely and voluntarily in accordance with
23 your constitutional rights. Do you understand that? Do
24 you?

25 MS. SINGLETARY: I beg the court's indulgence - -

1 THE COURT: I don't know if he confessed or not but
2 I've got to explain that to him. He didn't?

3 MS. SINGLETARY: Yes.

4 THE COURT: Okay. It doesn't really apply but it's
5 part of what I tell each defendant. Some people give
6 statements and if the police beat a statement out of you or
7 if they tricked you into making a statement then you waive
8 it by pleading guilty. That's a problem if you didn't give
9 a statement.

10 MS. SINGLETARY: He did give a statement.

11 SOLICITOR GOLDBERG: I don't know if it would be
12 classified as an admission but there was a statement after
13 he was - -

14 THE COURT: But it was not a confession?

15 SOLICITOR GOLDBERG: It depends on how you might look
16 at it.

17 THE COURT: Okay.

18 SOLICITOR GOLDBERG: There would be a Jackson v. Denno
19 hearing; I'll put it that way.

20 THE COURT: Okay. So that's why I have to say this.
21 I don't know exactly what happened in this particular case
22 but there are certain areas I've got to cover when I do a
23 guilty plea. One is whether or not you gave any statements
24 and if you did give any statements like it ain't gonna
25 matter now because you are pleading guilty. Do you

1 understand that?

2 MR. BATTS: Yes, sir, I do.

3 THE COURT: All right. Now once again, Mr. Batts, I
4 gotta go back through these things okay?

5 MR. BATTS: I understand, sir.

6 THE COURT: Once again you are pleading to Indictment
7 2009-10338 displaying a firearm, discharging a firearm in
8 an occupied vehicle because you did in fact here in
9 Richland County on or about December the 11th of 2008 shoot
10 into a car when it was occupied. You are pleading guilty
11 because that's what you did; is that correct?

12 MR. BATTS: Yes, sir.

13 THE COURT: All right. And once again, Mr. Batts, in
14 connection to Indictment 2009-10446 assault with intent to
15 kill you are telling me once again you are pleading guilty
16 are you not because you did in fact here in Richland County
17 on or about December the 11th of 2008 with malice
18 aforethought commit an assault and battery with intent to
19 kill one Doris Clark. I think the allegations are you shot
20 at her; is that correct?

21 MR. BATTS: Yes, sir.

22 THE COURT: All right. And once again, Mr. Batts, in
23 connection with Indictment No. 2009-13217 assault and
24 batter with intent to kill once again you are telling me
25 you are pleading guilty to this charge are you not, sir,

1 because you did in fact here in Richland County on or about
2 December the 11th of 2008 with malice aforethought commit an
3 assault battery upon one Doris Clark with the intent to
4 kill the victim after you shot at her and it grazed her
5 forehead or something like that. Have I got that correct
6 so far? Do you understand that's what you are pleading
7 guilty to because that's what you did; is that correct?

8 MR. BATTS: Yes, sir.

9 THE COURT: All right. And finally while once again
10 in connection to Indictment 2009-10337 use of a firearm
11 during the commission of a violent crime once again you are
12 pleading guilty to this are you not, Mr. Batts, because you
13 did in fact here in Richland County on or about December
14 the 11th 2008 possession or visibly - possess or visibly
15 display a firearm or visibly display a knife during the
16 commission or attempt to the commission of a violent crime
17 that is assault and battery with intent to kill. You had a
18 gun is what it says. Do you understand all of that?

19 MR. BATTS: I understand.

20 THE COURT: And once again finally, Mr. Batts, in
21 connection with Indictment No. 2009-5844 criminal domestic
22 violence 2nd once again you are telling me you are pleading
23 guilty to this charge are you not, sir, because you did in
24 fact here in Richland County on or about May 2th of 2008
25 commit assault and battery on one Tina Marie Tillman who

1 was a household member at the time. You are pleading
2 guilty to all five of these charges once again are you not,
3 Mr. Batts, because you are guilty of all five of these
4 charges; is that correct?

5 MR. BATTS: Yes, sir.

6 THE COURT: All right. Have there been an plea
7 negotiations, Solicitor?

8 SOLICITOR GOLDBERG: Your Honor, the state is noll
9 prossing three assault with intent to kill charges.

10 THE COURT: That relates to the other occupants in the
11 car is that correct as I understand it?

12 SOLICITOR GOLDBERG: Yes ,sir.

13 THE COURT: Is that correct?

14 MS. SINGLETARY: Yes, sir.

15 THE COURT: Anything additional, Solicitor?

16 SOLICITOR GOLDBERG: I believe that's it.

17 THE COURT: That covers everything, Ms. Singletary, Ms
18 Davis?

19 MS. SINGLETARY: Yes, Your Honor.

20 THE COURT: All right. Do you still wish to continue
21 to plead guilty, Mr. Batts?

22 MR. BATTS: Yes, sir.

23 THE COURT: Now, sir, has anyone promised you anything
24 or has anyone held out any hope of reward in order to get
25 you to plead guilty?

1 MR. BATTS: No, sir.

2 THE COURT: Has anyone threatened you or used force
3 against you to plead guilty?

4 MR. BATTS: No, sir.

5 THE COURT: Has anyone used any pressure or
6 intimidation to cause you to plead guilty?

7 MR. BATTS: No, sir.

8 THE COURT: Have you had enough time to make up your
9 mind as to whether or not you want to plead guilty?

10 MR. BATTS: Yes, sir.

11 THE COURT: Are you pleading guilty of your own free
12 will and accord?

13 MR. BATTS: Yes, sir.

14 THE COURT: All right now, Mr. Batts, are you
15 satisfied with the manner in which your lawyers here Ms.
16 Singletary and Ms. Davis in the way they have advised and
17 represented you on these charges?

18 MR. BATTS: Yes, sir, I am.

19 THE COURT: Have you talked with them for as long and
20 for as often as you feel it necessary for them to properly
21 represent you?

22 MR. BATTS: Yes, sir.

23 THE COURT: Do you need any more time to talk to them?

24 MR. BATTS: No, sir.

25 THE COURT: Have you understood your talks with them?

1 MR. BATTS: Have I understood my talks with them?

2 THE COURT: Yes, sir.

3 MR. BATTS: Yes I did.

4 THE COURT: Mr. Batts, has Ms. Singletary and Ms.
5 Davis done everything for you you feel they should do or
6 could do on your behalf in advising and representing you on
7 these charges?

8 MR. BATTS: Yes, sir, I do.

9 THE COURT: All right have they done anything you
10 think they should not have done?

11 MR. BATTS: No, sir.

12 THE COURT: All right. Are you completely satisfied
13 with their services?

14 MR. BATTS: Yes, sir.

15 THE COURT: All right. Now, Mr. Batts, do you have
16 any complaints against anyone at the Richland County
17 Sheriff's Department?

18 (PAUSE.)

19 THE COURT: This is not a trick question but I have to
20 ask you. Do you have any complaints against anyone that
21 arrested you?

22 MR. BATTS: Can I speak with my lawyer?

23 THE COURT: Yeah take your time.

24 (PAUSE.)

25 THE COURT: Is there a problem?

1 MS. SINGLETARY: No, Your Honor.

2 THE COURT: Are there any complaints?

3 MS. SINGLETARY: No he actually wanted me to actually
4 explain to him what a complaint would actually be.

5 THE COURT: Like they beat him or they held him and
6 beat him or they wouldn't feed him or stuff like that.

7 MR. BATTS: No.

8 THE COURT: It's all right. Do you have any
9 complaints against anyone that's prosecuting you like this
10 gentleman over here with the blue tie or the lady in the
11 back Ms. Luck Campbell; the prosecutors do you have any
12 complaints against them?

13 MR. BATTS: No.

14 THE COURT: All right. Now, Mr. Batts, have you
15 understood my questions?

16 MR. BATTS: Yes, sir.

17 THE COURT: Is there anything you want to ask me about
18 what I just discussed with you? Anything at all?

19 MR. BATTS: No, sir.

20 THE COURT: Now, Mr. Batts, do you realize that you
21 have a right to appeal this guilty plea and whatever
22 sentence I may impose upon you but if you are going to
23 appeal you need to file a notice of intent to appeal within
24 ten days of the date you are sentenced. And I think we are
25 going to delay this so they can put on mitigation later on

1 and maybe the state is going to put up something later on
2 so from the date that you are sentenced the day I pronounce
3 sentence on you the clock starts running. You have ten
4 days to appeal whatever decision I impose upon you or
5 whatever sentence you got to do it within ten days. Ten
6 days from the date that you are sentenced. Now going back
7 over that what I sentenced you if you want me to
8 additionally, Mr. Batts, once you enter the department of
9 corrections if you later on find or feel that you have some
10 complaints once again against your lawyers Ms. Singletary
11 and Ms. Davis, against anybody in the Richland County
12 Sheriff's Department, against anybody in the Solicitor's
13 Office, or anybody involved in your case you need to make
14 those complaints known by filing a post conviction relief
15 application within one year of the date that you are
16 sentenced. Do you understand that, sir?

17 MR. BATTS: Yes, sir.

18 THE COURT: Now how do you want to do this, Solicitor?
19 You want to give me a cursory version of the facts or does
20 everybody just want to wait and do it all at one time I
21 don't care?

22 SOLICITOR GOLDBERG: What ever suites your Honor. I'm
23 prepared to give you just kind of a bare recitation.

24 THE COURT: Give me something scarce.

25 SOLICITOR GOLDBERG: Yes, sir.

1 THE COURT: If there is any problem we can resolve it.

2 SOLICITOR GOLDBERG: Yes, sir.

3 THE COURT: Go ahead.

4 SOLICITOR GOLDBERG: Two separate incidences the first
5 is THE CDV 2ND charge took place May 24th, 2008. Mr. Batts
6 had a child in common with the victim in that case a Tina
7 Tillman and that incident involved him grabbing her by the
8 arm throwing her onto the bed causing her to fear for her
9 safety and as a result she suffered some pain and swelling
10 to her arm which was noticed by the Columbia police
11 department. Ms. Tillman's family was notified about this
12 hearing today so the Victim's Rights Act has been complied
13 with. As for the remainder of the charges they all stem
14 from an incident December the 11th 2008 took place on the
15 [REDACTED] block of Bluff Road here in Richland County. That's
16 out near Gadsden. The victim in the case a Doris Clark was
17 driving her car Mr. Batts was a passenger in the car. Ms.
18 Clark's three children were asleep in the back seat. Mr.
19 Batts and Ms. Clark had a relationship at the time and they
20 had for several months. As she pulled up towards her home
21 she stopped to turn left into her drive way. As she was
22 doing so another vehicle pulls up along side her on her
23 left. While this happened she notices out of the corner of
24 her eye that Mr. Batts is kind of scooted up into his seat
25 acting kind of anxious. As she looks to her left to see

1 what's going on with the car that's pulling up next to her
2 she is shot from her right side. The bullet somewhat
3 grazes off of her forehead fortunately. Another shot is
4 fired in which she sees the muzzle flash come from the
5 right side where Mr. Batts would have been. She gets her
6 hand up to sort of block the shot the bullet goes through
7 her wrist. She's in and out of consciousness for the next
8 several few minutes. Eventually he gets out of the car and
9 the State would allege at trial had this case gone to trial
10 this week that at that point he then fires another shot
11 into the car and that would give rise to the assault with
12 the intent to kill charge against her. In an effort to
13 make it look like it was a drive by shooting by the SUV
14 that had pulled up next to her.

15 THE COURT: All right, sir.

16 SOLICITOR GOLDBERG: She eventually tells law
17 enforcement that he was the one responsible for this.
18 There would also be testimony from one of her children who
19 was asleep in the back seat that earlier in this car ride
20 she over heard the defendant threaten the victim.
21 Additionally we would have presented some forensic evidence
22 indicating that there was a shot fired from the passenger
23 side of the car specifically gun shot residue as well as a
24 bullet hole that had traveled from inside of the car out
25 through the driver's window. That's kind of a bare bones

1 recitation.

2 THE COURT: That's fine. Now, Ms. Singletary, Ms.
3 Davis, you all essentially agree on all the effort you all
4 put into this case. Not only would that be the State's
5 position from a thumbnail sketch but that's what you would
6 be required to defend?

7 MS. SINGLETARY: Yes except for the fact that the shot
8 was through the finger and not the wrist.

9 THE COURT: Okay. Finger not wrist. But otherwise
10 everything is substantially accurate in terms of what you
11 all anticipated would have been going forward with the
12 trial and that's one of the reasons why he is pleading
13 guilty is that fair?

14 MS. SINGLETARY: Exactly, Your Honor.

15 THE COURT: Very well. Mr. Batts, I find that there
16 is a substantial factual basis for your plea. I further
17 find your decision to plead guilty to be freely voluntarily
18 knowingly and intelligently made; that you've had the
19 advice of competent counsels Ms. Singletary and Ms. Davis
20 whom you indicate to me you are completely satisfied with
21 therefore I am going to accept his plea and have done so.

22 Now I will let you all get together and let me know
23 what time that's good for everybody to reconvene and let
24 the solicitor put on the rest of his presentation and let
25 you all do whatever mitigation you want. Be happy to block

1 out -- how much time you all need hour two hours three
2 hours or whatever it is you all want you just let me know.
3 Thank you all so very much.

4 SOLICITOR GOLDBERG: Thank you, Your Honor.

5 MADAME CLERK: Solicitor, there was a bench warrant
6 attached.

7 THE COURT: Ma'am?

8 SOLICITOR GOLDBERG: Yes, sir, there was a bench
9 warrant attached.

10 THE COURT: I've already signed it. Anything else,
11 Solicitor?

12 SOLICITOR GOLDBERG: No, sir.

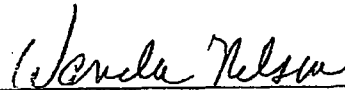
13 -- END OF TRANSCRIPT OF RECORD --

14 -- TIME IS 4:10 P.M.. --
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CERTIFICATE

I, THE UNDERSIGNED WANDA NELSON, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE SIXTEEN
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT IS A
TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF
ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE
HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN
THE CIRCUIT COURT FOR YORK COUNTY, SOUTH CAROLINA, ON
THE 26TH DAY OF APRIL, 2010.

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



WANDA NELSON, CVR
OFFICIAL COURT REPORTER
NOTARY PUBLIC IN AND FOR THE
STATE OF SOUTH CAROLINA
DATE: 8-30- 1 / 10

MY COMMISSION EXPIRES: 12/06/2010

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FIFTH JUDICIAL CIRCUIT
 COUNTY OF RICHLAND) 2009-GS-40-10337
) 2009-GS-40-10338
) 2009-GS-40-10446
) 2009-GS-40-13217

THE STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 VS.)
)
 JEREMY MAURICE BATTS,)
)
 DEFENDANT.)
)
)
)

TRANSCRIPT OF RECORD

APRIL 29, 2010
 COLUMBIA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE L. CASEY MANNING, JUDGE

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

DANIEL R. GOLDBERG, ESQUIRE, ASSISTANT SOLICITOR
 KATHRYN "LUCK" CAMPBELL, ESQUIRE, ASSISTANT SOLICITOR
 ATTORNEYS FOR THE STATE

JENNIFER C. DAVIS, ESQUIRE
 NICOLE L. SINGLETARY, ESQUIRE
 ATTORNEYS FOR THE DEFENDANT

ELIZABETH B. HARRIS, CVR
 CIRCUIT COURT REPORTER

I N D E X

(GUILTY PLEA CONTINUED FROM APRIL 26, 2010.)

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
STATEMENT OF FACTS BY SOLICITOR	3
STATEMENT BY DEFENSE	12
SENTENCE OF THE COURT	25
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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>EV.</u>
C-1	MENTAL EVALUATION	26

1 (PRIOR TO PROCEEDING, THE DEFENDANT IS DULY SWORN.)

2 THE COURT: Yes, sir.

3 MR. GOLDBERG: Thank you, Your Honor. If it pleases
4 the court, we are back in front of you in the State vs.
5 *Jeremy Batts*. On Monday the 26th, Mr. Batts entered a
6 guilty plea, which you accepted, with the presence of his
7 attorneys Nicole Singletary and Jennifer Davis. The
8 charges were assault and battery with intent to kill,
9 assault with intent to kill, discharging a firearm into a
10 vehicle, use of firearm during the commission of violent
11 crime, and an unrelated CDV-HAN second.

12 I believe Your Honor accepted the plea at that time.
13 The case was scheduled to begin trial at that point. We're
14 back here for sentencing today.

15 I believe the victims are present, as well as the
16 family. And at the appropriate time, I know there are some
17 additional comments that the state would like to relay to
18 Your Honor.

19 THE COURT: All right, would you like to make your
20 presentation first, followed by them?

21 MR. GOLDBERG: However you would like to proceed.

22 THE COURT: It doesn't matter.

23 MR. GOLDBERG: We're ready.

24 THE COURT: All right, we'll let you go first.

25 MR. GOLDBERG: All right. Thank you, Your Honor.

1 Just as a bit of a reminder, the facts of this case
2 developed on December the 11th, 2008, here in Richland
3 County. Mr. Batts and the victim in the case, Ms. Doris
4 Clark who's present in the courtroom here today, were in a
5 relationship, had been in a relationship for several
6 months.

7 On this particular day, they had actually been out
8 doing some laundry. They were on the ride back to Gadsden
9 pretty far down on Bluff Road here in Richland County.

10 On the ride back, shortly before they got back to the
11 home, there had been a stop at a convenience store.
12 According to one of Ms. Clark's children, who were in the
13 car with her, three children were in the car, the defendant
14 made somewhat of a threat under his breath to her about how
15 she didn't give him his money, that he would blow her head
16 off. And that would have been the testimony of one of her
17 children at trial, or that he would kill her, rather.

18 As the car proceeded down the road, they were
19 approaching her residence, she noticed a large SUV pulled
20 up behind her and was following her. As she stopped, he
21 turned in to her residence. The SUV pulled around to her
22 left side. She would have been turning left in her
23 residence. The SUV pulls in to the other lane to her left.

24 As she's looking to see what's going on with the SUV,
25 she notices Mr. Batts, who's in the passenger seat,

1 beginning to be kind of anxious. Scooting up in his seat,
2 so to speak, at which point a gunshot is fired from her
3 right side where he is sitting, strikes her in the head,
4 miraculously bounces off of her forehead. He then goes to
5 shoot again.

6 It's at this point she gets her hands up and blocks
7 the second shot. She sees the muzzle flash from her right
8 side from the weapon. The shot ricochets off of her wrist
9 and her fingers. And at this point, she's able to stop the
10 car. She's in and out of consciousness as this is going
11 on.

12 It would have been the state's allegation at trial
13 that at this point while she was unconscious, Mr. Batts
14 exited the vehicle, walked around the vehicle, and fired
15 several more shots into the car while Ms. Clark was in the
16 car, as well as her three children ages eight, seven, and
17 five at the time, were asleep in the back seat. There were
18 numerous bullet holes to the car.

19 We would have presented at trial that there was
20 gunshot residue found in the passenger seat, as well as
21 evidence of a bullet that had been fired from inside the
22 compartment to the outside of the car through the driver's
23 window, as well as numerous shots fired into the car from
24 the outside, including one that one of our witnesses would
25 have been able to testify was fired at an upward angle.

1 And the reason we believe this was important is that
2 Mr. Batts had alleged at some point that this was a
3 drive-by shooting. And it would have been our contention
4 that had it been a drive-by shooting from this SUV, there
5 would have been no bullets fired from the outside of the
6 into the car at an upward angle. If it had been from an
7 SUV, it would have been at a downward angle since the
8 victim was in a Crown Victoria, a car much lower to the
9 ground.

10 Your Honor, Ms. Clark was able to stumble somehow to a
11 neighbor's residence, make contact with them. 9-1-1 was
12 called. The police responded.

13 I'd like to show you at this time, if I may -- and
14 counsel has seen these in discovery -- some photographs. I
15 know there was some mention on Monday during the plea about
16 this bullet grazing her forehead. As Your Honor can see
17 from that picture, that is absolutely not a graze. There
18 is a dent in her head from where that bullet entered and
19 bounced off. And I just wanted to make that clear by way
20 of those pictures.

21 Also, I included pictures of her injuries to her hand,
22 as well as some of the recovery photos, as well as a few
23 shots of the car and how it looked from the number of
24 wounds -- or the number of shots that were fired.

25 I know that also, Your Honor, it's our position/

1 that this is a escalating situation with Mr. Batts as
2 it pertains to both Ms. Clark and in general. I believe
3 there's an evaluation that Ms. Singletary had done within
4 the -- I think probably needs to be made part of the
5 record at some point. But even in that evaluation,
6 indicates that he has displayed patterns of violence
7 previously. It makes reference to him having situations
8 where he has threatened or fought family members previously
9 on several occasions.

10 Ms. Clark would have testified at trial, we believe,
11 that this was an escalating situation with her as well.
12 That she often felt threatened by him. That he would make
13 strange comments to her quite often about what would happen
14 if he -- if she ever tried to leave him.

15 And obviously in addition to his record, we feel like
16 his conduct has escalated to the point that he is an
17 extremely dangerous man. And if he had the opportunity,
18 which he did, he will kill her. And it just didn't work
19 this time fortunately for Ms. Clark.

20 His prior record -- I don't know if I mentioned it on
21 Monday -- he has conviction for felony possession of a
22 weapon in 2000, criminal domestic violence charge in 2004,
23 possession of a stolen vehicle and resisting arrest in
24 2004, a loitering 2005, possession of cocaine 2006, and
25 parole revocation in 2006.

1 Your Honor, it's not just about Ms. Clark. As you
2 know, you also accepted a guilty plea on Monday in regards
3 to a domestic violence charge against another female. I
4 believe it's the mother of his child, and he pled guilty to
5 that on Monday as well.

6 I believe that is all I have at this point in time. I
7 know that Sergeant McDaniel with the sheriff's department
8 would like to add a few comments as well. And I also need
9 to check with the family to see if they wish to add
10 anything.

11 THE COURT: All right.

12 MR. GOLDBERG: If you'll hear from ---

13 THE COURT: Sergeant McDaniel.

14 SERGEANT MCDANIEL: Yes, sir. Thank you, Your Honor.

15 It, it is important to note that during the initial
16 phase of the investigation, the only questionable fact that
17 we had was the trajectory of the gunshots on the outside of
18 the door. At that particular time, the victim was in
19 surgery, and I hadn't been able to interview anyone else
20 that was present that day.

21 I received a phone call from the victim's mother, who
22 stated that the defendant here was at the hospital with the
23 family, and they were terrified. They asked me if I could
24 come down to interview him.

25 I did that, and of course Mr. Batts came to

1 headquarters voluntarily, and while interviewing him, I
2 received a phone call from the victim. And the victim said
3 -- while Mr. Batts is sitting in front of me -- if you let
4 him go, he will kill me. He tried to kill me. I saw the
5 muzzle flashes on -- from my right side.

6 And again, as I stated earlier, that is the only, the
7 only evidence we had was the outside shots.

8 While interviewing Mr. Batts, he showed no signs of
9 remorse. The further the investigation -- the interview
10 went, he made comments like she was so nice that I hated
11 her.

12 Upon me meeting the victim, I can honestly sit here
13 and tell you -- stand here and tell you, Your Honor, that
14 the victim in this case, the victim of the assault and
15 battery with the intent to kill, is probably one of the
16 nicest individuals I have ever met throughout my entire
17 career of thirteen years. And if you get a chance to hear
18 from her today, if she, if she's willing, I gather that you
19 will definitely get that same impression. She is that
20 nice. Not nice enough for her to receive a gunshot wound
21 to the forehead.

22 During the time of the assault, he was under the
23 impression, the defendant, that she was dead.

24 MS. SINGLETARY: Objection, Your Honor. That's
25 speculation as to what my client thought at the time.

1 THE COURT: All right, you may continue.

2 SERGEANT McDANIEL: Thank you, sir.

3 And my reason for saying was, according to the victim,
4 when she did notice after -- she, she, she woke up. As the
5 assistant solicitor state, she was in and out of
6 consciousness. She pulled -- and she don't know where she
7 got the strength from -- and she pulled into this driveway
8 and almost ran to the neighbor's house.

9 When she got out, what she did notice was that, was
10 according to her, she stated that he looked as if like he
11 saw a ghost, and neighbors came out.

12 Okay, her three children were again located in the
13 backseat. And fortunately for us they were asleep, and I
14 believe one may have woke up throughout -- during the
15 assault.

16 Your Honor, this is not your typical shooting
17 incident. Our victim has a permanent indentation in her
18 forehead as a result of that bullet entering her forehead
19 and bouncing off of her skull.

20 It is our, it's the state's, it's the sheriff's
21 department's position. We are asking for the maximum, Your
22 Honor. Thank you.

23 THE COURT: You're welcome, sir.

24 MR. GOLDBERG: Judge, just one thing I forgot to
25 mention previously. Initially when questioned by law

1 enforcement about this, Ms. Clark tried to deflect
2 attention away from Mr. Batts. She was scared. She told
3 law enforcement initially that he didn't have anything to
4 do with the shooting. But at this point in time, I think
5 it's important to note she didn't know where he was, and
6 she didn't know where her children were as she was being
7 rushed to the emergency room.

8 He made comments to her before EMS took her away. Did
9 you see that? Did you see what that car did? Can you
10 believe that car just shot at you, shot at us? Planting
11 the seed, planting the seed of this drive-by story.

12 And it wasn't until she got to the hospital and she
13 told the hospital staff to make sure that no males who
14 weren't family members were to be anywhere near her room.
15 To protect her. That she knew he wasn't going to be there.
16 That's when she finally contacted Sergeant McDaniel. It
17 was about a day later and told him this was the situation.
18 I just thought that was important to point out.

19 Your Honor, I believe that Ms. Clark would like to
20 address you.

21 THE COURT: All right, Ms. Clark, I'd be happy to hear
22 from you.

23 MS. CLARK: Well, first of all, I give thanks and
24 honor to God for keeping me here and helping me through
25 that night.

1 I'm glad that Jeremy took responsibility for what he
2 did. But at the same time, he needs to be taken out of --
3 off of the streets for the safety of me and my kids, my
4 family, his kids, his daughters' moms, everybody. He needs
5 help. He really needs help.

6 And it's nothing else for me to say but thank God just
7 for giving me the strength to be here and surviving that
8 night. I mean, it changed me. It affect me emotionally,
9 financially, physically. And I would like to know why,
10 just why? Why did he do this to me and my daughters, my
11 family? That's it, Your Honor.

12 THE COURT: Thank you, ma'am.

13 Anything further?

14 MR. GOLDBERG: No, sir.

15 THE COURT: Yes, Ms. Singletary.

16 MS. SINGLETARY: Thank you, Your Honor. If it pleases
17 the court? As the assistant solicitor stated earlier, a
18 condition of my client actually getting a bond, or at his
19 bond setting it was ordered that he be evaluated. Your
20 Honor, that evaluation came back that he was competent, as
21 well as criminally responsible.

22 Your Honor, standing before you today is my client,
23 Jeremy Batts. Your Honor, here in support of him in the
24 audience -- if you would please stand up -- is his mother,
25 the two mothers of his children, his aunt, and Dr. Kelly,

1 who actually mentored to him when he was younger. And at
2 the appropriate time, they would like to address the court,
3 as well as he address the court, Your Honor.

4 Your Honor, I've been representing Jeremy for a year
5 and a half, Your Honor. And we have went through all the
6 evidence in this case, and we came to the conclusion that a
7 plea was the best option for Jeremy.

8 Your Honor, we are here pleading, but I would like to
9 go over some of the mitigation and some of the things that
10 we would actually brought up at trial, Your Honor.

11 THE COURT: Okay.

12 MS. SINGLETARY: As the solicitor stated, he stated
13 that initially Ms. Clark said that Jeremy didn't have
14 anything to do with the shooting. But what I would like to
15 highlight on, and I understand that they're saying that
16 when the EMS was there, that she -- and Jeremy was around.
17 She said that Jeremy didn't have anything to do with it.

18 Your Honor, however, at that same point, Ms. Clark
19 actually told the neighbor's house that she went to that
20 Desmond Cunningham, her former boyfriend, actually was the
21 one who shot at her, Your Honor.

22 And then she gives the second statement when she's at
23 the hospital, and my client is nowhere around to the --
24 actually, personnel, the nurses in the hospital. And she
25 says then that that SUV, the people in the green SUV, they

1 shot at me.

2 Your Honor, Investigator Holdorf goes to the hospital,
3 speaks to Ms. Clark again, and again my client is not
4 there. She tells Investigator Holdorf about Desmond
5 Cunningham. Investigator Holdorf calls Investigator
6 Robinson, who's headed to the scene, and tell Investigator
7 Robinson that Desmond Cunningham is a suspect. Then she
8 actually speaks to the investigator. It's not until, like,
9 some time later that she actually speaks to Investigator
10 McDaniel that then she says Jeremy did it.

11 Now, I will tell you that on that night that this
12 incident occurred, my client didn't run away. Like, he
13 stayed there. He actually ran next door to his -- to Ms.
14 Clark's mother's house and was pounding on the door saying
15 that he needed help because she was shot.

16 Your Honor, no one imagined that that green SUV was
17 there. I mean, we would have independent witnesses that
18 said that they see this green SUV, Your Honor. And what is
19 so odd and what is so unusual about this, and something
20 that we would have brought up at trial, is the fact that
21 Ms. Clark is about to turn left into her driveway. And the
22 SUV that's back behind her turns left, goes on her left,
23 and then blocking her from actually going into her
24 driveway.

25 Your Honor, that's why at trial our theory would have

1 been that this was crossfire, Your Honor. Our theory would
2 have been that the individuals in that green SUV did
3 actually shoot at this car. This car had tinted windows.
4 My client used to drive this car.

5 And I'm going to tell you. My client is not perfect
6 at all. My client was, when he was out doing the streets,
7 he was doing some things that he shouldn't have done. He,
8 he would fight people. And several days before this, he
9 got into an altercation up the road with a young
10 individual, Your Honor.

11 So, we, like -- and Jeremy has always said this, and
12 he has always been sincere about this. He has always said
13 that Ms. Clark has never done anything to him or anybody
14 else to deserve that. And he always blames himself and
15 said that it was his actions that put her and her family in
16 danger, Your Honor. That's why he is here accepting
17 responsibility.

18 And, Your Honor, if you look at the report, yes, my
19 client does have some impulse control issues, Your Honor.
20 My client, even though it was totally reckless, total
21 disregard, at trial we would have argued that the first
22 shots came from the SUV. And then my client who had a gun
23 -- even though he wasn't supposed to have a gun, and that's
24 why he didn't tell the police officers on that night
25 because he was on parole and he's a felon; he's not

1 supposed to have a gun -- actually shot back out.

2 And, Your Honor, we hired two crime scene experts on
3 this case. And them actually looking at the coning and the
4 actual triangulation of the actual gunshot, Your Honor,
5 they say -- they would agree that there is one shot. And
6 even the state's experts can only say definitively that
7 there was one shot that came from inside that car, Your
8 Honor.

9 I know that their position is that our client went out
10 of the car. But the eight, the eight-year-old who's ten
11 now told the police officers on that night that my client
12 was in the car the entire time while this shooting was
13 occurring, Your Honor.

14 There were a lot of issues, Your Honor, in this case
15 that we were going to bring up at trial. Another issue
16 that I would like to address is the fact that the solicitor
17 said that there was GSR on my client's seat. There was not
18 GSR on my client's seat. There was GSR in the ceiling of
19 the car where one of the bullets actually hit the light and
20 then ricocheted and touched the textile, Your Honor.

21 There was a lot of issues that we had. If they're
22 saying that all these multiple shots were fired in such
23 close proximity of the actual victim, then there's a lot of
24 other issues that we would have to bring up at trial. But
25 my client is standing here in front of you taking

1 responsibility for his actions, Your Honor.

2 And Ms. Davis would also like to address the court.

3 THE COURT: Yes, ma'am, I'll be happy to hear from
4 you.

5 MS. DAVIS: Your Honor, just briefly, and Ms.

6 Singletary covered most of what it -- what I had to say.

7 But from the time I got on the case and met with Mr.
8 Batts, I do believe what happened is -- I don't -- I wasn't
9 there. I don't know what happened first, what happened
10 second. But the SUV was doing something that caused him to
11 think they were -- either had already shot and he shot
12 first, or they shot after that.

13 Your Honor, he has always -- and Ms. Singletary said
14 this, and I'll just reiterate that he has always taken
15 responsibility and said his reaction that night was not
16 appropriate. That he knew, regardless of what happened in
17 that SUV, if they were there to hurt someone, it was
18 because of his actions, because of things he had done in
19 the past, and because he had driven that car.

20 Your Honor, he -- one of the most sincere times I ever
21 saw Jeremy was when he said that he did look over and saw
22 Ms. Doris bleeding. I know they're trying to say he looked
23 like he saw a ghost because he thought she was dead or
24 something to that effect. Your Honor, I don't believe
25 that's what the case was. I think he was shocked that she

1 had been injured, and what had just happened. And he
2 immediately ran and got help from her mother.

3 Your Honor, I know his family wants to speak and
4 address the court.

5 THE COURT: All right, I'll be happy to hear.

6 MS. HARRISON: My name is Taisha [phonetic] Harrison.
7 I'm his sister, and I'd just ask that whatever your
8 decision is today, that you just have mercy on my brother.

9 He is a good person. He has a good heart. He's a
10 father, three children. And just allow us the chance to
11 continue our relationship with him, and for him to continue
12 his relationship with his children, and to make a
13 difference to -- Your Honor, just try to be a good father
14 and to continue to be a good family member for his mother,
15 for his other brothers, and for me and my family as well.

16 THE COURT: All right, thank you, ma'am.

17 MS. DAVIS: Dr. Kelly.

18 DR. KELLY: My name is Dr. Charles Kelly. I have
19 known Jeremy for about almost ten years. And when I first
20 started mentoring Jeremy, he'd been in and out of scrapes
21 and never been -- had a, had a father around to deal with,
22 help him go through things. And I took time with Jeremy to
23 talk about the things of life in Christ and those kind of
24 things.

25 And, like I say, Jeremy is not a perfect person. But

1 one thing I can say about Jeremy, Jeremy always admit to
2 what he has done. He has never been one that falter on
3 what he did not do. If he did something, he admit that
4 yes, I did that. And that's one thing I can, I can tell
5 about Jeremy.

6 You know, he's not a perfect man like none of us is
7 perfect. But I can tell and stand for his integrity that
8 if he did something, he would admit that he had done this.
9 And I've seen him in numerous occasions when things had
10 happened, and I've gone and sat down and talked to him, and
11 he has admit of those that he has done.

12 And over the years he has been in, in our church from
13 time to time. And when he moved to different part of town,
14 of course he did not come. He didn't have vehicles to be
15 able to come. But the time frame when he was there, he was
16 a person that sought after Christ and seek after that
17 process.

18 And I don't know all the litigation of what's going on
19 with the trial. But all I ask you to do is allow the Holy
20 Spirit in you as you hear this case to see what is actually
21 truth.

22 THE COURT: All right. Thank you, sir.

23 MS. LAWHORN: Your Honor, I'm his mother, and I ask.

24 (A PAUSE.)

25 MS. MANIGAULT: If I may?

1 THE COURT: Sure.

2 MS. MANIGAULT: I'm Jeremy's aunt. I'm his mother's
3 youngest sister, and I've been in Jeremy's life since he
4 was born. He -- with all my nieces and nephews, all, all
5 my nieces and nephews are as -- they're my children.
6 Jeremy throughout the entire time that this -- my sister
7 has three boys and one daughter. All her children, Jeremy,
8 his brothers, they are totally respectful people.

9 I am truly sorry that the situation took place and
10 happened to Ms. Clark. I am truly sorry that it happened.

11 But I just want to present to everybody that Jeremy is
12 not a monster. He has always been respectful to everyone.
13 That's how my family, my entire family is. Jeremy is
14 respectful. He's fun loving. He loves his children.

15 My son is younger than Jeremy. He's twenty-two and my
16 daughter is twenty-six. My, my children and my sister's
17 children, all our children have interacted throughout their
18 entire lives together. Jeremy was very intricate with my
19 son when they were growing up. Taught him how to ride the
20 bike, played baseball with him, football, those type of
21 things.

22 But Jeremy is a good person. He has done some wrong
23 things, but Jeremy loves his family, just as we love
24 Jeremy.

25 I am truly sorry that this situation took place and it

1 happened with Ms. Clark from -- and I speak for my entire
2 family. But Jeremy is a loving person, and he receives
3 love and support from his family.

4 THE COURT: All right. Thank you.

5 MS. THOMLIN: Hi, Your Honor. I'm Conisha Thomlin
6 [phonetic]. I'm mother to his three-year-old daughter,
7 Jamarie [phonetic]. I've been knowing Jeremy since I was
8 thirteen years old. A good person. He has a good heart.

9 Yes, he's had trouble over the years. I mean, but, I
10 don't think he deserves what he's getting right now. He
11 got a lot of people that love him, that supports him. And
12 I just ask the court to be lenient. Don't take him away
13 from his kids.

14 I've been with Mr. Batts for a long time through his
15 trials, going in and out of jail. And he always told me
16 things you see when you're back there is nothing for no one
17 to go through. And instead of taking our men and putting
18 them behind bars, we should be rehabilitating them some
19 kind of way. So, I just ask the court to be lenient.

20 THE COURT: Thank you, ma'am.

21 MR. HARRISON: This is my brother-in-law, and since I
22 married his sister and was introduced to the family -- it's
23 kind of weird sitting in the courtroom today.

24 But talking with Jeremy, he would always call me
25 brother-in-law. He's my brother-in-law, and he always

1 would be honest, up front, and direct. And we talked
2 one-on-one with some things about Jeremy, you just can't be
3 doing that. You know, you got -- he's like, you know?
4 You're right. You're right.

5 So, it wasn't like -- you know, I meet a lot of
6 characters, and he does not -- what's being portrayed is
7 not what I know. And it's different being on this side of
8 the courtroom because you see the picture that was painted
9 with the words that's presented. But having one-on-one
10 contact with him.

11 And on behalf of the family, it's kind of weird being
12 here where -- I don't want to be at odds, but I've know him
13 personally and been in the trenches with him, and he has a
14 good heart. It's not something we're just saying. It's
15 something that we have demonstrated and walked out with
16 him.

17 And he has 'fessed up, looking in my eye and admitted
18 to things he's done wrong without me even asking him. He's
19 came to me on different occasions and said that.

20 But I just wanted to come today to show my support,
21 and just ask in the total scheme of things that stuff is
22 able to be rectified, both families will be strengthened,
23 and we can move on.

24 THE COURT: Thank you, sir.

25 MS. SINGLETARY: Your Honor, and Mr. Batts would like

1 to address the court.

2 THE COURT: Yes, sir.

3 DEFENDANT: Good even -- good morning. I, I want, I
4 just want to speak on behalf of Ms. Clark. I want to, I
5 want to apologize for the situation.

6 And I just want to state that ever since I met Ms.
7 Clark, you know, Ms. Clark have been good to me and good to
8 my kids. She help me, she help me get a job. She took me
9 to work. She did things for me.

10 On the night that this situation happened, yes, I did
11 fire a gun. Yes, did fire a gun. I only fired on the
12 protection and on the behalf of the SUV pulling up and
13 firing shots at me, me, my girlfriend, and her kids. I
14 take full responsible for what I did, but my intentions was
15 not to hurt Ms. -- hurt Ms. Clark.

16 I been locked up for a year and a half and, you know,
17 I thought about the situation over and over. When the
18 situation occurred, when I realized that my girlfriend was
19 shot, I got out of the car. I ran. I went to my
20 mother-in-law -- I went Ms. Clark -- I went to Ms. Clark's
21 house. I contacted her mother and got her to call the
22 ambulance. I stayed there on the -- I did everything I
23 could possibly do to help her, you know? I stayed there on
24 the scene; I stayed there on the scene. I went to the
25 hospital that night. I went to hospital the next morning

1 when I got locked up in the hospital.

2 Some kind of way the situation, some kind of way the
3 situation got turned around from what actually happened.
4 Yes, I admit that I should have; maybe I should have told
5 the police that I did fire the gun, but I was on parole and
6 I was scared. I was scared.

7 I want to say I'm sorry; all I can do is say I'm
8 sorry. I mean, I had to protect -- I, I mean, it's wrong.
9 I shouldn't have had the gun. But I felt like I had to
10 protect her. Well, me, personally myself, her, and the
11 kids. So, so, to firing it, I did fire the pistol. I did
12 fire the gun.

13 My intentions was not to hurt Ms. Clark. I loved her.
14 I mean, I had no -- she never gave me any reason. She's
15 never gave me any reason whatsoever. I mean, nicest woman
16 in the world. She never gave me any kind of reason to ever
17 want to even do no harm to her.

18 I had issues with people out there in the streets. I,
19 I had issues out there in the street. And if that's what
20 brought, if that's what brought this upon us, then I'm
21 sorry. But my intentions about me firing the gun was not
22 to hurt Ms. Clark.

23 MS. SINGLETARY: Your Honor.

24 THE COURT: Yes.

25 MS. SINGLETARY: Briefly? Briefly, my client, this

1 year and a half that he's been in jail has been the longest
2 amount of time that he has spent in jail, Your Honor.
3 We're just respectfully asking the court to consider
4 something under twenty years: a short, active sentence,
5 Your Honor.

6 He has not done a great amount of time in jail. He's
7 taken responsibility for his actions here today. We just
8 ask that you consider his sincerity, the fact that he's
9 admitting to what he did on that night, Your Honor. And
10 the fact that even though he does have a record, he has not
11 spent substantial time in the Department of Corrections,
12 Your Honor.

13 THE COURT: Thank you, ma'am.

14 SENTENCE OF THE COURT:

15 THE COURT: On indictment 2009-10337, *State vs. Jeremy*
16 *Batts*, use of a firearm during the commission of a crime,
17 sentence is five years. On indictment number 2009-5844,
18 criminal domestic violence second offense, sentence is one
19 year. On indictment 2009-13217, assault and battery with
20 intent to kill, sentence twenty years. On indictment
21 2009-01446, assault with intent to kill, sentence ten
22 years. On indictment number 2009-10338, displaying a
23 firearm during the commission -- displaying a firearm and
24 shooting into the car, five years. These sentences are to
25 run concurrent with one another. He's to get credit for

1 time served.

2 Thank you all so very much. This concludes this
3 proceeding.

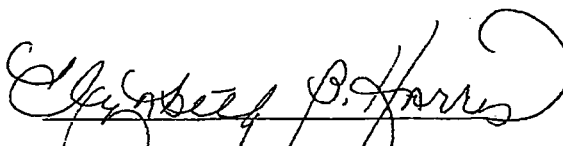
4 (MENTAL EVALUATION MARKED INTO EVIDENCE AS COURT'S
5 EXHIBIT NUMBER 1.)

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

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON
THE 29TH DAY OF APRIL, 2010.

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



ELIZABETH B. HARRIS, CVR

COLUMBIA, SOUTH CAROLINA

SEPTEMBER 21ST, 2010

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

L. Casey Manning, Circuit Court Judge

Case Nos. Indictment Numbers: 2009-GS-40-010337,
2009-GS-40-010338, 2009-GS-40-10446, 13217

The State,.....Respondent,

v.

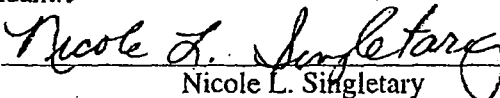
Jeremy Maurice Batts,.....Appellant.

STATEMENT OF BASIS FOR APPEAL FROM
GUILTY PLEA PURSUANT TO RULE 203(d)(1)(B)

RICHLAND COUNTY
FILED
2010 MAY -5 PM 3:22
JEANETTE W. MCBRIDE
C.C.P. & G.S.

Pursuant to South Carolina Appellate Court Rule 203(d)(1)(B), Defense Counsel objected to the comments made by Inv. Shawn McDaniel, of the RCSD during the course of the guilty plea. His statements were misleading and speculative in nature. Additionally, there was a mischaracterization of the material facts in the case during the course of the guilty plea. The Court overruled Defense Counsel's objection. Defense Counsel is of the belief that the recitation of the statements was unnecessarily prejudicial to the Defendant.

May 5, 2010



Nicole L. Singletary
The Law Offices of Nicole L. Singletary
4511 North Main Street
Columbia, S.C. 29203
(803) 754-5200
Attorney for Appellant

Other Counsel of Record:

Assistant Solicitor Luck Campbell
Office of the Solicitor, Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street
Columbia, South Carolina 29201
Attorney for Respondent

FORM 5

59

STATE OF SOUTH CAROLINA)

County of Richland)Jeremy Batts #301883)

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

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2013C P4001382

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention The Correctional Institution
990 Wiscay Hwy. Bishopville, S.C. 29010
2. Name and location of Court which imposed sentence Richland County
Court of General Sessions 1701 Main St. Columbia, S.C. 29201
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009-GS-40-13217-ABWIK - 20 years Concurrent
 - (b) 2009-GS-46-D10337- possession of a fire arm during a violent crime - 5 years Concurrent

2013 MAR -5 PM 1:01
JEANETTE W. MOBLE
C.C.P. & J.C.
RICHLAND COUNTY
FILED

- (c) 2009-GS-40-010338-Discharging Firearm into Vehicle 5 years
2009-GS-40-10446-AWIK 10 YEARS CONCURRENT
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) April 29 2007- AWIK 20 years to run concurrent
- (b) April 29 2007- poss of a firearm during a violent crime. 5 years Concurrent
- (c) April 29 2007- Discharging a Firearm into Vehicle 5 years Concurrent
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Yes to All 4 counts
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Division of Appeals & Defense 1530 Lady St., Ste 401 PO Box 11589
Columbia, S.C. 29211
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. February 29, 2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

(c) _____

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

(a) a violation of my U.S. CA. 6th Amendment right to effective assistance of trial counsel (Ineffective assistance Counsel)
 (b) a violation of my U.S. CA. 14th Amendment right to the due process of law (Right to A fair trial)
 (c) _____

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

(a) SEE Attachment
 (b) _____
 (c) _____

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

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

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

(a) the specific nature thereof:

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

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

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

620. (a). a violation of my U.S.C.A. 6th Amendment right to the effective assistance of trial counsel

(b). a violation of my U.S.C.A. 14th Amendment right to the due process of law

11. (a) Applicants trial counsel failed to inform and advise Applicant of his U.S.C.A. 5th Amendment privilege against compulsory self-incrimination, the right to a trial by jury, and the right to confront Applicants accusers. The record will show that counsel failed to both consult with Applicant and obtain consent to the recommended course of action; Florida v. Nixon, 543 U.S. 175, 187, 160 L.Ed.2d 565, 578, 125 S. Ct. 551, 560 (2004). Counsel failed to insure that Applicant understood all his rights, including the all-important right to refuse self-incriminating testimony, which supports Applicants claim of ineffective assistance of trial counsel; Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L.Ed.2d 674 (1984); Martinez v. State, 304 S.C. 39, 403 S.E.2d 113 (1991). Counsel was further deficient in their failure to properly and timely object to the Investigators unproven prejudicial remarks, and to the extremely biased request by the Investigator for the judge to sentence Applicant to the maximum sentence. Applicant states as fact

that counsels errors were so flagrant, and occurring⁶ at the most critical stages of Applicants proceeding, prejudice is shown against Applicant and negligence is established to support ineffective representation; Margullo v. Maryland, 561 F.2d 540, 544 (1977); State v.

Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977). Counsel was a licensed member of the bar, and knew - or should have known - the proper method for conducting an effective representation in Applicants defense, as required by the U.S.C.A. 6th Amendment.

11. (b). Applicants U.S.C.A. 14th Amendment rights of due process were violated by and through counsels failure to properly and timely inform and advise Applicant of his due process protections regarding the Investigators unproven and fundamentally unfair prejudicial remarks, which were constitutionally prohibitive, possessing no credibility, misleading the jury, a product born solely from the Investigators vindictive retaliatory intent while being thinly veiled in probative value deception. These facts in the record support Applicants claim of a U.S.C.A. 14th Amendment due process violation.

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

No

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

(a) which grounds have been presented:

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

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

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

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

(a) Applicant WAS prejudiced by the statements of Investigator
 (b) Shawn McDaniel At Sentencing hearing
 (c) _____

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

(a) your arraignment and plea? Yes
 (b) your trial, if any? N/A
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
N/A

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

(a) the name and address of each attorney who represented you:
 i. Nicole L. Singletary, P.A. Attorney at law
4511 North Main St. Columbia, S.C. 29203
 ii. Lanellle Cantey Durant Appellate Defender
P.O. Box 11589 Columbia, S.C. 29211
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. Ms. Singletary - Plea and Sentencing
 ii. Ms. Durant on Appeal
 iii. _____

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

Vacate And Remand For a new trial

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

No

STATE OF SOUTH CAROLINA)

County of Lee)

VERIFICATION

I, Jeremy Marice Bills #301883, 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.

Jeremy Marice Bills

SWORN to and subscribed before me this 26
day of February, 2013.

Manuel Turner (L.S.)
Notary Public

My Commission Expires: 3/8/2020

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

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

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


Applicant

SWORN or affirmed to and subscribed before me this
26 day of February, 2013.


Notary Public

My Commission Expires: 3/8/2020

RICHLAND COUNTY
 FILED
 2013 MAR -5 PM 1:01
 JEANETTE W. McBRIDE
 C.C.P. & G.S.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Jeremy Batts, #301883,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No. 2013-CP-40-01332

RETURN

In response to the post-conviction relief Application filed March 5, 2013, Respondent would show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. Applicant was indicted during the November 2009 term for of the Richland County Grand Jury for Assault and Battery with Intent to Kill (2009-GS-40-13217), Use of a Firearm During Commission of a Violent Crime (2009-GS-40-010337), Displaying a Firearm into a Vehicle while Occupied (2009-GS-40-10338), and Assault with Intent to Kill (2009-GS-40-10446). Nicole Singletary, Esquire, represented Applicant. On April 29, 2010, Applicant pled guilty as indicted to all charges before the Honorable L. Casey Manning, who sentenced Applicant to imprisonment in the following structure:

- | | |
|--------------------|----------------------|
| • 2009-GS-40-10337 | 5 years, concurrent |
| • 2009-GS-40-10338 | 5 years, concurrent |
| • 2009-GS-40-10446 | 10 years, concurrent |
| • 2009-GS-40-13217 | 20 years, concurrent |

A timely Notice of Appeal was filed and an Anders brief was submitted on Applicant's behalf. The South Carolina Court of Appeals dismissed Applicant's appeal on February 29, 2012 (Op. No. 2012-UP-139). The Remittitur was issued on March 19, 2012.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject convictions, and Applicant's guilty plea transcript, and Applicant's records from the South Carolina Department of Corrections. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "A violation of my U.S.C.A 6th Amendment right to effective assistance of trial counsel (Ineffective Assistance of Counsel)"
 - a. Counsel failed to inform Applicant of his privilege against incrimination, right to a jury trial, right to confront accusers
2. "A violation of my U.S.C.A. 14th Amendment right to the due process of law (right to a fair trial)"
 - a. Investigator at sentencing made prejudicial remarks that were unfair.

Any claims not specifically enumerated in the post-conviction relief application or amendments will be opposed by Respondent at an evidentiary hearing, and Respondent will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, a 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 (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. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

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

IV.

Applicant also alleges that he was denied due process of law. Applicant's allegation claims infringement of his rights under the United States Constitution. However, Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since Applicant has failed to make even a *prima facie* showing, Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

V.

Additionally, Respondent submits that the second allegation should be summarily dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20 (1976).

Even if the facts alleged by the Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. The allegations presented by Applicant raises direct appeal issues that are procedurally barred by S.C. Code Ann. § 17-27-20(b) (1985). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Therefore, the Court should summarily dismiss this allegation as it is not proper in a for post-conviction relief action.

VI.

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

VII.

WHEREFORE, having made its Return, Respondent requests that an evidentiary hearing be held solely on the issue of ineffective assistance of counsel.

[signature page to follow]

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: Megan E. Harrigan
Attorneys for the Respondents

May 28, 2013.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

)
) IN THE COURT OF COMMON PLEAS

2013-CP-40-01332

Jeremy Batts, 301883

Applicant,

vs

State of South Carolina,

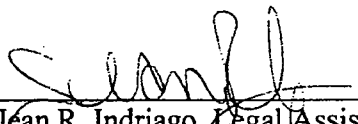
Respondent.

)
)
)
) AFFIDAVIT OF SERVICE BY MAIL
)
)
)
)

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

Jeremy Batts, #301883
LEE CORRECTIONAL INSTITUTION
990 Wisacky Highway
Bishopville, SC, 29010

DATED this 28th day of May, 2013.



Jean R. Indriago, Legal Assistant
For Respondent

I N D E X

Proceedings 4

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No Exhibits Introduced.

TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 10:51 a.m.)

THE COURT: Yes, ma'am.

MS. HARRIGAN: Your Honor, the next matter is *Jeremy Batts v. the State of South Carolina*, Docket No. 2013-CP-40-1332. Mr. Batts was indicted by the Richland County Grand Jury for assault and battery with intent to kill; four counts of assault with intent to kill; discharging a firearm into a dwelling or vehicle; unlawful carrying of a firearm; and criminal domestic violence, second offense.

Mr. Batts was represented by Nicole Singletary and Jennifer Davis. On April 26th, 2010, Mr. Batts appeared before the Honorable L. Casey Manning, where he pled guilty to assault and battery with intent to kill; one count of assault with intent to kill; discharging a firearm into a dwelling or vehicle; unlawful carrying of a firearm; and criminal domestic violence, second offense. The three additional "assault with intent to kill" charges were dismissed pursuant to the plea. Sentencing was deferred. And on April 29th, 2010, Judge Manning sentenced him to an aggregate term of 20 years' imprisonment.

A notice of appeal was filed, and an *Anders* brief was submitted on his behalf. The South Carolina Court of Appeals dismissed the appeal, and the remittitur was sent on March 16th, 2012.

DIRECT EXAMINATION BY MS. GOOD - JEREMY BATTS

5

1 Thereafter, on March 5th, 2013, he filed an
2 application for postconviction relief, alleging ineffective
3 assistance of counsel and due process violations. The
4 state filed its return on May 28th, 2013, requesting an
5 evidentiary hearing be held.

6 On January 3rd, 2014, Mr. Batts, through counsel, Anna
7 Good, filed an amended application, alleging the following
8 additional grounds for relief: Trial counsel failed to
9 correctly inform applicant regarding the plea and potential
10 sentences for -- sentencing for charges. Trial counsel
11 failed to inform applicant of his rights during the plea,
12 only mentioning that plea is mitigation like a trial; and
13 that trial counsel failed to ask for a continuance and
14 adequately explain directly presented indictments served on
15 him the morning of his plea.

16 He's represented in this action by Anna Good. And
17 I'll turn it over to Ms. Good at this time.

18 THE COURT: Yes, ma'am.

19 MS. GOOD: Thank you, Your Honor. Applicant calls
20 Jeremy Batts.

21 (Whereupon, the witness came forward.)

22 JEREMY BATTS, having been first duly sworn,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY MS. GOOD:

1 Q Mr. Batts, you just heard the attorney general discuss
2 your plea on April 26th, 2010, correct?

3 A Yes, ma'am.

4 Q Okay. When were you originally arrested on these
5 charges?

6 A December 2008.

7 Q Okay. And who was your attorney?

8 THE COURT: One moment. Would you pull the microphone
9 down for him, please.

10 THE BAILIFF: (Complied.)

11 Q Who was your attorney?

12 A Ms. Nicole Singletary.

13 Q And was your attorney -- was she your attorney the
14 entire time, from the date you were arrested until your
15 plea?

16 A Yes.

17 Q Okay. And about how many meetings did you have with
18 Ms. Singletary?

19 A Several.

20 Q Okay.

21 A Several.

22 Q Was your first meeting around March 2009?

23 A Sounds about right.

24 Q And do you recall about how long this meeting lasted?

25 A It was -- I know for a minute.

DIRECT EXAMINATION BY MS. GOOD - JEREMY BATTS

7

1 Q Do you remember ---

2 A We discussed ---

3 Q --- what you ---

4 A --- some things.

5 Q --- discussed about in this meeting?

6 A Yeah. The ins and out of basic -- that she was going
7 be my lawyer and the basics of the case.

8 Q Okay. So the basics of the case?

9 At that point did you have any discovery in the case?

10 A No, ma'am.

11 Q Okay. And did you have a second meeting with Ms.
12 Singletary?

13 A Yes, ma'am.

14 Q And approximately when was that?

15 A I been seeing a -- I been seeing her come in and out
16 to speak with other inmates. You know, sometimes I would
17 just ask to speak to her. That was -- I can't really
18 recall.

19 Q And at that point did she tell you that she had an
20 investigator on your case?

21 A Yes, ma'am.

22 Q Did you ever meet with this investigator?

23 A No, ma'am.

24 Q And the second meeting that you had with her, did --
25 was there still any discovery on the case?

1 A No, ma'am.

2 Q Did she ever -- did she give you discovery at your
3 second meeting with her?

4 A No, ma'am.

5 Q Okay. And then, you had a third, more substantive,
6 meeting with her in approximately December of 2009 or
7 January of 2010. At this point was there discovery?

8 A Yes, ma'am.

9 Q And about how much discovery was it?

10 A I mean, it was somewhere -- I think '011.

11 Q Okay. And about how big was it? Do you remember?

12 A My whole discovery was kind of small. Ain't that big.

13 Q Okay. Did she ever go over it with you?

14 A We went over -- we went over some things in it. But
15 it was kind of like that's what made it over.

16 Q Okay. So she gave you a copy of it?

17 A Yes, ma'am.

18 Q But she never discussed the entire discovery with you?

19 A No. We never went over it page to page on it.

20 Q At some point did y'all begin discussing whether to go
21 forward with a trial or a plea?

22 A Yes, ma'am.

23 Q And what was -- what were you telling her about a
24 trial?

25 A I felt strongly in believing to go -- I -- I -- I

DIRECT EXAMINATION BY MS. GOOD - JEREMY BATTS

9

1 mean, I felt confident and real strong about going to trial
2 on my case.

3 Q Okay. And when y'all were discussing wanting a trial,
4 what was her demeanor?

5 A It was kind of -- it was kind of up and down. At time
6 -- every time I -- I come up with something and every time
7 I come up with something and I felt confident that we could
8 go with it -- have a go, it always come back to me with
9 some kind of way to kind of -- kind of diffuse it some kind
10 of way or it -- it always never really balanced out.

11 Q Okay. And at that point what were you aware that your
12 charges were?

13 A At this time I -- when I initially got arrested,
14 though, I got arrested on -- I -- I got picked up for
15 questioning. They asked me about it and talked with the
16 officer.

17 Q Okay.

18 A And when I went down there to speak with the officer,
19 I had a -- a -- a old pending CDV or something. And I have
20 a go -- and they locked me up for nay. They locked me up
21 for nay.

22 Q Okay. So you had a CDV. And ---

23 A Yeah.

24 Q --- with what you got arrested on, how many warrants
25 were you given on that?

- 1 A Just one.
- 2 Q And what was that warrant for?
- 3 A It was just assault and battery with intent to kill.
- 4 Q With intent to kill?
- 5 A (Nodded head up and down.)
- 6 Q Okay. So ultimately, you decided to go to trial and
- 7 you were set for trial on April 26th, 2010, correct?
- 8 A Yes, ma'am.
- 9 Q And is that day you ultimately pled?
- 10 A (No audible response.)
- 11 Q Did you end up pleading guilty on that day?
- 12 A Yes, ma'am.
- 13 Q Okay. And the morning of that day, like I said, it
- 14 was the morning of your trial. Were you surprised by
- 15 anything the morning of your trial?
- 16 A Yes, ma'am.
- 17 Q And what were you surprised with?
- 18 A I was about like five -- I had about like four or five
- 19 extra -- five other indictments.
- 20 Q So you had five other indictments, other than just the
- 21 assault and battery with intent to kill?
- 22 A Yes, ma'am.
- 23 Q Okay. Was this the first time you had ever seen these
- 24 indictments?
- 25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. GOOD - JEREMY BATTS

11

1 Q And at the time were you aware what they were for?

2 A No. I was -- I was -- I was just served. I was still
3 going to -- I was just served the indictments, and I had no
4 idea I even had these indictment.

5 Q So they served you with these indictments the morning
6 of the trial?

7 A Yes, ma'am.

8 Q Okay. At that point did Ms. Singletary discuss with
9 you anything regarding waiving any time, trying to get a
10 continuance in order to prepare for those extra indictments
11 at your trial?

12 A Not at all.

13 Q Okay. And what time were you served with those
14 indictments?

15 A I was -- I -- I -- I came -- I came here to the
16 courthouse to pick -- to pick my -- to pick my jury.

17 Q Uh-huh.

18 A And on the morning of -- that I was supposed to pick
19 my jury, that's when I got the five indictments.

20 Q Okay. So it was approximately eight-thirty/nine
21 o'clock in the morning?

22 A Yes, ma'am.

23 Q Okay. And were they actually served on you in the
24 courtroom?

25 A Yes, ma'am.

1 Q Okay. What did she tell you about these indictments?

2 A Just told me how much time I could get to -- how much
3 time I could get for them or however it go.

4 Q Okay. And ---

5 A Yeah.

6 Q --- this was on -- on April 26th, 2010, correct?

7 A Yes, ma'am.

8 Q Do you recall when these indictments were presented to
9 the grand jury and true-billed by the grand jury?

10 A Yes, ma'am. I remember, like I said, 2009.

11 Q Potentially, November 18th, 2009?

12 A Yes, ma'am.

13 Q And if they were true-billed on November 18th, 2009,
14 you first saw them and heard about them on April 26th,
15 2010?

16 A The day I was supposed to pick my jury, ma'am.

17 Q Okay. When you went in to be ready for the trial, did
18 you feel like Ms. Singletary was prepared for the trial?

19 A I'm kind of -- I'm kind of like -- I'm -- I'm -- I'm
20 kind of -- I don't really know the law, however it go. So
21 I kind of like just trying to put my all -- I'm -- I'm just
22 going by what was -- trying to go on my judgment and going
23 by -- do you know what I'm saying -- just -- just put my
24 trust -- having to -- just have to put my trust in my
25 lawyer. But I didn't want to go to -- but I did want to --

1 and I did want to go to trial.

2 Q Okay. And was she prepared for a trial?

3 A She showed me a few things to say if we was to go to
4 trial, that this what she would -- this what she would
5 present or this how she'll go about doing it.

6 Q Did she seem distracted in any way?

7 A I don't know what you mean.

8 Q Okay. Did she seem like she was completely into
9 preparing for a trial, or did she seem distracted?

10 A I mean, it seemed distracted because sometimes it was
11 brought to my knowledge that, okay, that she'll go about
12 trying to get me a plea for ten years or however it go at
13 one point in time. But then it came to negotiate; it's not
14 negotiated plea. I went through many different -- many
15 different motions.

16 And on the day that I did come up here for my -- to
17 pick my -- my jury, the -- the -- the court was cleared; I
18 got to speak with my family, because I strongly wanted to
19 go to -- I strongly wanted to go to trial to prove my
20 innocence on my case. But my mom had a heart attack. My
21 sister and my pastor -- they clear the courtroom; let me
22 talk to my whole family. And understand for that, my mom
23 had the heart attack.

24 That's the only reason I took the plea. My -- she --
25 Ms. Singletary know that. My mother right there; my kid --

1 my -- my -- my child's mother there and my child. That's
2 the only reason I took that plea.

3 Q Okay. And before when you learned about the new
4 charges, at that point were you scared about all these
5 extra charges that were coming about?

6 A Ma'am, I never had -- you -- on my -- I never had this
7 kind of charge on my record before.

8 Q So when ---

9 A It's never ---

10 Q --- you were served with the new indictments, how did
11 that make you feel?

12 A I felt like I was being -- I felt that that was a
13 scare tactic towards me. I felt like I'm being violated
14 but . . .

15 Q And at some point that morning, did y'all begin
16 discussing a plea?

17 A My plea was always non -- non -- nonnegotiated.

18 Q I'm saying that at that morning of April 26th, did you
19 begin discussing a plea with Ms. Singletary?

20 A Yes, ma'am. After the court was cleared and I spoke
21 with my mom, my kid, rest of my family.

22 Q And based on your discussions with Ms. Singletary, how
23 did she advise you about the plea?

24 A This what she told me: that Mr. Manning is -- Mr.
25 Manning is a fair judge or however it go and that we was

1 going to go with some mitigation plea.

2 Q A mitigation ---

3 A To plea ---

4 Q --- plea?

5 A Yes. And ---

6 Q Is that what ---

7 A --- which ---

8 Q --- she called it?

9 A Yes ---

10 Q Okay.

11 A --- ma'am. And I ---

12 Q And what did ---

13 A --- couldn't ---

14 Q --- she explain to you a mitigation plea was?

15 A That we'll -- that -- that we'll just come in here and
16 mitigate -- we'll just come in here and mitigate; they'll
17 make a decision on it.

18 Q Did you understand what "mitigate" meant?

19 A I'm kind of lame to the law. I don't -- ignorant to
20 the law. So no, ma'am. At the time I didn't. Well, now
21 that I done been down a little bit and I had a chance to
22 look at it, I know what it mean.

23 Q What was your understanding that day of what a
24 mitigation plea was?

25 A That we was going come in here, mitigate on both

1 parties; that she was going have her -- that she was going
2 have -- they was going have they stuff together, stuff to
3 present, or however it go. I -- I -- it wasn't -- I had no
4 knowledge of the fact that, dealing with this mitigation
5 plea, that would -- would be a Alford plea, instead of
6 mitigation plea; that I could've had witnesses.

7 I had -- I could've had witnesses brought forth and
8 subpoenaed on my behalf. It's like that -- that was never
9 done. None of the witness that could've helped me on
10 parts, which I had one witness that was there at the time
11 that say she seen such and such or however it go, I
12 would've -- would love for her to have been subpoenaed,
13 because that would've helped me. And if I knew she
14 could've been subpoenaed, I probably would've just went
15 straight to trial because that's a big -- that's a big help
16 with my case.

17 Q And what witnesses did you want subpoenaed?

18 A I don't know her first name, but I know her last name
19 would be Ms. Cunningham.

20 Q Say that again?

21 A I don't know her first name. I know it start with a
22 "D." But I know her last name would be Ms. Cunningham.

23 Q Cunningham?

24 A Yes, ma'am.

25 Q Okay. And before the plea you went out -- you went

1 over all the paperwork with her. Did she go over your
2 rights with you?

3 A Meaning far as?

4 Q As far as your right to a jury trial, your right to --
5 to cross-examine any witnesses; you would have to give up
6 your -- certain rights in order to plead guilty. Did she
7 go over any of that with you?

8 A Yeah. But I thought a mitigation -- but -- but
9 dealing with a mitigation plea, I thought it would put --
10 it would kind of put some kind of stipulations on -- on how
11 -- how they go about -- about my trial and my case or what
12 I was trying to present.

13 Q So is it fair to say you thought a mitigation plea was
14 like a trial: You just gave everything to the judge,
15 instead of to a ---

16 A The ---

17 Q --- jury?

18 A Yes, ma'am.

19 Q Is that how she explained it to you?

20 A Yes, ma'am.

21 Q Okay. And you said she never asked for a continuance
22 regarding these new indictments being served on you that
23 morning of the trial?

24 A No, ma'am.

25 Q Okay. In conclusion had -- if you had been aware of

1 how the direct indictments worked and what type of plea you
2 were walking into that day with these extra charges, would
3 you have pled ---

4 A No ---

5 Q --- that day?

6 A --- ma'am.

7 Q Okay.

8 A Absolutely not.

9 Q And if you had known all the information about the
10 case and what the directly presented indictments meant,
11 would you have taken that plea offer?

12 A No, ma'am.

13 Q What -- would you have rather gone to trial?

14 A Yes, ma'am.

15 Q Okay. And as a result of Ms. Singletary failing to
16 correctly advise you of exactly what this plea was in
17 describing a mitigation plea to you and failing to ask for
18 a continuance, do you feel like you were prejudiced?

19 A Yes, ma'am.

20 Q And are you asking the Court today to vacate your
21 guilty plea and return it to the solicitor's office for a
22 new trial?

23 A Yes, ma'am. Please.

24 Q Okay.

25 MS. GOOD: No more questions.

CROSS-EXAMINATION BY MS. HARRIGAN - JEREMY BATTS

19

1 THE COURT: Any cross?

2 MS. HARRIGAN: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. HARRIGAN:

5 Q Good morning, Mr. Batts.

6 A Good morning.

7 Q You testified that Ms. Singletary had your case the
8 entire time, from when you were arrested until your guilty
9 plea, correct?

10 A Yes, ma'am.

11 Q Did she ever have any other attorneys work on your
12 case with her?

13 A Yes, ma'am.

14 Q Who was the other attorney?

15 A That would be Ms. Jennifer Davis.

16 Q Okay. And I couldn't quite hear you before. Did you
17 say you met with her seven times before?

18 A I'm -- I'm -- on -- in approximately the time that I
19 had in my case, I met with her several times.

20 Q Several?

21 A Yes, ma'am.

22 Q Do you have any approximation of how many times?

23 A I probably met with her about four or five -- about
24 five times.

25 Q And you testified you did review discovery with her

1 during these meetings?

2 A Yes, ma'am.

3 Q Do you recall what discovery the state had -- what
4 evidence they had against you at that point?

5 A Yes. I had a -- it's -- I gave some kind of --
6 something about my -- they say I -- I gave a -- a -- what
7 kind of statement? Like a -- they say I gave a -- I'm
8 trying to figure out what kind of statement is this. A --
9 like I -- like I -- like some kind of admit -- they done
10 say I gave a -- like I admit it -- like I gave some kind of
11 admit to something or however it go.

12 Q Did she discuss any gunshot-residue analysis with you?

13 A Yes, ma'am.

14 Q Do you recall what she discussed about gunshot residue
15 with you, what this -- what evidence the state had?

16 A Yes, ma'am.

17 Q And what was that?

18 A My -- they -- they saying that they found gunshot
19 residue -- they found gunshot residue in the car. But they
20 find it above the ceiling. They find it above the ceiling,
21 which I -- a -- you could -- it came from a shot being
22 fired from into the car into the ceiling.

23 But they try to say they found gunpowder residue. But
24 never no gunpowder residue was really found in the car, on
25 the victim, or even on the victim clothes, which, if I

CROSS-EXAMINATION BY MS. HARRIGAN - JEREMY BATTS 21

1 fired a gun, sitting next to the victim, then both of the
2 cars and the window would be up, it would be way more
3 gunpowder residue for all the shots that they saying I was
4 firing.

5 Q And you were sitting in the passenger's side, correct?

6 A Yes, ma'am.

7 Q Were you aware of any statements that the victim had
8 given law enforcement?

9 A Yes, ma'am. She gave -- yes, ma'am. She gave several
10 -- she gave several statement. She changed most of it,
11 several occasion.

12 Q Do you recall her giving a statement, saying she saw
13 firing coming from the passenger's seat where you were
14 sitting when she was shot?

15 A Yeah. She say she seen muzzle-flash shots.

16 Q Okay.

17 A She say she seen some muzzle-flash shots, I think.

18 Q Okay. And your charges actually stemmed from two
19 different incidents: a criminal domestic violence with one
20 former girlfriend; and then, the shots in the car, correct?

21 A Yeah. That's my -- the first charge on some letter
22 from my -- my child's mother back there in the back, and
23 which that -- that charge right there, I -- I -- I always
24 had tried to get my lawyer to go on ahead because it -- it
25 -- it kind of looked bad or however it go. But I try to

1 get her go on and handle that charge before I even come up
2 in here or however it go so it won't even look that bad,
3 which it wasn't even that serious.

4 Q Do you recall discussing possible defenses with Ms.
5 Singletary or Ms. Davis?

6 A Far as?

7 Q What defenses you'd want to present at trial if you
8 went to trial?

9 A Oh, yes, ma'am.

10 Q Do you recall what these defenses were?

11 A It would've definitely been that witness -- it
12 would've definitely been the witness and the gunpowder
13 residue, because the investigator, they try to say that I
14 got out -- they try to say that I did -- I did so much
15 within the time of the shooting. But there's no way
16 possible, when I got a witness, which would've been Ms.
17 Cunningham. She say she -- she heard the -- she see -- she
18 heard the shots and seen the SUV leaving the scene.

19 But the investigators -- this -- this -- this how I
20 got convicted -- investigator came and gave her testimony
21 that I fired the shots -- that -- that I fired the muzzle
22 shots in the car first and then I got out the car and fired
23 in the car several -- I don't know how many times. But if
24 Ms. Cunningham was right there looking out her window and
25 she could -- and -- and the -- and the -- and the crime

CROSS-EXAMINATION BY MS. HARRIGAN - JEREMY BATTS 23

1 happened right in front of the -- her -- her house, there's
2 no way possible I could've fired these shots in the car,
3 then got out the car, as the investigator would say, and
4 fired all these shots into this car and Ms. Cunningham not
5 seen them.

6 Q So you told your attorneys that you needed Ms.
7 Cunningham to be a witness for your trial for your ---

8 A Yeah.

9 Q --- defense?

10 A Yeah. But once she -- see, I never knew -- I never
11 knew that I could have Ms. -- Ms. Cunningham as a witness
12 in my trial because I was just under the impression that
13 this was just a mitigation plea; we just -- that this -- we
14 -- we -- we got a good judge -- we got a good judge or
15 however it go; we going go in here and we going mitigate.
16 I doubt if he -- he real lenient; I doubt he'll give you
17 this, however it go. So I doubt if he'll give you all of
18 this right here. I went in there; I got the max -- max on
19 my charge.

20 Q Do you ---

21 A I ---

22 Q --- have Ms. Cunningham here today to testify?

23 A I sure don't. I'm -- I mean ---

24 Q And I believe you testified before that you gave your
25 attorney the name Ms. Cunningham, but you never knew her

1 first name, correct?

2 A Uh-huh.

3 Q And ---

4 A It's in my motion, though. It's in my motion.

5 Q And you testified that your attorneys did use a
6 private investigator?

7 A Yes, ma'am.

8 Q But you never met with the investigator?

9 A No, ma'am.

10 Q Your attorneys just told you they were using one?

11 A Yes, ma'am.

12 Q Okay. Did you discuss with them that you wanted the
13 investigator to go out and track down this Ms. Cunningham?

14 A Yes, ma'am. What -- several ---

15 Q Did they ever tell you whether or not they were able
16 to locate a Ms. Cunningham?

17 A I can't actually remember. Can't actually remember.
18 But it -- but -- but it's in the -- it shouldn't have been
19 hard because she stay next door to my victim. So I'm
20 pretty sure, if they went out to talk to my victim, then
21 they can go right next door and talk to Ms. Cunningham.

22 Q Okay. You testified that one of your other possible
23 defenses was going to be a gunshot-residue defense, showing
24 that you couldn't have been shooting from inside the car,
25 correct?

1 A Yeah. This what -- well, they say -- they -- it --
2 it's -- out of all the shots that was fired, they saying
3 one of them possibly -- she's saying that she seen shots,
4 but they saying -- they -- they can only -- they can only
5 just kind of the -- detect that only probably one shot been
6 fired from inside the car where I would've been or however
7 it go.

8 Q Did you shoot when you were inside the car?

9 A Yes, ma'am.

10 Q How many times did you shoot?

11 A Shot two times.

12 Q And there were children in the car when you shot,
13 correct?

14 A Yes, ma'am.

15 Q How many children were in the car?

16 A Three.

17 Q What were their ages?

18 A I can't actually remember.

19 Q Were they ---

20 A Oh, one ---

21 Q --- under the age of 10?

22 A No. Yeah. Yes, ma'am. One was 8 -- one was 8 -- one
23 was 8. I think one was, like, 7; and probably, like, 5 --
24 about 4 or 5 or something. But . . .

25 Q Did your attorneys ever discuss with you whether any

1 of these children had given statements to law enforcement
2 about you threatening their mother?

3 A Yes, ma'am. But -- that's when she did that or
4 however it go that night -- and see, that's what I wanted
5 -- if we would've went to trial, the -- the statement that
6 -- that -- that -- that the daughter gave, she saying that
7 we stopped by a store and that I gave -- that I gave -- I
8 -- I mean, and that her mother went in the store for me or
9 however it go, we -- and that I told her mother if she
10 don't have my money, I'm going kill her, why would I tell
11 her that, and which -- which -- which my victim will tell
12 you: When we stopped by the store, I went in the store and
13 purchased my own cigarettes and I had my own money.

14 So who would -- and how would -- why would she say
15 that? What would be my reason for saying that, when we --
16 and she -- and that's what the daughter said: When we went
17 to the store, I got back in the car and said that I -- I --
18 that you better have my money. But why would she need to
19 have my money, when I went in the store and purchased
20 everything myself or however it go. So, I mean, I -- I
21 never understood that.

22 Q But you were aware that one of the children had said
23 you made a threat that same day?

24 A Yes, ma'am. And I also was aware that she said some
25 other things, but then, also, that I was in the car the

1 whole time when the shooting went on too.

2 Q Do you know if your attorneys hired any gunshot-
3 residue experts to help in the preparation of your defense?

4 A (No audible response.)

5 Q Did they hire their own experts, different than --
6 from the state experts, in regards to gunshot residue? Did
7 they seek outside experts to help with your defense?

8 A I can't actually -- I can't actually remember. But I
9 know it was something how about the -- I know that it was
10 some done by SLED, I think.

11 Q Okay. And during your plea the state dismissed the
12 three additional "assault with intent to kill" charges,
13 correct?

14 A They had kept one and gave me ten years for it. Yes,
15 ma'am.

16 Q Okay. One of your allegations is that your attorneys
17 did not inform you of the potential sentences you were
18 facing, correct?

19 A Yes, ma'am.

20 Q Do you recall Judge Manning asking you during your
21 guilty plea if you understood that you were facing up to 41
22 years in prison for these charges?

23 A It wasn't -- yes, ma'am.

24 Q You do recall Judge Manning asking you that?

25 A Yes, ma'am.

1 Q And you were under oath during your guilty plea,
2 correct?

3 A Yes, ma'am. I was so scared and nervous. I was just
4 . . .

5 Q Okay. Do you recall agreeing with Judge Manning and
6 telling him your attorneys had told you and you knew you
7 could receive up to 41 years that day?

8 A Yes, ma'am.

9 Q So you knew, when you entered your guilty plea, that
10 you could receive a sentence of up to 41 years, correct?

11 A Well, I was told more than that at first -- a little
12 ---

13 Q Because there ---

14 A --- more than ---

15 Q --- were the three additional charges that were
16 dismissed, correct?

17 A Oh, okay. Yeah. I was told more than that at first.
18 Yes, ma'am. I think that might've -- that might've been
19 the case.

20 Q But ---

21 A Oh, okay.

22 Q --- with just the charges you were pleading guilty to,
23 those five, your attorneys had explained to you that you
24 were -- could get up to 41 years, correct?

25 A Well, yes. Yes, ma'am.

1 Q And you didn't receive 41 years, correct?

2 A No. What she did -- what she advised me, that -- that
3 -- I got -- what was told to me, if I -- if I didn't take
4 these -- if I didn't take the -- if I -- if I -- if -- if I
5 didn't take negotiated plea, zero to twenty -- however, if
6 I did -- and -- that I'd probably -- if I go to trial, I
7 would -- what they kept stressing to me that was they'll
8 probably give me the max on everything.

9 And that's what -- that -- that was why my family --
10 that -- that's why I was -- I was -- I was -- my -- I was
11 exited -- they cleared the court -- exit the court; brought
12 my family in here to talk to me or however it go. I spoke
13 with my family. My -- I -- I -- I strongly wanted to go to
14 trial -- strongly wanted to go to trial.

15 Clear the court; brought my family in here. And
16 that's when they kept stressing -- that was -- and that was
17 the whole issue to my family, was that if I do go to trial
18 -- you know what I'm saying -- that they going give me day
19 for -- that I'm going have to -- that -- that they going
20 give me a -- they going give me all these time and they got
21 -- they not going run it concurrent or however; they'll run
22 it consecutive, so I'll have to do all this time.

23 So what my family was concerned about was, "Jeremy,
24 you need to go on and take this plea," or however it go.
25 Because, I mean, like I told you, my mom had -- after my

1 mom, she had a heart attack, "You need to go on; take this
2 plea; we'd rather have you back out here" -- you know what
3 I'm saying -- "within this time -- you know, within this
4 time, then, for us than not have you back out here again."

5 So I never had a charge like this before. It was a
6 lot of pressure. I mean, I ain't here to blame nobody. I
7 just want to be -- I just want some -- I just want to be --
8 I admit it. I did admit to firing a gun. But I might've
9 -- I admitted to firing the gun.

10 But my -- I also stated that I -- my intentions was
11 never to hurt my victim or however it go -- and which I
12 just want to -- I just want it to be proved that this truck
13 -- this -- this SUV did fire shots and that it -- it had to
14 be something that triggered me to firing these shots, you
15 know what I'm saying. I got my family in this car. I
16 mean, at -- at the time I was dealing with the female and
17 the kids in the car. And I also want to protect my own
18 life.

19 I did admit this -- on -- on purpose that I fired this
20 gun. My -- my -- that it -- it was -- intention never was
21 to hurt my victim.

22 Q And you did tell Judge Manning during your guilty plea
23 that you only fired the shots in protection and you weren't
24 trying to hurt the victim or her three children, correct?

25 A Yes, ma'am. And another thing is when they went --

1 that -- when they -- when they stressed what I did, they
2 tried to -- they -- like, when court, they try to make --
3 she got grazed or however it go, like she got grazed in the
4 head. He tried to -- they -- he made it seem like it was
5 also -- like I tried to -- but -- but -- but this the whole
6 thing, is that if I'm sitting right next -- if I'm sitting
7 right next to my victim -- if I'm sitting right next to my
8 victim and we in this compact, closed car and I fired these
9 shots, there's no way possible that it'll only be this
10 little bit of gunpowder residue in the car with all the
11 windows up in the car or however it go and that she just
12 got a graze and a -- and that I got -- that I fired these
13 shots in the car and I got all the way out the car and
14 fired all these other shots in the car and she just got a
15 graze.

16 What would be the purpose of me getting out the car?
17 What would be the purpose for me shooting in the car; then
18 getting back out the car; fire all these shots for just a
19 graze?

20 Q She was shot in two locations, correct? She -- you're
21 describing it as a "graze," but she was shot in the
22 forehead and then in her hand or finger, correct?

23 A Yeah. You say in the forehead? That was a graze.

24 Q And ---

25 A See, they ---

1 Q --- your attorney pointed out to the Court that it was
2 more of a graze, correct, and there was some dispute with
3 the solicitor; the solicitor said that it was -- actually
4 ---

5 A A shot ---

6 Q --- left an indentation, correct?

7 A Yes, ma'am. Then they try to say she got shot in the
8 wrist, but then it was through the fingers. It was just,
9 like, a little -- through the fingers.

10 Q Another one of your allegations is that your attorneys
11 didn't fully explain your plea and they described it as
12 more of a bench trial in front of the Court where you could
13 call witnesses, correct?

14 A Oh, it was more like that we was just going come in
15 here -- just, like, it was a mitigation plea. Alford never
16 came in the plea till I got to where I was going. But it
17 was more like mitigation: that we was just going come in
18 here, mitigate, and that he was just going make a decision
19 or however it go.

20 I was never -- if I knew it was more like a Alford,
21 then I probably -- then I probably would've had to subpoena
22 my -- and which she never -- I never knew that I could
23 subpoena my -- that -- that Ms. Cunningham in or however it
24 go. Because that -- that would've been a big -- that's a
25 -- that's a big issue in my case: if Ms. Cunningham -- you

1 know . . .

2 Q When you said that your attorneys explained to you
3 that you could call witnesses to mitigate, your attorneys
4 did call several witnesses on your behalf to speak about
5 your ---

6 A Nah. She ---

7 Q --- character?

8 They didn't recall -- call any witnesses?

9 A No, ma'am. It was never brought to my -- it was just
10 only a mitigation -- it -- once I -- it was only -- was
11 told to me that it was going be a mitigation plea, I never
12 knew that I could be -- I could call no witnesses on my
13 behalf. Because if I knew I could call witnesses on my
14 behalf, and that's somebody that could help me, why would I
15 not do that?

16 Q You don't recall your sister speaking at your guilty
17 plea?

18 A Ms. Harrison? Yes, ma'am.

19 Q Do you recall your family friend, a Dr. Charles Kelly,
20 speaking at your guilty plea?

21 A Yes, ma'am.

22 Q Do you recall your mother speaking at your guilty
23 plea?

24 A Yes, ma'am.

25 Q Do you recall your aunt speaking at your guilty plea?

1 A Yes, ma'am.

2 Q And do you recall child's mother speaking at your
3 guilty plea?

4 A Yes, ma'am.

5 Q Okay.

6 A Everybody was there in my family, except that witness
7 that could help me, ma'am, that Ms. Cunningham. You know
8 what I'm saying? My whole family was there, my supportive
9 team.

10 But far as my witnesses, that what my lawyer -- if my
11 lawyer would've informed me that I -- that would -- that
12 could help me, far as -- if -- if -- if she's saying this
13 and my victim's saying this and this witness saying she
14 seen this and my victim saying that this what happened and
15 my victim and my investigator done got together and saying
16 this what happened and that's what they trying to convict
17 me on and that witnesses could help me and I knowed what
18 they saying, it don't coincide -- it -- it would never
19 match together -- then -- you hear what I'm saying? -- that
20 witness is a big help, ma'am.

21 Q And you ---

22 A I ---

23 Q --- don't have Ms. Cunningham here today?

24 A No, ma'am. I had -- I didn't -- and I don't have her
25 here today. And I didn't have her here at that mitigation

1 plea.

2 Q And you testified that before your plea, your family
3 was brought in to talk to you and your family all
4 encouraged you to accept the plea because they didn't want
5 you to receive the maximum sentence of concurrent -- or ---

6 A I guess ---

7 Q --- consecutive time, correct?

8 A Yeah. The only -- yeah. I guess that's something Ms.
9 Singletary advised them or something she was talking to
10 them about. Because they was coming back and forth,
11 talking to me -- you know what I'm saying -- try to get me
12 to plea.

13 Q So did you accept the guilty plea because you were
14 afraid you'd receive maximum, consecutive sentences if you
15 were convicted at trial?

16 A I'm not going say I'm -- I -- I ain't going say I'm no
17 angel. I never been in this kind of position before,
18 dealing with this much time. I was scared to death.

19 Q And your other allegation is involving the indictments
20 that were directly presented and you learned about the
21 morning of your plea, correct?

22 A Yes, ma'am.

23 Q But you testified that you had been arrested for
24 assault and battery with intent to kill, correct?

25 A That's the only -- that -- when I initially got

1 arrested, I was only arrested under that one charge. I had
2 that same one charge the whole time until the morning of my
3 -- until the morning of my -- that I was coming to pick my
4 jury.

5 Q Besides the criminal domestic violence, second
6 offense? You knew about that too, correct?

7 A On my baby mom. Yeah.

8 Q Okay. And ABWIK, or assault and battery with intent
9 to kill, carried more time than any of the other offenses
10 ---

11 A That ---

12 Q --- that you were charged with, correct?

13 A Yes, ma'am.

14 Q And you were sentenced to concurrent time by Judge
15 Manning, correct?

16 A Yes, ma'am. Yes, ma'am.

17 Q Okay.

18 A And I was charged with the additional -- I think it
19 was additional four of them. They -- they dismissed three
20 and kept one and gave me ten years for it, along ---

21 MS. HARRIGAN: Moment's ---

22 A --- with the twenty years with the other one.

23 MS. HARRIGAN: Moment's indulgence, Your Honor. No
24 further questions, Your Honor.

25 MS. GOOD: Very briefly, Your Honor.

REDIRECT EXAMINATION

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BY MS. GOOD:

Q When you were discussing your defenses with Ms. Singletary and Ms. Davis, your main defense was self-defense, correct?

A Yes, ma'am.

Q Okay. And that's what you were discussing about shooting into another car and an SUV?

A Yes, ma'am.

Q Okay. Just real quickly about the indictments that were served on you that morning: Going into the trial that morning, you only had that ABWIK charge of twenty years, correct?

A Correct.

Q And that morning you got served an additional four "assault with intent to kill" charges, which could've carried potentially forty years?

A Yes, ma'am.

Q A "possession of a firearm during a violent crime," which carried five years?

A Yes, ma'am.

Q And the "discharging a firearm into a vehicle," which was five years?

A Yes, ma'am.

Q So potentially, at trial you were looking at an

1 additional fifty years, in addition to that ABWIK that you
2 had already been served with prior, when you were
3 originally arrested?

4 A Yes, ma'am.

5 Q And that morning you were served with these additional
6 fifty -- potentially fifty years, correct?

7 A Yes, ma'am.

8 Q Okay. And that is what scared you the morning of the
9 trial?

10 A That and on the fact -- on account of -- my mom had a
11 heart attack. My mom saying that she can't really take it.
12 I had this -- I ain't had no choice. I had to -- I had do
13 what I had to do, I mean.

14 Q And so it's fair to say these indictments confused you
15 that morning?

16 A Yes, ma'am.

17 Q And did Ms. Singletary go -- have the ability to go
18 over those in detail with you the amount of time you wish
19 you could have?

20 A No, ma'am.

21 Q Okay. And what was the impression that Ms. Singletary
22 gave you about how much time you were going to get on these
23 charges?

24 A She told me that I -- we had a lenient judge and that
25 I probably wouldn't get this much time -- I probably

RECROSS-EXAMINATION BY MS. HARRIGAN - JEREMY BATTS 39

1 wouldn't get that much time; we going go in on mitigation
2 plea. And I told her, you know, I'd be willing to -- I'd
3 be willing to take my full responsibility for the action
4 that I took, far as in the case, which I did. I put it on
5 record that, yes, I did fire this gun or however it go.
6 But my intention -- you know, it wasn't -- wasn't -- wasn't
7 to hurt my victim or however it go.

8 I mean, just like I say, I ain't no angel. Somebody
9 get to shooting at you, however it go, you know, ain't like
10 I ain't had no gun. I didn't go and looking for no
11 trouble.

12 Q So she told you, you had a lenient judge?

13 A Yes, ma'am.

14 Q And you probably weren't going to get the maximum?

15 A Yes, ma'am. I got the -- I got the maximum on every
16 last one of my charges ---

17 Q No ---

18 A --- even with me trying to admit to them.

19 MS. GOOD: No further questions, Your Honor.

20 MS. HARRIGAN: Briefly in -- in recross, Your Honor.

21 RECROSS EXAMINATION

22 BY MS. HARRIGAN:

23 Q You just testified that you got the maximum on all
24 your charges ---

25 A Yes, ma'am.

1 Q --- correct?

2 But you didn't get the maximum. You were facing 41
3 years, correct? You testified before, you knew you were
4 facing 41 ---

5 A No.

6 Q --- years?

7 A My -- yeah. I had zero to twenty. I got the -- I got
8 -- I got twenty years on that. I got twenty -- I got five
9 years on every gun -- they -- they tried me with gun charge
10 -- I got ten years on another ABWIK.

11 Q You don't recall, when I was asking you questions
12 before, saying that you understood that you were facing 41
13 years when you pled guilty and you told Judge Manning under
14 oath you understood you were facing 41 years, correct?

15 A Yeah. I just ---

16 Q You knew you could've gotten 41 years when you pled
17 guilty, correct?

18 A Them 41 years? You talking about if it would've ran
19 consecutive?

20 Q Yes.

21 A Yeah. I was on -- I know I was scared. I -- I -- I
22 mean, I was focused on the zero to twenty. I mean, the
23 twenty years, that was -- the -- the I ain't lying. I --
24 I'm going be honest: That twenty stuck out more than
25 anything. I -- I never been in -- I -- I never had this

RECROSS-EXAMINATION BY MS. HARRIGAN - JEREMY BATTS 41

1 kind of charge before. The twenty stuck out more than
2 anything.

3 Q But you recall Judge Manning telling you that you
4 could get up to 41 years if he ran it consecutively,
5 correct? You testified before that you -- you remember
6 that, right?

7 A Yes, ma'am. But on -- during the -- during the course
8 of the hearing, they always -- I done been in court before
9 -- they always say that: that you could get this, however
10 it go. But I was going up under zero to twenty.

11 Q And you testified before that you, under oath, told
12 Judge Manning you knew and understood you could receive 41
13 years, correct?

14 A Yeah. But if I took that plea, then I'd be going up
15 under -- all -- he -- now, I understood that. But if I
16 take this plea, I'd be going up under zero to twenty.

17 Q And you weren't sentenced to 41 years, were you?

18 A I was in to the -- from the zero to twenty. I was
19 sentenced to the twenty.

20 Q You were sentenced to twenty out of ---

21 A Yes, ma'am.

22 Q --- the possible 41 years ---

23 A If ---

24 Q --- correct?

25 A If he was run to them consecutive. Yes, ma'am.

1 Q Which he could've, correct? There was no negotiation
2 for you to get concurrent time, correct?

3 A You talking about -- no. No. The -- the negotiation
4 was from zero to twenty, ma'am.

5 Q Okay. Do you know where in the transcript it says
6 that the negotiation was for zero to twenty?

7 A Well -- well, that -- that's the only -- I had a
8 nonnegotiated plea. So my charge carry from zero to
9 twenty.

10 Q So you didn't have any negotiations, you just said,
11 correct? You knew that there was no agreement between the
12 state and you as to what sentence you'd receive, correct?
13 It was a wide-open plea?

14 A Zero to twenty, that's all I know. I don't -- I mean,
15 I just know zero to twenty, ma'am.

16 Q So when you told Judge Manning you understood you
17 could get up to 41 years, were you lying to him?

18 A Not more or less lying. I'm just ignorant to the --
19 to -- to the -- to the law of the Court. I got -- I'm just
20 only going by -- I'm just only going -- I'm -- I'm nervous.
21 I'm just only going by what was being told to me.

22 I never took a bar exam. I'm -- I'm only -- I'm not
23 -- not trying to be funny, ma'am. I -- this my first
24 charge -- time ever dealing with a charge -- if you look at
25 my -- I never had a charge like this before, so I'm kind of

RECROSS-EXAMINATION BY MS. HARRIGAN - JEREMY BATTS 43

1 like just going along with the people I think that know how
2 to do they job. That just it.

3 Q What are you prior charges? You keep talking about
4 you've never had any charges this serious. What are --
5 what's your prior record?

6 A Possession of a stolen vehicle; I had a possession of
7 a gun under the age of 21, before I was even 21; and
8 probably, like, a -- and -- and I had a -- a CDV. That's
9 it, stuff like that. I'd never had a violent charge ever
10 in my life.

11 Q And you also had a possession of cocaine, correct?

12 A Oh, yes, ma'am.

13 Q And then, you had a parole revocation in 2006,
14 correct?

15 A Oh, yeah. But the revocation, that ain't nothing but
16 just going back for violation on my -- on my parole forever
17 for -- for them same -- for that possession of a stolen
18 vehicle ---

19 Q Uh-huh.

20 A --- and that same cocaine -- oh, well, not the cocaine
21 -- but the possession of a stolen vehicle. That's it.
22 When that say "parole revocation," that what that mean.
23 I'm just going back on there, and that's it ---

24 MS. HARRIGAN: No further ---

25 A --- for violation.

DIRECT EXAMINATION BY MS. HARRIGAN - NICOLE SINGLETARY 44

1 MS. HARRIGAN: --- questions, Your Honor.

2 THE COURT: Anything further?

3 MS. GOOD: No.

4 THE COURT: You may step down. Thank you.

5 THE WITNESS: You're welcome.

6 (Whereupon, the witness exited the witness stand.)

7 THE COURT: Any further witnesses from the applicant?

8 MS. GOOD: No, ma'am.

9 THE COURT: Any witnesses on behalf of the state?

10 MS. HARRIGAN: Yes, Your Honor. The state would call
11 Nicole Singletary to the stand.

12 (Whereupon, the witness came forward.)

13 NICOLE SINGLETARY, having been first duly sworn,
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MS. HARRIGAN:

17 Q Good morning, Ms. Singletary.

18 A Good morning.

19 Q How long have you been practicing law?

20 A Since -- almost nine years, I believe -- almost eight
21 years. Yeah.

22 Q At the time you represented Mr. Batts, where were you
23 employed?

24 A At the Richland County Public Defender's Office, from
25 2005 until April of 2010.

DIRECT EXAMINATION BY MS. HARRIGAN - NICOLE SINGLETARY 45

1 Q Okay. Do you recall when in April you left the public
2 defender's office?

3 A I was -- left the public defender's office on April
4 the 9th -- I believe that would've been the Friday -- and I
5 opened up my own practice on April the 12th, which would've
6 been a Monday.

7 Q So shortly before Mr. Batts' plea?

8 A Yes.

9 Q But you kept the case?

10 A A condition -- because the case had been lingering for
11 so long, a condition that I had to make with the public
12 defender's office and the solicitor's office was that I had
13 to take his case with me, because it had been pending on
14 the trial docket for some time.

15 Q Do you recall when you were appointed to represent
16 him?

17 A That would be December the 23rd, 2008.

18 Q And were you his first attorney?

19 A Yes, I was.

20 Q Did you ask any other attorneys from your office to
21 associate or assist with the case?

22 A Yes. Jennifer Davis.

23 Q Is that standard practice in the public defender's
24 office to have someone sit as second chair?

25 A It is.

DIRECT EXAMINATION BY MS. HARRIGAN - NICOLE SINGLETARY 46

1 Q Had you worked on cases prior with Ms. Davis?

2 A Yes.

3 Q How long before his guilty plea did you associate Ms.
4 Davis on the case?

5 A I would probably say it was maybe about two or three
6 months prior to. I know it would at least be a couple
7 weeks prior to the guilty plea.

8 Q Okay. And was her role to assist with trial prep?

9 A Her role was to assist with trial prep. And also,
10 when I actually have a trial lawyer -- if a client tells me
11 they're going to trial, what I generally do is I do a
12 packet such as this that says "Case Players" and which is
13 the names of all the individuals who are involved with the
14 trial. Then, I have a column that says "Role"; then, I
15 have a column that says "Statement or Report." Then, I
16 have a column that says "Significant." And then, the last
17 column says "Attorney." And at that point I have the name
18 -- my name, as well as Ms. Davis' name, for the particular
19 witnesses that she would be cross-examining or direct-
20 examining.

21 Q Okay. Approximately how many pages is -- is that
22 document?

23 A And this is not the extent of the document. But I
24 would say that it's probably about 30 pages. What I will
25 tell you is that, as I said, with Mr. Bates' [sic] case and

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1 other cases that I go to trial, what me and -- this is
2 something that I give my second chair also and we go over
3 it.

4 But in addition what's in this packet is -- and it --
5 beg the Court's indulgence. One of the -- after the case
6 file, then I have this document that says -- it's Jeremy
7 Bates' criminal record. And what it basically has is the
8 arrest charges, the date of arrest, the date of conviction;
9 and then, I have a little chart that says the
10 admissibility.

11 Some of the other things that I have in here is a
12 breakdown of the victim's statement, which was Doris Clark.
13 I have a breakdown of -- and a summary of all of the
14 witnesses in the case and the purpose that I think that we
15 could use. For instance, on one of them, I have that --
16 with the incident report for Tina Tillman, I said: "Will
17 be used for impeachment purposes if we open up the door."

18 Like, I have the CSI reports. And -- and in this case
19 with the CSI -- and I know Mr. Bates testified that there
20 was not a lot of GSR in the car and there was no GSR on
21 Doris Clark. That's not correct.

22 There was GSR that was on the victim's hand, as well
23 as GSR that was in the -- on the passenger's headrest.
24 There was GSR that was on top of the passenger's headrest.
25 There was GSR that was on the -- the victim's hand, as well

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1 as GSR that was -- and I -- I just looked at the GSR
2 report. There was GSR that was on another location on the
3 victim.

4 But I have right here a breakdown of that report. In
5 addition, right here I have, which is questions for that
6 CSI, which consists of -- I had about 14 questions I was
7 going to ask Investigator Holdorf.

8 The next is Sgt. Robinson's investigative follow-up,
9 where I kind of put little boxes to say that, well, this is
10 what my client says happened versus what the investigator
11 says. I have all of Mr. Robinson's questions that I was
12 going to ask him at trial.

13 And then, I also have, like, my responses -- like,
14 say, for instance, one question I have for Robinson, I
15 said: "But did -- but you did not get any additional
16 information as to why he would be a possible suspect?" And
17 then, I have in brackets: "Investigatory hearsay, *State v.*
18 *Thompson*." Like, so I can come back and try to keep that
19 investigator from testifying.

20 As it relates to [REDACTED] testimony, same thing:
21 the breakdown for [REDACTED], I have ---

22 Q And who is [REDACTED]?

23 A [REDACTED] is actually the -- the actual minor that made
24 the statement that she heard that Mr. Bates allegedly said
25 that he was going to kill the victim, Doris Clark. One

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1 thing that I will tell you, too, is that preparing for
2 pretrial, we had 13 pretrial motions. One of the motions
3 was to actually have a in-camera hearing in front of the
4 judge to actually determine the competency of [REDACTED] to
5 see whether or not she could testify.

6 Based on the comments that Dornesha said that she
7 heard earlier that day, we actually had one motion that was
8 a *State v. Lyle* motion. We had a -- a motion to keep out
9 prior bad acts because [REDACTED] did say -- and -- and --
10 and I'm looking right here. I have prosecution arguments,
11 like statement against interest. I have our kind of
12 argument: It's hearsay; it's not relevant; it's unduly
13 prejudicial; and that it's a prior bad act.

14 And then, I have find out through testimony -- where's
15 the Handy Hut located? -- based on all the information and
16 some other stuff that my client told me. Another -- to
17 move forward, I have the EMS report that I broke down in
18 here. I have the questions for the EMS officers.

19 And in all actuality, Mr. -- one of the things that I
20 did with Mr. Bates is that we did mock cross-examinations
21 and direct examinations. And one of the things that I did
22 -- and this document right here says "Jeremy's Questions."
23 As you can see, I had prepared five pages of questions to
24 ask Jeremy Bates on the stand.

25 Now, that was 104 questions. Now, I'm going to tell

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1 you that what I did in this case -- because he was having
2 such a difficult time with actually us doing the cross-
3 examination and the direct examination, the mock, I gave
4 Mr. Bates a copy of every question that I was going to ask
5 him on that witness stand.

6 Q When you say "he was having such a difficult time"
7 with your direct and then cross-examination, can you
8 elaborate on that?

9 A Well, my -- the entire time I represented Mr. Bates,
10 his -- and -- I got him evaluated. And -- and I'll tell
11 you I got him evaluated because his behavior was up and
12 down. It was very erratic.

13 So based on that, I -- I -- I got him evaluated to see
14 if there were any issues that would've caused the behavior
15 that I actually was experiencing. But the evaluation came
16 back that he was competent and that he was criminally
17 responsible.

18 And in addition -- if I -- if you want me to continue
19 with the packet ---

20 Q Briefly, back to the evaluation ---

21 A Okay.

22 Q --- did -- was any malingerer noted in the
23 evaluation?

24 A Well, they were trying to -- the -- what they were
25 saying is that, like, Mr. Bates was somewhat making up some

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1 of the things that he was saying that was occurring.

2 Q And I'm sorry. I was interrupting you as you were
3 going back to your packet. If you could continue on with
4 that.

5 A Okay. Okay. One of the things -- one of the next
6 things that's in my packet -- and Mr. Bates actually
7 brought this up -- that there were different statements
8 that were given by Doris Clark, the victim. Well, I have
9 this little chart that basically says the different stories
10 of Doris Clark. And I have date of statement, the
11 location, who was it given -- it to, what were the
12 particulars, and was Jeremy present or was he not present
13 during those statements.

14 One of the other things I have is -- in the packet is
15 an entire review of the medical records. Basically, what I
16 will tell you is that on here, I -- that I notate anybody's
17 name that was associated with the medical records. I -- I
18 even notated on here when her vitals were checked and who
19 checked her vitals and if they told her anything. So
20 that's right here in the packet also.

21 I -- I have a copy of -- and like I said earlier, a
22 copy of his medical records. One thing that I think that
23 is notable is that in Mr. Bates' case, I did not just do
24 oral -- or I was not planning just to do oral actual
25 motions. I generated memorandums. I generated one

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1 memorandum in support of defendant's motion to excludes
2 prejudential [sic] terms. I did a -- a written memorandum
3 for the victim not to be called a victim. I mean, I -- I
4 -- I did a lot of memorandums for -- for his case. So I
5 was highly vested in this case.

6 Q Suffice it to say, you were prepared for trial?

7 A Oh, I -- I was definitely prepared for trial.

8 Q Okay. Did you use a private investigator to prep for
9 trial?

10 A Yes, I did. In Mr. Bates' case, we had three experts.
11 We had Don Girt, who was his private investigator. I met
12 with Don Girt on several different occasions in my office.

13 He had Kelly Fite. Kelly Fite was his actual G -- GSR
14 expert. And then, we had Jeff Holyfield. Mr. Holyfield
15 was out of North Carolina. He -- we used him as
16 ballistics, if I remember correctly. So he had three
17 different experts that we consulted that actually pushed us
18 to ask for additional information from SLED, such as raw
19 data, so that they could do their reports and actually
20 assist us in questions to question the SLED agents and the
21 investigators in the case.

22 Q You say these experts were helpful to push SLED for
23 more raw data and information. Would they have been
24 beneficial witnesses to testify at trial?

25 A Well, this is the issue: They -- they were not

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1 beneficial for us to testify at trial. The -- the reason
2 that they were not beneficial is that they would paint Mr.
3 Bates as, like, being the shooter and the shots not coming
4 from a SUV. Because this is one of the main things, like,
5 especially with the experts and Mr. Bates.

6 If the car that they were in was a low-sitting car, he
7 was saying that there was an SUV, which would be a car that
8 sits up higher. So the triangulation of the -- if someone
9 was shooting from the SUV, the triangulation would have
10 been different versus someone shooting inside a car.

11 So basically -- and -- and -- and -- and let me
12 digress. Mr. Bates had one story and stuck to that story
13 until April the 23rd, which was three days before his
14 trial. Like, three days -- and I have notes in my file
15 where I -- I put -- that I wrote -- and I looked over it
16 this morning -- that said: "He has completely changed his
17 story." And -- and I say that: "It goes totally opposite
18 of what the forensics says and everything."

19 Like, so I -- and -- and -- and I will say that
20 leading up to the trial, I met with Mr. Bates about -- and
21 I know he said I met with him several times or -- but
22 leading up to the trial, I met with Mr. Bates almost every
23 day. Like, I have in my notes that: "This is the fifth
24 day. Today is Sunday. I -- I met with him. This is the
25 fifth day in a row that I've met with him"; and -- and

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1 saying that, okay, now we have a game-changer. We have to
2 change everything totally around.

3 Q When you say he had two different stories -- an
4 initial one that was consistent; and then three days before
5 trial, it completely changed -- what was the initial story
6 that he gave you?

7 A Basically, what -- I guess, depending on the different
8 times that you talked to Mr. Bates, it was more so of the
9 fact that he did not have a gun.

10 Q He initially denied ever ---

11 A Yeah.

12 Q --- having a gun?

13 A He did not have a gun; he did not shoot; he did not
14 anything. And then three days before trial, he tells us:
15 "Yes, I did have a gun. I did shoot." So that -- that's a
16 big game-changer.

17 And especially with -- all up until this point, we're
18 telling our private investigators -- like, we're telling
19 our experts that he has no gun in the car; he did not shoot
20 a gun. And then three days before, we're saying: Okay.
21 He -- he did have a gun. Like, he -- he did shoot, but he
22 shot out. So it did -- it -- it just didn't reconcile.

23 Q So his story changed to self-defense: that he was
24 trying to protect the victim and her children?

25 A Three days before the trial.

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1 Q Did you have enough time to consult with your experts
2 about this new revelation?

3 A I couldn't. I mean, this was over the weekend, like,
4 and I -- it -- I mean, we were starting trial on that
5 Monday. Matter of fact, we sent in -- and I have the --
6 and -- and -- and I'm -- I'm pretty anal; like, I keep a
7 lot of stuff. I have all my notes from sitting during the
8 jury selection and everything I wrote, you know, about the
9 jury.

10 So at this point, we're, like, he just changed his
11 story. Like, we're going to have to change, like --
12 because I'm -- I -- I write out my opening statement; I
13 type it up and everything like that. I mean, we already
14 had -- like I said, with my case file -- I mean, we had
15 pretty much already had what we were trying to get out to
16 support what he initially told us. And then three days
17 before, like, it -- it -- it -- it -- it kind of changes.

18 Q How long before trial had you been noticed and -- and
19 knew that it was going to take place on that Monday?

20 A I would say -- and I actually -- and I saw it today.
21 I actually have the notice that was sent out. I -- I would
22 say that probably about a -- about two months prior to it,
23 like, because I -- I have the printout that the judge sent
24 everybody, noting -- noticing that we were first up ---

25 Q You knew ---

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1 A --- on ---

2 Q --- for two months you were first up for trial?

3 A Yes.

4 Q When did you -- did you tell Mr. Bates [sic] this?

5 A Yes.

6 Q When did you tell him this?

7 A Soon as I knew that we were up for trial. Like, and
8 that's why I came up with the 104 questions to give to him
9 and I did mock examinations and everything with him.

10 Q Okay. So he knew for approximately two months that he
11 was first up for trial and the trial was set to start
12 Monday, and he changed his story three days before?

13 A Yes.

14 Q Okay. Once his story changed, did you consider moving
15 for a continuance so that you could consult with your
16 experts?

17 A You know what? I -- I did not think at that point --
18 because, I mean, what am I going to tell the judge? "Your
19 Honor, like, I need a continuance." "Ms. Singletary, what
20 do you need a continuance for?" "Your Honor, my client
21 changed his story."

22 That -- that's not me zealously representing my
23 client. That actually is me selling my client out. And I
24 would definitely not do that.

25 Q Okay. With this new revelation three days before, how

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1 did this change your defense?

2 A Basically, at that point I -- I had to work about 20
3 hours a day to switch up everything that I had initially
4 planned to do. I had to tweak my questions that I was
5 going to ask certain individuals and everything like that.
6 So it -- it -- it put me in a mode where I needed to make
7 sure that my theory and the theory that we had been working
8 on for so long actually reflects the new theory that my
9 client is actually telling me.

10 Q Did you feel you were able to adequately do this,
11 despite that kind of stress?

12 A Oh, definitely.

13 Q So you were ready to go that Monday morning?

14 A Oh, yes, definitely.

15 Q You -- have you heard the testimony today about these
16 directly presented indictments?

17 A I have.

18 Q When you were noticed for trial, how many charges were
19 you noticed you'd be going forward on?

20 A When I was noticed for trial, it was the -- I'm going
21 to say it was three, if I believe correctly.

22 Q And what charges were those?

23 A Hold on. It was two ABWIKs and -- hold on; let me
24 look. And I'm -- I'm just going to tell you based on my
25 actual memo -- and I can't tell you offhand the charge.

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1 But it was 2009-GS-40-010337; 2009-GS-40-010338; then,
2 2009-GS-40-10433; -10441; -10446 that -- through -47; and
3 then, -13217.

4 Q So you were noticed for trial on well more than just
5 one count of assault and battery with intent ---

6 A Yes.

7 Q --- to kill?

8 Okay. Do you -- had -- had you explained to him that
9 he was proceeding to trial on more than just one count of
10 assault and battery with intent to kill?

11 A Yes. And the one thing that I will tell you -- and I
12 know I would've told him -- and if you give me -- he has a
13 very volumous [sic] file. But I actually saw this morning
14 -- and I know that I would've told Mr. Bates -- okay.

15 I have an e-mail here that I received from Dan
16 Goldberg on Tuesday, March the 23rd, 2010, at 10:22 a.m.
17 And it's subject "Jeremy Bates"; he said: "Luck tells me
18 that she believes she -- she D.P.'ed some additional
19 charges. Do you know if the indictments have been served
20 on him?"

21 So I knew on March the 23rd, 2010, that there was a
22 possibility that there were additional charges that were
23 directly presented. And I would've explained that to Mr.
24 Bates. And the reason why I say that is that I actually
25 have notes in my file that says that I met with Mr. Bates

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1 on March the 23rd, 2010.

2 Q So well in -- a month in advance of his trial, he
3 understood all the different indictments you read out
4 before that he was going to trial know -- plus, he knew
5 there would be additional indictments that had been
6 presented at that time?

7 A Exactly.

8 Q So these weren't new relevations [sic] that came up
9 that Monday morning?

10 A Not at all.

11 Q Okay. Learning that there were these new indictments
12 that had been directly presented, did that change your
13 preparation for trial?

14 A No. Not at all.

15 Q Can you ---

16 A Because it -- it's -- it's not as if these new
17 indictments, as they're being coined, came from a separate
18 incident. All of it involves the same incident. So if our
19 theory would still be intact, it would just be additional
20 charges. But if Mr. Bates was adamant about going to
21 trial, like, we would've requested a continuance. But he
22 was not adamant about going to trial.

23 Q When you say he wasn't adamant about going to trial,
24 you had done all this work preparing for trial, correct?

25 A Yes.

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1 Q When did he let you know he didn't really want to go
2 to trial?

3 A On the date of the trial. And that's why, again -- it
4 -- I mean, if he would've told me earlier that he didn't
5 want to go to trial, I -- I -- that -- I would not have sat
6 through jury qualifications that day. I would've been
7 actually trying to, like, talk to the solicitor to see if
8 we could actually, like, get a better deal.

9 And -- and -- and to tell you the truth, I -- like,
10 again, like, I need to throw away some things. But I have
11 a sheet of paper that apparently, when I was in jury quals
12 with the solicitors, I sent them a note. And -- let me see
13 if I can find that note.

14 I saw it this morning. The substance of the note was,
15 like, if I go downstairs and my client says that he no
16 longer wants a trial, will you dismiss all the charges and
17 just let him plead to one count of ABWIK.

18 Q Did you get a response to that note?

19 A No, not at all.

20 Q The state did dismiss some charges against him,
21 though, correct?

22 A Yes.

23 Q Do you recall what was dismissed?

24 A It was the charges involving the minors that were in
25 the back of the car.

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1 Q The three counts of assault with intent to kill?

2 A Yes.

3 Q When did you learn the state was going to be
4 dismissing these?

5 A On the same date as the plea/trial.

6 Q So it sounds like you completed jury qualification,
7 correct?

8 A Yes, we did.

9 Q At that time did the state present an offer to you?

10 A Well, at -- at that time what we did was we went back
11 and we actually spoke to the judge that we were actually
12 going in front of for scheduling purposes. And then at
13 that time that's when the state said, "Okay. If your -- if
14 your guy pleads to this, then we'll dismiss these charges.
15 Go down and talk to him."

16 Because I'm going to tell you: We had Mr. Bates
17 dressed out. Like, I mean, he did not have on his Alvin S.
18 Glenn gear. Like, I mean, his family actually gave him --
19 he had a brand new pair of shoes on and everything like
20 that. We had him dressed out, ready to go to trial.

21 But what happened was we went downstairs; we talked to
22 him. He came upstairs; he talked to his family. And so at
23 that point we knew that he didn't need to go to trial.

24 And I think we -- the office ended up giving those
25 clothes back to his family, like, if I remember correctly.

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1 And he may not -- I knew we had the clothes down there.
2 And maybe he wasn't -- like, one of the things that --
3 maybe he wasn't fully dressed out. But one of the things
4 that me and Ms. Davis remember adamantly is about, like,
5 him worrying about him having a pair of shoes and a new
6 pair of shoes for the trial.

7 Q Was it in this discussion following jury
8 qualifications when you first learned that he wanted to
9 plead guilty?

10 A Yes. But ---

11 Q What ---

12 A --- he did want to talk to his family.

13 Q What were the reasons he gave you for why he wanted to
14 plead guilty now?

15 A I mean, the -- the -- I won't say that there was
16 necessarily the -- any reasons, other than the fact that I
17 -- I do believe that it was true that he was scared that if
18 he went to trial, that he would get the max. And he did
19 not want to do that. And he did worry about his mother and
20 her failing health and the fact that he did want to, like,
21 be able to at least, like, get a sentence that was
22 fashioned so that he could come out one day and help his
23 mother out and his family.

24 Q Had you explained to him how consecutive versus
25 concurrent sentences worked?

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1 A Yes. I actually have that in my notes that I -- I
2 talked to him about consecutive versus concurrent.

3 Q Did he know that he could receive consecutive
4 sentences if he went to trial?

5 A Yes. He did -- I -- I -- matter of fact, I did talk
6 to him about that, and I have that in my notes also.

7 Q Did you explain to him that he could still receive
8 consecutive sentences during his guilty plea?

9 A Yes.

10 Q Did you advise him of the potential exposure he was
11 facing, based on the charges he pled guilty to?

12 A Yes. I actually have that in my notes also.

13 Q And what did you tell him?

14 A I told him -- and beg the Court's indulgence. I guess
15 the first time that I told -- well, not the first time --
16 but one of my notes, like, the Friday prior to his plea,
17 I'm looking at -- at this point we're talking about defense
18 of others, the injury to the forehead, the revolver, why
19 did you not tell the police about -- I asked him why didn't
20 he tell the police about him not having a gun on -- well,
21 him having a gun on that night; why would someone be
22 shooting at him in the car.

23 And then, I have a -- a thing right here that says
24 "trial." And I say: "Twenty plus ten plus ten plus ten
25 plus ten." Like, the total amount of years, I have

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1 "consecutive" right here and got it circled. And I have a
2 plea. And then, I had some other notes where I saw that I
3 actually did the same.

4 And that's what I typically do with my clients with --
5 with their charges. Like, a lot of times, people are very
6 visual, so I'll write down, like, ten or twenty plus and
7 everything like that. So I -- I see that in my notes where
8 I did that.

9 Q Okay. Did you inform him that the only negotiation
10 from the state was the dismissal of the three assault with
11 intent to kill for the three children in the backseat?

12 A Yes.

13 Q Okay. He knew there was no negotiation for concurrent
14 time?

15 A Yes. He -- he knew that there was none.

16 Q Okay. And you advised him the particular sentences
17 for each charge; like, that assault and battery with intent
18 to kill was twenty and each of the AWIKs was ten?

19 A Uh-huh.

20 Q Did you ---

21 A I did.

22 Q Did you inform him of his constitutional rights that
23 he'd be giving up if he pled guilty?

24 A Yes. And I'm actually looking at these notes that
25 says "Sunday." And I have: "ABWIK -- ABWIK"; and I have

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1 "twenty"; then, I have four AWIKs; and then, I have -- like
2 I said, again, the twenty plus ten. And then, I have,
3 like, the vehicle charge.

4 And then, I have consecutive times. And I said:
5 "Explained the trial process twice. Specific trial
6 motions; explained what happens at a plea; that mitigation
7 about fifth" -- I -- I went over mitigation about the fifth
8 time.

9 I said that: "He thinks that max can get either way
10 is twenty, whether it's a trial or plea." But that's not
11 true. I said that -- and I did tell him that it is a
12 possibility that if he is convicted at trial, that he could
13 get consecutive time.

14 (As read): I explained to him that twenty is not the
15 worst-case scenario. I explained concurrent versus
16 consecutive. He complained because she -- assistant
17 solicitor -- will not give him a plea deal/dismiss or
18 reduce charges or a cap. I told him that I could not put
19 him on the witness stand. He wants to testify. Needs --
20 he needs to be consistent.

21 Q When you say you couldn't put him on the witness
22 stand, why was that? Was that because of the variations in
23 the story?

24 A The thing is -- and what I explained to him, because
25 it came at the last minute -- like, I -- I could not

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1 knowingly allow him to perjure himself. So I -- I would
2 have to say, "And then what happened next? And then what
3 happened next? And then what happened next?"

4 Like, anybody who has done trials understands that if
5 a defense attorney is not asking specific questions to
6 their client and the defense attorney is saying, "And then
7 what happened? And tell the -- tell the jury what
8 happened," that something has happened and -- and some
9 story has switched. So I explained that to him.

10 I said that -- and the reason why I said that -- I
11 said -- like, he told me that, like, he did not fire a gun.
12 But then he told me he did fire a gun. I said: "We looked
13 over the questions that I gave him yesterday." Like, and
14 then, I have: "Mom told him something. He has to decide"
15 -- and then -- whether or not, I guess, going to trial.
16 That's the last thing that I have in that discussion with
17 him.

18 Q Whose decision was it for Mr. Batts to plead guilty?

19 A It was his decision.

20 MS. HARRIGAN: Moment's indulgence, Your Honor.

21 Q I believe you touched on this briefly before. But
22 some of the shots were coming from inside the car, and some
23 were coming from outside, correct?

24 A Yes.

25 Q What was the state's theory as to how the shots from

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1 outside the car were coming in?

2 A What they said was Mr. Bates got out of the car --
3 well, their theory was that Mr. Bates got out of the car,
4 went on the other side of the car, and shot in on the
5 driver's side as so to -- their thing was they did -- that
6 he did it to actually make it seem like there was a drive-
7 by that occurred. They thought that he did it to throw the
8 CSI people off.

9 Q Okay. Were you able to refute this through your
10 gunshot-residue and ballistics expert that you hired?

11 A No. And that -- that was the major issue. And I -- I
12 remember talking to Mr. Bates about this a lot. The issue
13 was that the position -- okay. The triangulation of --
14 because, I mean, you have shots that are coming from ---

15 MS. GOOD: Your Honor, at this point I'm going to
16 object to her specifying as to what a GSR expert would say
17 when she's not qualified in the field as to that.

18 MS. HARRIGAN: I believe she testified that she
19 received reports and spoke at length to them and she was
20 talking about what she had in her file and what knowledge
21 she had in preparation for trial.

22 THE COURT: I think that she can -- that she can speak
23 generally as to what the -- what the difference may have
24 been. But in terms of -- certainly, in terms of trying to
25 give specifics on, I'll sustain the objection.

DIRECT EXAMINATION BY MS. HARRIGAN - NICOLE SINGLETARY 68

1 MS. HARRIGAN: Okay.

2 THE COURT: But I -- but I think she can talk overall
3 with the theory is -- was and what the difference was in
4 the theories.

5 A Okay. Basically, what I will say, I'll digress. As a
6 result of his case, I -- we did extensive research on GSR
7 and ballistics. And basically, the state was telling --
8 what they -- their theory at trial was that you have
9 gunshots that are coming in on the passenger's side. And
10 then, you have gunshots that are coming in on the driver's
11 side.

12 What they were trying to say is that, like, it could
13 not have been a drive-by shooting with the direction the
14 bullets were coming in on the passenger's side versus the
15 directions the bullet was coming in on the driver's side
16 and based on where the shell casings were on the driver's
17 side. And if I remember correctly, my -- Don Girt, who was
18 the private investigator, he actually went out to the scene
19 and -- and kind of tracked the scene. Based on looking at
20 the pictures and where the shell casings were outside of
21 the vehicle on the driver's side versus where the shell
22 casings were, if I remember correctly -- because I think
23 there may have been one shell casing that was found inside
24 the vehicle and so forth.

25 So he -- he went out to the scene. He looked at the

CROSS-EXAMINATION BY MS. GOOD - NICOLE SINGLETARY 69

1 car and everything like that. And like I said, we did
2 extensive research -- articles, law review -- about GSR in
3 this case and ballistics.

4 Q Did you hear Mr. Batts' testimony regarding a Ms.
5 Cunningham?

6 A Yes.

7 Q Did you attempt to -- is this the first time you've
8 heard of Ms. Cunningham, or did you hear about her prior?

9 A I heard about her before.

10 Q Did you attempt to locate Ms. Cunningham?

11 A We did try. And matter of fact, Ms. Cunningham is --
12 her name was -- it doesn't begin with a "D." It begins
13 with a "A." It's Alethea Cunningham. We had her on our
14 witness list.

15 Q Had you or your investigator talked to her prior to
16 trial?

17 A We tried to track her down. We were not able to.

18 Q Okay. Did you explain this to your client?

19 A Yes, I did.

20 Q Okay.

21 MS. HARRIGAN: Moment's indulgence, Your Honor. No
22 further questions, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. GOOD:

25 Q Good afternoon.

1 A Good afternoon.

2 Q Ms. Cunningham -- we'll start with her.

3 A Okay.

4 Q You say you had your little sheet that you prepared
5 for trial with all the witnesses.

6 A Uh-huh.

7 Q What was the purpose that you were going to use her
8 for in the trial?

9 A To see whether or not she could actually verify what
10 our client was initially telling us about the fact of the
11 drive-by and him not being able to get out of the vehicle
12 and shoot from the driver's side.

13 Q Did she ever give a statement to law enforcement?

14 A Hold on. I don't believe she did, but let me check.
15 I don't have that she did give a statement to law
16 enforcement.

17 Q And you said your investigator tried to track her
18 down, correct?

19 A Yes.

20 Q And you were aware of where she lived, correct?

21 A Yes.

22 Q And so was she just never home?

23 A At -- for some odd reason, we weren't able -- we were
24 never able to track her down.

25 Q Okay. And you were discussing these new indictments,

CROSS-EXAMINATION BY MS. GOOD - NICOLE SINGLETARY 71

1 the D.P. indictments that were served on Mr. Batts that
2 morning, correct?

3 A Yes.

4 Q And you said you got an e-mail on March 23rd from Mr.
5 Goldberg regarding the D.P. indictments. What time ---

6 A Yes.

7 Q --- did you get that e-mail?

8 A Hold on. That was 10:22 a.m.

9 Q And do you recall what time you went to go speak with
10 Mr. Batts?

11 A That would've probably been in the afternoon. Like, I
12 -- I -- I don't believe that I would've immediately got
13 that e-mail and left the office and went to speak to him.

14 Q And are you sure you read that e-mail that morning or
15 could you have potentially read that e-mail later when you
16 got back from the jail meeting with him, when you were
17 reviewing your e-mails?

18 A I -- I -- I could have potentially did that. I mean,
19 I'm ---

20 Q So it's ---

21 A --- not denying that.

22 Q --- possible you didn't talk to him that day about
23 those indictments?

24 A I -- I -- it is possible. But I know that I spoke to
25 him prior to the day of his trial about those indictments.

1 Q And said -- and you said you were noticed for trial.
2 You got about two months' notice prior to the trial.

3 A Uh-huh.

4 Q It was for three charges, correct?

5 A It was ---

6 Q You said ---

7 A --- for -- on the actual -- on the list that I have
8 that was e-mailed, it only said two counts of ABWIK. But
9 if you look at my -- well, you can't look at it. But all
10 of my pretrial requests and all of my actual memorandums
11 and my voir dire and everything, I have the actual one,
12 two, three, four, five, six, seven eight -- I actually have
13 eight warrant or indictment numbers that are on there.

14 Q And when did you receive those indictments?

15 A The day of the trial.

16 Q So you never went to the clerk's office and looked at
17 those indictments prior to the trial or on March 23rd,
18 after you found about them?

19 A I don't think that I did.

20 Q So it's fair to say, if the first time you ever saw
21 them was that morning, it was also the first time Mr. Batts
22 ever saw them?

23 A Yes. I would say that.

24 Q Okay. And you were discussing jury quals. Was this
25 just the initial big jury qualification that very same day

1 or an actual jury selection?

2 A It was the initial big ---

3 Q Okay.

4 A --- jury qualification. Because at that point we
5 thought that we were still going to trial.

6 Q All right. And you said that morning that -- or you
7 said throughout the entire time that Mr. Batts's behavior
8 was erratic, correct?

9 A Uh-huh.

10 Q So is it fair to say, if he just saw these indictments
11 for the first time that morning, it could've potentially
12 confused him or caused him to act in an erratic manner?

13 A Now, the -- I won't say that Mr. Batts was really
14 erratic on that day.

15 Q Okay.

16 A Like -- and -- and -- and let me qualify this, because
17 I don't want to make it seem like he has mental health
18 illnesses, because he does not have mental health
19 illnesses. When I say "erratic," what I am saying is that
20 some days I would go down there and he would be highly
21 upset for no reason, in -- in my opinion, no reason at all.
22 Then, some days he would be so calm, like, that I -- I was
23 kind of confused with why, like, we had this roller coaster
24 going on.

25 So -- and -- and he doesn't suffer from mental health

1 illness. It -- it was just his behavior towards me. And
2 then, he would tell me some things that, like -- some
3 things that gave me some concerns about his mental health.

4 Q And you had mentioned he changed his story three days
5 before trial, correct?

6 A Yes.

7 Q And isn't it true that the victim had also changed her
8 story several times?

9 A Yes. And that's why I had that little table that said
10 the different stories of Doris Clark.

11 Q Okay. And you said he was -- he was not adamant about
12 going to trial, correct?

13 A Well, no. That -- that's not what I -- what I said.
14 What -- like, what I said was we were prepared to go to
15 trial, like, and the day of trial, that's when he changed
16 his mind.

17 Q Okay. And you -- you said, when you were discussing
18 with him about a mitigation plea, that you have in your
19 notes, he thinks the max he can get is twenty years,
20 correct?

21 A Uh-huh.

22 Q And you were in here while he testified ---

23 A Yes.

24 Q --- correct?

25 And is it fair to say he still kind of thinks the max

1 he could've gotten was twenty years?

2 A Exactly. Based on his testimony ---

3 Q When ---

4 A --- yes.

5 Q --- you were discussing all this with him and the
6 morning of when you were doing plea paperwork with him, was
7 he under the impression the max -- all he could get was
8 twenty?

9 A Yes. And that's why I explained it to him several
10 times that morning: to say that -- and -- and like I said,
11 that's why I did the twenty plus ten plus ten, like, to
12 show him that, no, it's -- that -- that -- that's not true.
13 Like, this is the -- you can get more than twenty, but
14 ABWIK carries zero to twenty. So ---

15 Q And it ---

16 A --- I explained it to him several times.

17 Q And it was kind of the impression of everybody
18 involved that he was potentially most likely going to get
19 concurrent sentences, correct?

20 A Yes.

21 Q Okay. Did he believe -- or did you give him the
22 impression that he was in front of a lenient judge and he
23 would most likely not get twenty years?

24 A No. What I told him was -- is that Judge Manning is a
25 fair judge and I did not believe that he would get twenty.

1 But that was my belief.

2 Q All right. And you -- you stated that you had 13
3 pretrial-hearing motions set. Did you ever go over any of
4 those with him?

5 A Yes. I -- Mr. Bates got this entire packet, like,
6 with the case players and everything like that; all of his
7 questions; the questions that I was going to ask law
8 enforcement, the lay victims, and everything. He got this
9 entire packet.

10 MS. GOOD: Beg the Court's indulgence, Your Honor.

11 Q You mentioned that you took Mr. Batts's case with you
12 from the P.D.'s office to private practice, correct?

13 A Yes.

14 Q And his trial was actually set for about two weeks
15 after you opened your own practice?

16 A Yeah. I would say about two weeks, because I opened
17 my own practice on April the 12th, and his case was
18 scheduled on April the 26th.

19 Q And were you stressed out in any way about opening
20 your own practice and the initial getting everything
21 together when you first went out on your own?

22 A And you know what? I -- I wasn't, which is -- I met
23 with attorney Joenathan Chaplin from December of 2009 all
24 the way up until April of 2010 to negotiate my actual deal.

25 Q Uh-huh.

CROSS-EXAMINATION BY MS. GOOD - NICOLE SINGLETARY 77

1 A And one thing that I will tell you also is that when I
2 worked at the public defender's office, I never took
3 vacation. I rarely took vacation.

4 So I got paid from the public defender's office all
5 the way up until -- even though I left in April, I got paid
6 until July. So I had a regular paycheck coming in every
7 two weeks. So I didn't have to worry about, like, people
8 -- like, having people come in.

9 And then, the other thing is -- is that my deal with
10 Attorney Chaplin is I pay for nothing. I don't pay rent; I
11 don't pay anything.

12 Q Okay. And finally, going back to the indictments real
13 quick, were you aware the indictments were going to be
14 served that morning on him?

15 A There -- there was a strong possibility that they were
16 going to be served. I -- I'm pretty sure that I was aware
17 of that.

18 Q Okay. And did you ever ask for those indictments to
19 be served prior to trial, before the date of the actual
20 trial?

21 A You know what? Nine times out of ten, I would say
22 that I -- I -- I did. But I have no evidence that supports
23 that.

24 Q Okay.

25 A That's just my opinion.

1 Q And you said three days before the trial, Mr. Batts
2 changed his whole story to you and you had to adapt,
3 correct? And you were worried about having to adapt so
4 quickly and change your entire theory?

5 A Yes.

6 Q Okay. Then, why, on the morning of the trial, did you
7 not ask for a continuance due to these new indictments
8 being served on him and you not being given the proper
9 notice of him being actually served with the indictments in
10 preparing for a trial, if it would've helped you change
11 your theory and get everything set for the trial?

12 A He wanted a plea. If -- if -- if Mr. Bates would've
13 told me that he wanted to go forth with a trial, we
14 would've requested a continuance.

15 Q You mean Mr. Batts?

16 A I mean, Mr. Batts. I'm sorry. Yeah. We would've
17 requested a continuance.

18 Q At what point did he find out that morning about the
19 indictments being served on him?

20 A That would've been probably first thing, because I --
21 I would imagine that I spoke to the solicitors while I was
22 in jury qualifications and they told it to me then. And so
23 I went and told him as soon as I knew.

24 Q Okay. And at that point that's when he found out
25 about them being served on him that morning?

REDIRECT EXAMINATION BY MS. HARRIGAN - NICOLE SINGLETARY 79

1 A Yes.

2 Q And that's when he changed his mind about pleading
3 guilty, is when he was come at with all these new
4 indictments?

5 A Well, I wouldn't necessarily say that. But, I mean,
6 that may be his opinion. I think what changed his mind and
7 what he testified to was his mother had just recently had a
8 heart attack and he spoke to his family and his family --
9 and -- and what he said was, "The only reason why I pled
10 guilty was because of talking to my family and what my
11 mother" ---

12 Q All right.

13 A --- "told me on that day."

14 Q So it was not because he -- so it could've been
15 possible he was pressured by his family to ---

16 A Exactly.

17 Q --- plead guilty?

18 MS. GOOD: No further questions, Your Honor.

19 MS. HARRIGAN: Briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. HARRIGAN:

22 Q Ms. Singletary, you testified that you knew about
23 these additional indictments some two months before, but
24 you didn't actually physically see them till the morning of
25 trial, correct?

REDIRECT EXAMINATION BY MS. HARRIGAN - NICOLE SINGLETARY 80

1 A Yes.

2 Q Did you know the substance of what would be included
3 in these indictments?

4 A Exactly.

5 Q And it was all stemming from the same incident,
6 correct?

7 A The same incident. What they did was they directly
8 present him -- directly presented him for the three minor
9 children that were in the backseat of the vehicle at the
10 time of the shooting.

11 Q And those, to the best of your recollection, were the
12 only ones that were directly presented?

13 A Exactly.

14 Q He was -- had already been indicted for the
15 discharging a firearm into the dwelling or vehicle?

16 A Yes. I believe he already was. I looked at the
17 indictments earlier.

18 Q And to the best of your recollection, also for the
19 unlawful carrying of a firearm?

20 A Yes. Well, no. It wasn't unlawful carrying of a
21 firearm. I think it was possession of a firearm during the
22 commission of a violent crime.

23 Q But a -- a firearms ---

24 A Yes.

25 Q --- charge?

REDIRECT EXAMINATION BY MS. HARRIGAN - NICOLE SINGLETARY 81

1 A Yeah.

2 Q Since you knew the substance of these indictments, had
3 you discussed them with him prior?

4 A Yes.

5 Q And I believe you testified that the e-mail from Dan
6 Goldberg came at 10:22 a.m., but you're not sure whether or
7 not you opened it before you went to the courthouse that --
8 or the jail that afternoon?

9 A No. There's nothing that I -- I have no proof that I
10 opened it up that day or the next day. I would assume that
11 did open it up on that day.

12 Q But you do recall, shortly thereafter receiving this
13 e-mail, discussing with him that additional indictments
14 would be directly presented?

15 A Yes.

16 Q It wasn't until the eve of trial or that morning that
17 you first discussed this with him, correct?

18 A Yes.

19 Q Okay.

20 A And -- and -- and just to clear -- like, just to clear
21 it -- everything up, like, at the time that Mr. Goldberg
22 sent me this e-mail, he was not 100 percent sure whether or
23 not there were additional indictments that were directly
24 presented. He said that he believed that Solicitor
25 Campbell had directly presented some additional

1 indictments.

2 Q And to the best of your recollection, it was those
3 three assault with intent to kill for the minor children?

4 A Yes.

5 Q And those were dismissed ultimately ---

6 A They ---

7 Q --- correct?

8 A --- were dismissed, yes.

9 MS. HARRIGAN: No further questions, Your Honor.

10 MS. GOOD: Follow-up, Your Honor.

11 THE COURT: Yes, ma'am.

12 RE CROSS-EXAMINATION

13 BY MS. GOOD:

14 Q So the directly presented indictments, it's your
15 position that he was served with all the other indictments,
16 other than the three AWIKs prior to the morning of the
17 trial, correct?

18 A I -- I would believe so.

19 Q Okay. Were you aware that the use of a firearm during
20 the commission of a violent crime and the displaying a
21 firearm into a vehicle while occupied were also both D.P.
22 indictments?

23 A That could be correct.

24 Q So were they served on him at any point while you were
25 representing him before the day of trial?

RE CROSS-EXAMINATION BY MS. GOOD - NICOLE SINGLETARY 83

1 A It could've been on the day of trial.

2 Q Okay. So ---

3 A I'm not ---

4 Q --- it could've been not just the three AWIKs, but
5 also the other charges that went along with it?

6 A Exactly.

7 Q Because the only warrant he was actually served with
8 was the ABWIK?

9 A No. He had two additional -- and I looked at these --
10 the indictments earlier. He already -- he had more than
11 just the ABWIK. He had -- let's see. An assault with
12 intent to kill was indicted on November the 18th, 2009.

13 Q Is that ---

14 A His ---

15 Q --- a D.P. indictment?

16 A Yeah, that's a D.P.

17 Q Okay.

18 A The displaying a firearm into a vehicle while
19 occupied, that's another D.P., which was November the 18th,
20 2009. The use of a firearm during the commission of a
21 violent crime, which is a D.P., was indicted on November
22 the 18th, 2009. And let me find the other indictments.
23 Okay.

24 (Off the record briefly.)

25 A It looks like that may be -- I'm looking through my

1 file, and I have a lot of duplicates of the indictments.
2 But it looks like those three are the only three directly
3 presented indictments. If you have something that says
4 something differently ---
5 Q So the three ---
6 A --- you can ---
7 Q --- AWIKs ---
8 A --- certainly ---
9 Q --- plus the additional AWIK and the two firearm
10 charges were all directly presented?
11 A Yes.
12 Q Okay. So the only warrant he had, then, was the
13 ABWIK?
14 A Hold on. Let me see, when we initially opened up the
15 file, what we actually had.
16 Q And, of course, he had the CDV warrant also?
17 A Uh-huh. I see that. And I see the ABWIK. But for
18 some reason, I -- I seem to think that he already had the
19 other AWIK prior to the date of his trial. But ---
20 Q Okay. And ---
21 A --- if you have something differently, I mean ---
22 Q But everything ---
23 A --- please ---
24 Q --- else was done by direct ---
25 A Yes.

RECROSS-EXAMINATION BY MS. GOOD - NICOLE SINGLETARY 85

1 Q --- presentment?

2 A Yes.

3 MS. GOOD: No further questions.

4 MS. HARRIGAN: The state has no additional witnesses
5 to call, Your Honor.

6 THE COURT: You may step down. Thank you.

7 THE WITNESS: Thank you, Your Honor.

8 (Whereupon, the witness exited the witness stand.)

9 THE COURT: Anything further from either side?

10 MS. GOOD: No, ma'am.

11 MS. HARRIGAN: Just briefly in regards to argument, if
12 Your Honor would like to hear an argument?

13 THE COURT: In lieu of the arguments, I can ask you to
14 present a proposed order.

15 MS. HARRIGAN: Certainly, Your Honor. Does Your Honor
16 have a specific date by which you'd like the order?

17 THE COURT: How about March the 28th?

18 MS. HARRIGAN: Yes, Your Honor. Thank you.

19 THE COURT: Is that good with you, Ms. Good?

20 MS. GOOD: Yes, ma'am.

21 THE COURT: Okay. And send it to me in electronic
22 format, Word -- Word format, not a PDF.

23 MS. HARRIGAN: Thank you, Your Honor.

24 MS. GOOD: Thank you.

25 THE COURT: Thank you. And -- and you only need to

1 submit one. Include all your arguments. I don't need any
2 reply statements.

3 MS. GOOD: Thank you, Your Honor.

4 THE COURT: And I'll -- I'll review it and go from
5 there. Thank you.

6 (Whereupon, the proceeding was concluded at 12:25 p.m.)

7 --- END OF TRANSCRIPT OF RECORD ---

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CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND
COMPLETE EXCERPT OF TRANSCRIPT OF RECORD IN THE
HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN
THE CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA,
ON THE 19TH DAY OF MARCH, 2014.

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



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

JULY 21, 2014

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Jeremy Batts, #301883,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Case No. 2013-CP-40-1332

ORDER OF DISMISSAL

JEANETTE W. McBRIDE
C.C.P. & G.S.

2014 APR -7 AM 10:26

RICHLAND COUNTY
FILED

PROCEDURAL HISTORY

This matter comes before the Court by way of an application for post-conviction relief filed March 5, 2013. Respondent made its Return on May 28, 2013, requesting an evidentiary hearing be held. Thereafter, on January 3, 2014, Applicant, through counsel, filed an amended application. An evidentiary hearing into the matter was convened March 19, 2013, at the Richland County Courthouse. Applicant was present at the hearing and was represented by counsel, Anna R. Good, Esquire. Respondent was represented by Assistant Attorney General Megan E. Harrigan of the South Carolina Attorney General's Office.

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 indicted during the February 2009 term of the Richland County Grand Jury for Assault and Battery with Intent to Kill (2009-GS-40-13217) and Criminal Domestic Violence – Second Offense (2009-GS-40-5844). Applicant was also indicted during the November 2009 term of the Richland County Grand Jury for Use of a Firearm during the Commission of a Violent Crime (2009-GS-40-10337), Displaying a Firearm into a Vehicle while Occupied (2009-GS-40-10338), and Assault with Intent to Kill (2009-GS-40-10446). Nicole L. Singletary, Esquire, and Jennifer C. Davis, Esquire, represented Applicant. On April 26, 2010, Applicant appeared before the Honorable L. Casey Manning, where he pled guilty as indicted; the three additional related Assault with Intent to kill charges were dismissed pursuant to the plea. Sentencing was deferred, and on April 29, 2010, Judge Manning sentenced Applicant to an aggregate term of twenty years imprisonment.

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A notice of appeal was filed and an Anders brief was submitted on Applicant's behalf. The South Carolina Court of Appeals dismissed the appeal, and the Remittitur was sent on March 16, 2012.

In his *pro se* application for post-conviction relief, Applicant alleged that he was being held in custody unlawfully based on allegations of ineffective assistance of counsel and due process violations. Applicant amended his application for post-conviction relief. Applicant alleged the following claims of ineffective assistance of counsel:

1. "Trial counsel failed to correctly inform applicant regarding the plea and potential sentencing for charges;"
2. "Trial counsel failed to inform the Applicant of his rights during a plea, only mentioning the plea is a mitigation plea and like a trial;" and
3. "Trial counsel failed to ask for a continuance and adequately explain directly presented indictment served on the defendant the morning of trial."
4. Violation of Applicant's "due process of law (right to fair trial) - investigator at sentencing made prejudicial remarks that were unfair."

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented testimony from plea counsel, Nicole L. Singletary (hereinafter "Counsel"). This Court also had before it Applicant's guilty plea and sentencing transcripts, the records from the Richland County Clerk of Court regarding the subject convictions, Applicant's appellate records, and Applicant's records from the South Carolina Department of Corrections.

Applicant testified first on his own behalf. He testified that the Criminal Domestic Violence charge stemmed from an altercation with his child's mother and that the remaining charges stemmed from a later incident with his girlfriend at the time where he shot into the car that they both were occupying along with her three small children. He was arrested in December of 2008 shortly after the second incident. Counsel was appointed to represent him shortly thereafter and that she represented him for the entire time, but that Counsel also had Jennifer Davis of the Public Defender's Office assist with the case. Counsel met with him several times. They met for the first time in March of 2009, and at this initial meeting, she reviewed the basics with him, including the charges he was facing and sentencing ranges. He testified that he reviewed discovery with her on the third meeting and that the discovery included: several

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varying statements he gave law enforcement, including a final statement where he admitted to shooting into the car; Gunshot Residue Analysis that showed GSR in the passenger seat where he was sitting; a statement from the victim describing "flashes" from a gun coming from where Applicant was sitting in the car; and a statement from one of the victim's minor children describing how Applicant had threatened to kill the victim shortly before the incident. He testified that he did shoot into the car two times and acknowledged that there were three small children in the backseat of the car. He testified that Counsel gave him an entire copy of the discovery.

He was aware that Counsel used an investigator to assist in his defense, but that he never met with the investigator. He testified that he wanted a particular witness, a "Ms. Cunningham," to be located to testify on his behalf and that he told Counsel about her. He did not know her full name or have any contact information for this witness, but she should not have been hard to track down because she lived near the incident location. He testified that Counsel did not locate this witness. He testified that he has not since been able to locate this witness and that she was not present to testify at the evidentiary hearing.

Applicant testified that he was only served a warrant for Assault and Battery with Intent to Kill for the second set of charges and that he did not learn of the additional indictments until the morning of his guilty plea. Applicant testified that he discussed trial versus a plea with Counsel and that he originally wanted to proceed to trial. Because of these extra indictments that he had never discussed with Counsel, he felt like he had no option other than to plead guilty. He testified that Counsel "seemed distracted" and not interested in his case on the day of his plea. He was given time to discuss his case with his family on the day of his plea and his family urged him to accept the State's plea offer to dismiss the three additional Assault with Intent to Kill charges. Specifically, Applicant testified that his mother had recently had a heart attack and he pled guilty because he was afraid he would receive a harsher sentence at trial and not be able to spend time with his mother and the rest of his family. He testified that this was his primary consideration in deciding to plead guilty.

Applicant testified that Counsel did not fully prepare him for his guilty plea. Counsel informed him that a plea was like a "mitigation trial" where he would present witnesses on his behalf to try to get as small of a sentence as possible. He testified that he thought Counsel would subpoena witnesses for his plea and was surprised when certain witnesses, such as Ms.

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Cunningham, were not present. He did acknowledge that Counsel had several family members and other people there to give statements on his behalf. Counsel informed him that the State would be dismissing the three additional Assault with Intent to Kill charges, which would reduce his sentence exposure by thirty years, but that there was no negotiation or recommendation as to a particular sentence. He testified that Counsel explained to him that he could receive consecutive sentences, but that he thought he could only receive up to twenty years imprisonment. He did acknowledge that he told the plea court while under oath that he understood he could receive a sentence of up to forty-one years, that he was guilty, and that he was satisfied with Counsel's representation.

Following Applicant's testimony, Respondent called Counsel to testify. Counsel testified that she has been practicing law for eight years and she was employed at the Richland County Public Defender's Office from 2005 until April 2010, shortly before Applicant's plea. She was appointed to represent Applicant on December 23, 2008, while employed at the Public Defender's Office and as part of her exit agreement she would keep Applicant's case because she had spent such a great deal of time working on the case. She asked fellow Public Defender Jennifer C. Davis to assist her on this case, which is common practice for the Richland County Public Defender's Office. She had worked on numerous cases with Davis before and they worked well together.

Counsel testified that she met with Applicant an immeasurable amount of times, including near daily meetings as Applicant's trial date neared. She testified that Applicant initially expressed an interest in proceeding to trial and that she was fully prepared for trial. Counsel testified she had received written notice of the trial date from the State two months prior to Applicant's trial date and that Applicant elected to plead guilty on the date of his trial. She testified that she had thirteen written pre-trial motions prepared and was ready for hearings on each. She compiled a document of more than thirty pages in preparation for trial, which included potential direct and cross examination questions for all likely witnesses, including Applicant, as well as the various statements from the victim and Applicant, the evidence likely to be introduced against Applicant, and the challenges to be made on Applicant's behalf in response to such evidence. She testified that this packet made in anticipation for trial included charts, potential opening statements, necessary pre-trial motions to be made, and anything else essential for trial. She testified that she gave Applicant a copy of this document and reviewed it with him

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countless times. Counsel testified that she also did mock direct and cross examinations with Applicant to prepare him for his testimony at trial. She testified that Applicant had "erratic behavior" and would often get inexplicably upset with her without any explanation. Because of this, she wanted him to be as prepared as possible in the event he testified so that he did not display such negative behavior in front of the jury and make a negative impression. She testified that she had Applicant evaluated due to these mood swings, even though she did not have any reason to doubt his competency, and that Applicant was determined to be both competent and criminally responsible.

She testified that the evidence the State had against Applicant was very strong, including the victim's statement that she saw Applicant shooting at her; GSR in numerous locations inside the car indicating that Applicant shot several times from the passenger seat; a statement from the victim's minor child that Applicant had threatened to kill the victim shortly before the incident; and Crime Scene Investigation reports showing that after firing his weapon from within the car Applicant had exited the car and shot from the outside in an attempt to stage a "drive-by shooting" scenario. She testified that she informed Applicant that the State's evidence was strong and that he would likely be convicted if he proceeded to trial. She testified that she reviewed all discovery with him numerous times and gave him a copy of his discovery to keep.

Counsel retained two independent Crime Scene Investigators and a Gunshot Residue expert to assist with Applicant's defense. She testified that these experts would not have been able to provide favorable testimony on Applicant's behalf at trial, which she informed Applicant. However, they were helpful in assisting her draft her cross-examination of the State's expert witnesses likely to be called at trial. Counsel testified that she also used a private investigator to assist in investigation.

Counsel testified that Applicant insisted that he did not fire any weapons throughout trial preparation until three days before the anticipated trial date, when he changed his version of events completely and admitted he had fired a gun numerous times inside the car. She testified that this impacted her trial preparation drastically, including how she would be able to examine Applicant if he took the stand in his defense. She testified that on the same date, she also learned that the State had directly presented additional indictments, including the four Assault with Intent to Kill indictments, Displaying a Weapon into a Vehicle while Occupied, and Use of a Firearm during the Commission of a Violent Crime. She testified that she was aware that directly

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presented indictments might be served on Applicant shortly before trial but that none of these new charges changed her trial strategy as they all stemmed from the same incident and had no impact on her anticipated defense. She testified that Applicant pled guilty on Monday, and that the Friday before is when she learned of these additional charges. She testified that she explained all the elements of these additional charges and the potential sentences to Applicant numerous times. Applicant understood the impact these new indictments had on his potential sentence and to ensure that he understood that he could receive consecutive sentences, she drew out all potential sentences for him.

She considered moving for a continuance in light of these new charges, but that on the Monday in which Applicant's trial was slated to begin, he was insistent that he wanted to enter a guilty plea. She testified that Applicant was given time to discuss his charges with his family and that his family wanted him to accept the State's plea offer to dismiss three of the Assault with Intent to Kill charges. She testified that these three charges were for the three minor children that were in the vehicle when Applicant discharged his weapon several times. She testified that she fully explained to Applicant that there was no negotiation or recommendation from the State beyond the dismissal of these three charges and that he could potentially receive a sentence of forty-one years imprisonment if the plea court sentenced him consecutively. She testified that Applicant fully understood this, which he acknowledged to Judge Manning during his guilty plea. She testified that she also reviewed all of Applicant's rights with him, including the right to call witnesses on his behalf and the right to proceed to a jury trial. She testified that she explained to Applicant that she would ask several of Applicant's family members and other close family friends to speak on his behalf at his guilty plea in mitigation. She testified that she explained what mitigation meant to Applicant and that she was going to ask the plea court to sentence him as leniently as possible.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. This Court finds that Counsel's testimony is credible, while Applicant's testimony lacks credibility. 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).

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Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; 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 (1984); Butler, 286 S.C. 441, 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. 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. 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.

"In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Specifically, the voluntariness of a guilty plea is not determined by an examination of a specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea, and also from the record of the PCR hearing." Holden v. State, 393 S.C. 565, 573, 713 S.E.2d 611, 615 (2011) (internal citations omitted).

After careful review based on the standard discussed above, this Court finds that Applicant has failed to carry his burden in this action. Below are this Court's findings in regards to each of Applicant's allegations of ineffective assistance of counsel:

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Allegation that "trial counsel failed to correctly inform Applicant regarding his plea and potential sentencing for charges"

Applicant alleges that Counsel was ineffective for failing to advise him of the potential sentences for the variety of charges to which he pled guilty. However, Counsel's credible testimony sharply refutes this allegation. Counsel testified that she not only verbally explained all potential sentences for the various charges to Applicant numerous times prior to his guilty plea, but also visually explained his potential sentence exposure to him by drawing out all potential sentences. Counsel testified that she explained to Applicant that he could potentially receive consecutive sentences and that based on the charges to which he was pleading guilty, he was facing forty-one years imprisonment. Additionally, Applicant testified that Counsel did review the potential sentences with him prior to his guilty plea, including how the dismissal of the three Assault with Intent to Kill charges reduced his maximum exposure by thirty years. This Court finds that Counsel's performance well exceeded professional norms and that her performance was in no aspect deficient in regards to this allegation.

Furthermore, this Court finds that Applicant has failed to establish any resulting prejudice from Counsel's alleged deficiency. Applicant's testimony and the transcript from Applicant's guilty plea both reveal that Applicant understood he could receive a potential sentence of up to forty-one years as a result of his guilty plea, which is the correct exposure he was facing based on the charges to which he pled guilty. As Applicant has failed to prove both deficiency and prejudice, this Court finds that this allegation must be denied and dismissed with prejudice.

Allegation that "trial counsel failed to inform the Applicant of his rights during a plea, only mentioning the plea is a mitigation plea and like a trial"

Applicant alleges that trial counsel was ineffective for failing to inform him of his rights during a guilty plea. Specifically, Applicant alleges that Counsel informed him that he would be able to present witnesses during his guilty plea in mitigation, much like presenting a defense at trial. However, the uncontroverted testimony from both Applicant and Counsel was that Counsel informed Applicant that she would present witnesses on his behalf in an effort to secure the lowest sentence possible. Counsel testified, and the record from Applicant's guilty plea and sentencing proceedings reveal that Counsel did provide such persons on Applicant's behalf, including his sister, mother, aunt, child's mother, and Dr. Charles Kelly, Applicant's spiritual advisor. Counsel's credible testimony is that she reviewed all rights with Applicant prior to his

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guilty plea, including his right to proceed to trial and call witnesses on his behalf. This Court finds that Counsel's performance was in accordance with professional standards and she was not deficient in regards to this allegation.

Furthermore, this Court finds that Applicant has failed to meet his burden of establishing any resulting prejudice from this alleged deficiency. Applicant presented no evidence or testimony of any evidence he wanted to present at his guilty plea that Counsel prevented him from presenting. Furthermore, Applicant failed to articulate any particular right or other information that Counsel failed to review with him, or how it would have had any impact on his decision to plead guilty. Therefore, this allegation must be denied and dismissed with prejudice.

Allegation that "trial counsel failed to ask for a continuance and adequately explain directly presented indictments served on the Defendant the morning of trial"

Applicant alleges that Counsel was ineffective for failing to move for a continuance to allow her to adequately and fully explain the additional directly presented indictments that he was served with on the day of his plea. Counsel's credible testimony reveals that this allegation is without merit and must be denied and dismissed. Counsel testified that she was informed that the State had directly presented several additional indictments regarding the incident shortly before his guilty plea and that on the Friday before his plea; she discussed these additional charges with Applicant. She testified that she explained the potential sentences for these new charges with Applicant. Counsel testified that these additional indictments did not alter her anticipated defense as the new indictments stemmed from the same incident. Counsel testified that she considered moving for a continuance based on these new indictments, but that such a motion was not necessary as Applicant was adamant that he wanted to plead guilty that day. This Court finds that Counsel's performance was not deficient in regards to this allegation.

Furthermore, this Court finds that Applicant has failed to meet his burden of establishing any resulting prejudice from this alleged deficiency. Applicant testified that he understood how these additional indictments affected his sentence exposure and that he pled guilty because of health concerns within his family and his fear that he would receive a harsher sentence if convicted at trial. Therefore, this allegation must be denied and dismissed with prejudice.

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Violation of Applicant's "due process of law (right to fair trial) - investigator at sentencing made prejudicial remarks that were unfair."

Applicant presented no evidence on this allegation at the hearing. The transcript of the sentencing reveals the statements by the investigator discussed that the victim feared the Applicant and her statements to him that she saw the muzzle flash. He also stated that the Applicant showed no signs of remorse. Counsel objected to other statements made by the investigator that stopped him from speculating about the events. This Court finds that the Applicant has not his burden of proof related to this ground set forth in his application. He did not raise any of these issues during the hearing and therefore has failed to establish a basis to grant relief on this ground.

CONCLUSION

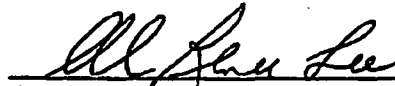
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a Notice of Appeal within thirty 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 post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

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ORDER**IT IS THEREFORE ORDERED:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. The Applicant is remanded to the custody of the State.

AND IT IS SO ORDERED.

ALISON RENEE LEE
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina.
April 4, 2014

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WITNESSES

(s) SGT. SHAWN MCDANIEL, RCSD

DOCKET NO. 2009-GS-40-010337

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2009

42

ARREST WARRANT NUMBER

DP09325

THE STATE
vs.

JEREMY BATTS

ACTION OF GRAND JURY

TRUE BILL

NOV 18 2009

Foreperson of Grand Jury

Date:

VERDICT

Indictment for

USE OF A FIREARM DURING
COMMISSION OF A VIOLENT CRIME

SC Code: 16-23-0490

CDR Code: 0549

Class FEL/F

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 or to

CERTIFIED TRUE COPY FOR ORIGINAL FILE
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

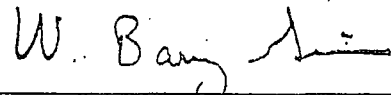
INDICTMENT

At a Court of General Sessions, convened on November 18, 2009, the Grand Jurors of Richland County present upon their oath:

USE OF A FIREARM DURING COMMISSION OF A VIOLENT CRIME

That JEREMY BATTS did in Richland County on or about December 11, 2008, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Assault and Battery with Intent to Kill, in violation of Code Section 16-23-490, *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.



WARREN B. GIESE, SOLICITOR

WITNESSES

(S) Sergeant Walter McDaniels, RCSD

DOCKET NO. 2009-GS-40-13217

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2009

42

THE STATE
vs.

JEREMY BATTS

Defendant

Witness:

C.C.C. PLS. AND G.S.

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

Defendant

hereby appear in my own proper person and plead guilty to the within indictment or to

FILED TRUE COPY ORIGINAL FILED
C.C.C. PLS. AND G.S.
RICHLAND COUNTY
SOUTH CAROLINA

ARREST WARRANT NUMBER

1892096

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: FEB 11 2009

VERDICT

ASSAULT AND BATTERY
WITH INTENT TO KILL

SC Code: 16-3-620
CDR Code: 014
Class FEL-C(V)

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

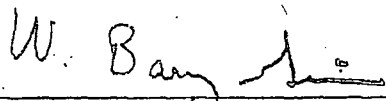
INDICTMENT

At a Court of General Sessions, convened on February 11, 2009 the Grand Jurors of Richland County present upon their oath:

ASSAULT AND BATTERY WITH INTENT TO KILL

That JEREMY BATTS did in Richland County on or about December 11, 2008, with malice aforethought commit an assault and battery upon one Doris Clark, with intent to kill the said victim. All in violation of Section 16-03-620, *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.



Warren B. Giese, SOLICITOR

WITNESSES

✓ (S) SGT. SHAWN MCDANIELS, RCSD

DOCKET NO. 2009-GS-40-10446

The State of South Carolina
County of Richland

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

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

**CERTIFIED TRUE COPY
OF ORIGINAL FILE
C.C.C.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

ARREST WARRANT NUMBER

42

NOVEMBER TERM 2009

DP09329

Defendant

THE STATE
vs.

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

TRUE BILL

JEREMY BATTS

NOV 18 2009

Foreperson of Grand Jury
Date:

VERDICT

Indictment for

ASSAULT WITH
INTENT TO KILL
SC Code: 17-25-30
CDR Code: 768
Class MIS-UNC

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on November 18, 2009, the Grand Jurors of Richland County present upon their oath:

ASSAULT WITH INTENT TO KILL

That JEREMY BATTS, did in Richland County on or about December 11, 2008, with malice aforethought commit an assault with intent to kill upon one Doris Clark. All in violation of Section 17-25-30 C/L, 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

FILED
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA
NOV 20 2009

WITNESSES

✓ (S) SGT. SHAWN MCDANIELS, RCSD

DOCKET NO. 2009-GS-40-10338

The State of South Carolina
County of Richland

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

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2009

42

ARREST WARRANT NUMBER

DP09326

Defendant

THE STATE
vs.

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY
TRUE BILL

JEREMY BATTS

Black NOV 18 2009
Foreperson of Grand Jury
Date:

VERDICT

Indictment for
Displaying Firearm into a Vehicle while
Occupied

SC Code: 16-23-440(B)

CDR Code: 2907

Class FEL-E

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

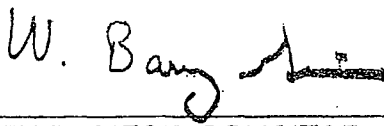
INDICTMENT

At a Court of General Sessions, convened on November 18, 2009 the Grand Jurors of Richland County present upon their oath:

DISCHARGING FIREARM INTO A VEHICLE WHILE OCCUPIED

That JEREMY BATTS did in Richland County on or about December 11, 2008, discharge or cause to be discharged unlawfully firearms at or into any vehicle while it is occupied. All in violation of Code Section 16-23-440(B), *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.



WARREN B. GIESE, SOLICITOR