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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Alison Renee Lee, Circuit Court Judge

CLARENCE MYERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001238

APPENDIX

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INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT	1
APPLICATION FOR POST-CONVICTION RELIEF	85
RETURN	92
POST-CONVICTION RELIEF HEARING TRANSCRIPT	98
ORDER OF DISMISSAL	151
CLERK OF COURT RECORDS	158

1 STATE OF SOUTH CAROLINA) IN GENERAL SESSIONS
2 COUNTY OF RICHLAND) COURT
3)
4 STATE OF SOUTH CAROLINA,)
5) TRANSCRIPT
6 -V-) OF
7) RECORD
8 CLARENCE T. MYERS,) 2009-GS-40-611; 612
9 DEFENDANT.)

10

11

OCTOBER 19, 2012

12

RICHLAND, SOUTH CAROLINA

13

14 B-E-F-O-R-E:

15 HONORABLE CASEY L. MANNING, JUDGE;

16

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

18 FOR THE PLAINTIFF:

19 LUCK CAMPBELL, ESQ.

20 NICHOLE SIMPSON, ESQ.

21 MEGHAN WALKER, ESQ.

22 FOR THE DEFENDANT:

23 JENNIFER DAVIS, ESQ.

24

25

FILED
OCT 22 2012
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

I-N-D-E-X

1		
2		PG.
3	MOTION:	3
4		
5	PLEA:	52
6		
7	SENTENCE:	81
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
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1 (The following proceedings were held on
2 October 19, 2012.)

3 THE COURT: Is everybody ready?

4 JENNIFER DAVIS: Yes, Your Honor.

5 THE COURT: All right.

6 LUCK CAMPBELL: Yes, sir.

7 THE COURT: Yes, ma'am.

8 LUCK CAMPBELL: Your Honor, at this time I think
9 we're all ready to go forward as far as the confession, the
10 statements in this case.

11 THE COURT: Yes, ma'am.

12 LUCK CAMPBELL: Your Honor, at this time, we call
13 Investigator Mark Vincent.

14 THE COURT: And this is the Jackson versus Denno;
15 is that correct everybody?

16 LUCK CAMPBELL: Yes.

17 JENNIFER DAVIS: Yes, Your Honor.

18 THEREUPON,

19 MARK VINCENT,

20 after having been duly sworn, testified as follows:

21 THE CLERK: Please have seat. State your full
22 name for the record.

23 MARK VINCENT: My name is Mark William Vincent.

24 DIRECT EXAMINATION

25 BY LUCK CAMPBELL:

1 (The following proceedings were held on
2 October 19, 2012.)

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4 JENNIFER DAVIS: Yes, Your Honor.

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19 MARK VINCENT,
20 after having been duly sworn, testified as follows:

21 THE CLERK: Please have seat. State your full
22 name for the record.

23 MARK VINCENT: My name is Mark William Vincent.

24 DIRECT EXAMINATION

25 BY LUCK CAMPBELL:

1 Q Investigator Vincent, where are you employed?

2 A Columbia Police Department.

3 Q What do you do there, sir?

4 A I'm a cold case investigator.

5 Q And as a cold case investigator, what do your duties
6 include?

7 A Looking back over unsolved violent crimes, mostly
8 homicides and --

9 Q Mostly homicides?

10 A Yes.

11 Q Are you familiar with the State v. Clarence Myers case?

12 A Yes, ma'am.

13 Q Can you go ahead and tell the Judge how you've been
14 involved?

15 A In November of 2007, I reviewed the case. I decided to
16 check with SLED that -- I knew from reviewing the case
17 there were -- there was DNA recovered back in 2001 when
18 the crime happened. I checked with SLED and was
19 advised they actually had gotten a CODIS hit on the
20 case in June of 2007 and the Defendant was Clarence
21 Myers.

22 I ran a rap sheet on Mr. Myers and found out he
23 was actually currently in jail in Dayton Beach, Florida
24 in the Volusia County Jail on an armed robbery charge.

25 Q During the course of your investigation, did also find

1 other evidence from the crime scene that had the name
2 Clarence Myers on it?

3 A It was also checked through the case file, and there
4 was a check stub found inside. This crime actually
5 happened on April 21st -- April 20th of 2001 at [REDACTED]
6 [REDACTED] which is Belvedere. The victim's body had
7 been found inside of a vacant house. And at that time
8 --

9 JENNIFER DAVIS: Your Honor, I'm really sorry.
10 He's got really poor hearing. He's got an infection or
11 something. If we can just have everyone speak up. He's
12 having a hard time hearing anything.

13 Sorry about that.

14 THE COURT: Sure.

15 Could you speak up a little bit, please, sir?

16 MARK VINCENT: Yes, sir.

17 BY LUCK CAMPBELL:

18 A During the course of the initial investigation, a check
19 stub was found inside a pair of pants in the same house
20 that the victim was found in, and the check stub was in
21 the name of Clarence Myers, as well.

22 BY LUCK CAMPBELL:

23 Q The DNA that you refer to, too, was that actual semen
24 that was taken from the victim's body?

25 A Yes.

1 Q That was the CODIS match you referred to?

2 A Yes.

3 Q As a result of your initial investigation, did you make
4 any efforts to make contact with the Defendant in this
5 case.

6 A Yes. On December 5th of 2007, I traveled down to
7 Daytona Beach. I went to the Volusia County Jail and I
8 interviewed Mr. Myers there.

9 Q And where did the interview actually take place?

10 A In a jail interview room.

11 Q And that was located at what facility?

12 A The Volusia County Jail, the Daytona Beach branch.

13 Q And when you made contact with him, was it just you and
14 the Defendant initially?

15 A Yes.

16 Q And describe the room to the Judge, the -- where you
17 actually done your initial interview.

18 A The interview rooms at the jail are just as you enter
19 into the actual jail. Once you come through the
20 sliding doors, there are -- I think there were three
21 interview rooms. They're on your left. They have the
22 door with the window, and they just -- the jail
23 personnel just tells you which room to go into. Then
24 they bring the Defendant to me there.

25 Q And the defendant was serving an actual active sentence

1 at the time in Florida?

2 A I think he was there -- he was in the county jail with
3 a pending charge.

4 Q The pending charge, excuse me.

5 But he was being lawfully detained in Florida?

6 A Yes.

7 Q Once you made arrangements to come in contact with the
8 Defendant -- this took place in one of these interview
9 rooms?

10 A Yes.

11 Q And what did you initially do to him prior to talking?

12 A I told him who I was, and then I explained to him what
13 I there was about, the death of Angela Coleman in April
14 of 2001 in Columbia at [REDACTED]

15 Q Once you had given him that information, did you take
16 any steps to ensure that his rights were protected
17 since he was in custody?

18 A Yes. I advised him of his Miranda rights.

19 Q And I'm going to show you what's been marked as State's
20 Exhibit Number 1. Do you recognize this?

21 A Yes, this is the form I used to advise Mr. Myers of his
22 rights back on December 5th of 2007.

23 Q For the record, can you go through exactly how you
24 advised him of his rights?

25 A I first asked him about his education level. He told

1 him he did have a high school education. And I asked
 2 if he was under the influence of any alcohol or drugs.
 3 He said he was not. The place of the interview, I
 4 filled that in as Dayton Beach Jail. The date was
 5 December 5th, 2007, and the time I started to advise
 6 him of his rights was at 1:50 p.m.

7 I then went over the entire from. It states:
 8 Before we ask you any questions, you must understand
 9 your rights. You have the right to remain silent.
 10 Anything you say can be used against you in court. You
 11 have the right to talk to a lawyer for advice before we
 12 ask you any questions and to have him with you during
 13 questioning. If you cannot afford a lawyer, one will
 14 be appointed for you before any questioning if you
 15 wish. If you decide to answer questions now without a
 16 lawyer present, you will still have the right to stop
 17 answering at any time. You also have the right to stop
 18 answering at any time until you talk to a lawyer.

19 At that time, I asked Mr. Myers if he understood
 20 his rights. He stated that he did. I asked him if he
 21 was willing to talk to me about this, and he stated
 22 that he was.

23 I then went over the second portion, which is the
 24 waiver of rights. It says, I have read the statement
 25 of my rights and I understand what my rights are. I'm

1 willing to make a statement and answer questions. I do
2 not want a lawyer at this time. I understand and know
3 what I am doing. No promises or threats have been made
4 to me and no pressure or coercion of any kind has been
5 used against me.

6 I then asked Mr. Myers again if he understood that
7 and was willing to talk. He indicated that he was. I
8 allowed him to read over this. And once he did that, I
9 had him sign it, and I also signed it as well and I
10 wrote down the time that that was completed, which was
11 at 1:54 p.m.

12 Q 1:54 p.m.?

13 A Yes.

14 Q On what date?

15 A December 5th of 2007.

16 Q And when you were speaking with him and advised him of
17 his rights, did he appear to be coherent?

18 A Yes, ma'am.

19 Q Under the influence of any alcohol or any drugs to you?

20 A No, ma'am.

21 Q Did he respond appropriately?

22 A Yes.

23 Q Did you threaten him in any way?

24 A No, ma'am.

25 Q Did you promise him anything?

1 A No.

2 Q Did you use any coercion or any threats to make him
3 talk to you?

4 A No.

5 Q Any threats of physical violence or anything of that
6 nature?

7 A No.

8 Q And in your opinion as an investigator, was he talking
9 to you voluntarily?

10 A Yes, ma'am.

11 Q And did he memorialize that by signing off on that form
12 in two different spots?

13 A Yes, he did.

14 LUCK CAMPBELL: Your Honor, may I approach?

15 THE COURT: Yes, ma'am.

16 LUCK CAMPBELL: This is State's 1 for I.D.
17 purposes.

18 (State's Exhibit 1 marked for
19 identification.)

20 THE COURT: Y'all have a copy of this, right?

21 JENNIFER DAVIS: Yes, Your Honor.

22 THE COURT: All right.

23 BY LUCK CAMPBELL:

24 Q Once you had advised him of his rights and he knew you
25 were there about the death of Angela Coleman in 2001,

1 what, if any, information did he initially give you?

2 A I showed him a driver's licenses photo of the victim,
3 and he denied knowing her. I told him, again, the date
4 and location where the incident happened, and he then
5 told me at that time that he had found a woman's body
6 in an abandoned house and had -- he had then called his
7 mother, Geraldine Myers, who had called the police.

8 He denied at that time ever going into the house
9 or ever having been inside the house. I took a written
10 statement from him -- from him at that time to that
11 effect.

12 Q I show you what's been marked as State's Exhibit Number
13 2. Is that the written statement you're referring to?

14 A Yes.

15 Q And part of the two different kinds of writing on that
16 statement, the top part, was that filled out by you?

17 A Yes. That has the location, the name, and the reason.

18 Q And then the statement regarding the information he
19 initially gave you, is that in whose handwriting?

20 A That's in his handwriting.

21 Q So he actually wrote out that portion of the statement?

22 A Yes.

23 Q And then did you follow up with two questions after he
24 wrote out his version of what he knew about finding the
25 body?

1 A Yes.

2 Q And the answers there were who's answers?

3 A Correct.

4 Q His?

5 A Yes, his answers.

6 Q And again, during this time period when he was talking
7 to you, was he still talking to you voluntarily?

8 A Yes.

9 Q And at any time did he ever ask for a lawyer?

10 A No.

11 Q Did he ever tell you he didn't want to talk to you
12 anymore?

13 A No.

14 Q Did he invoke any of his rights?

15 A No, ma'am.

16 Q Once he had written his version and you followed up
17 with those two questions, did he then sign off
18 memorializing this?

19 A Yes.

20 Q And that's evident here on the – State's Exhibit 2?

21 A Yes, ma'am.

22 LUCK CAMPBELL: Your Honor, may I approach?

23 THE COURT: And, of course, y'all have it?

24 JENNIFER DAVIS: Yes, Your Honor.

25 BY LUCK CAMPBELL:

1 Q Once he had signed off on that first statement, which
2 is State's Exhibit Number 2, that same day did you then
3 give him any additional information?

4 A Yes. I showed him photographs of three people who had
5 been the subject of the initial investigation: Alvin
6 Dixon, Barbara Brown, and Elijah White. He denied
7 knowing them.

8 Q Uh-huh.

9 A I then confronted him with the DNA evidence and the
10 fact that the -- his pay stub had found inside the
11 house. He first continuously denied any contact, but
12 then he -- I showed him a copy of the check stub and
13 the photograph of the tan pants that the check stub had
14 been in.

15 He then admitted to me at that time that he was
16 lying and he was allowed to write out his second
17 statement, which he did.

18 Q I show you State's Exhibit Number 3. Do you recognize
19 that?

20 A Yes. This is the second written statement that
21 Mr. Myers gave me on December 5th at the Daytona Beach
22 Jail.

23 Q And again, both these first two statements were on
24 December 5th?

25 A Yes.

1 Q State's Exhibit 2 and 3?

2 A Yes.

3 Q And what time does it indicate that that statement was
4 reduced to writing?

5 A 3:00 p.m.

6 Q 3:00 p.m.?

7 A Yes.

8 Q It actually says 1500?

9 A Right.

10 Q Okay. And again, in this statement, whose writing is
11 whose?

12 A He wrote out the top part, and then I followed up with
13 the three questions and I wrote down the question and I
14 wrote down his answer and had him sign it.

15 Q So the initial paragraph here at the -- in the was his
16 writing (indicating)?

17 A Yes.

18 Q And then the three questions where you wrote out the
19 questions and answers?

20 A Correct.

21 Q And again, once he had written out the second statement
22 after admitting he was lying, did he then sign off on
23 this as well?

24 A Yes.

25 Q And again, during the course of this second statement

1 at any point, did he ever invoke any of his rights?

2 A No, he did not.

3 Q Did you threaten him in any way?

4 A No, ma'am.

5 Q And was he cooperating voluntarily?

6 A Yes.

7 LUCK CAMPBELL: Your Honor, at this time, I
8 approach with State's Exhibit Number 3.

9 THE COURT: All right.

10 BY LUCK CAMPBELL:

11 Q In the second statement he admitted to some criminal
12 acts with the victim; is that correct?

13 A Correct.

14 Q But did he admit to murdering her at that point?

15 A No, he did not.

16 Q After getting that second statement on the 5th, what,
17 if anything, did you do?

18 A I left the jail and contacted a Detective James Brodick
19 with the Daytona Beach Police Department. He's the
20 person I had initially contacted. I asked him about
21 having a polygraph test done.

22 Q And is that something you discussed with the Defendant?

23 A Yes.

24 Q And you were interested in trying to get a polygraph
25 test performed?

1 A Correct.

2 Q And are polygraphs typically what is used in South
3 Carolina?

4 A Yes.

5 Q And when you contacted the detective down in Florida
6 about doing a polygraph, what information did you
7 receive?

8 A He told that they no longer give polygraphs. Instead,
9 they had -- they did what they call a computer stress
10 voice analysis.

11 Q A stress voice analysis?

12 A Yes.

13 Q And at that point, did you make any arrangements to
14 have, I guess, their version of the polygraph done for
15 this Defendant?

16 A Right. This -- James Brodick, he was also -- he was a
17 voice stress analysis operator, and he agreed to do the
18 test for me the following morning.

19 Q The next day did you go back to the Daytona Beach Jail
20 and make contact with the Defendant again?

21 A Yes. I met with -- first I met with Mr. Brodick
22 outside of the jail. Then he came inside the jail with
23 me to one of the interview rooms.

24 Q Okay. And at some point that day -- and at what point
25 that day did you advise him of his rights again?

1 A It was around 10:45 that morning. I went back to the
2 jail. Mr. Brodick was with me. At 10:45 is when I
3 started to advise him of his rights.

4 Q And was this before or after the test had been
5 administrated?

6 A This was before.

7 Q Okay. I show what's been marked as State's Exhibit
8 Number 4. Do you recognize this?

9 A Yes. This is the Miranda Warning I gave to the
10 Defendant on December 6 of 2007 at the Daytona Beach
11 Jail.

12 Q And, again, is that the same form that you had used --
13 or a similar form that you used the day before?

14 A It's a copy of it, yes.

15 Q But you went through those rights with him again since
16 it -- there had been overnight --

17 A Right. This was blank form. I filled it out with the
18 day of December 6, and the time I started was at 10:45
19 a.m.

20 Q And, again, for the record, how did you actually advise
21 him of his rights that day?

22 A I read through them again. Before we ask you any
23 questions, you must understand your rights. You have
24 the right to remain silent. Anything you say can be
25 used against you in court. You have the right to talk

1 to a lawyer for advice before we ask you in questions,
2 that you have him with you during questioning. If you
3 cannot afford a lawyer, one will be appointed for you
4 before any questioning if you wish. If you decide to
5 answer questions now without a lawyer present, you will
6 still have the right to stop answering at any time.
7 You also have the right to stop answering at any time
8 until you talk to a lawyer.

9 I, again, asked him if he understood that. He
10 stated he did. I asked him if he was willing to talk
11 to us, and he stated he was.

12 I then went over the second portion, the waiver of
13 rights which states, I have read this statement of my
14 rights and I understand what my rights are. I'm
15 willing to make a statement and answer questions. I do
16 not want a lawyer at this time. I understand and know
17 what I am doing. No promises or threats have been made
18 to me, and no pressure or coercion of any kind has been
19 used against me.

20 Again, I asked him if he understood that. He
21 stated that he did. And I asked him again if he
22 willing to talk to us. He stated he was. I then had
23 him sign it and I signed it and the time completed,
24 that was at 10:48 a.m.

25 Q Okay. And did he appear, again, to be coherent and

1 understand your questions?

2 A Yes.

3 Q At any time, did he invoke any of his rights?

4 A No, ma'am.

5 Q At any time in you're questioning now on the 6th of

6 December, did you threaten him in any way?

7 A No, ma'am.

8 Q Promise him anything?

9 A No.

10 Q Any promises of leniency or anything else?

11 A No, ma'am.

12 Q Any threats of violence?

13 A No.

14 Q Coercion or anything?

15 A No, ma'am.

16 Q And the entire time you talked to him on the 6th, did

17 he appear to be cooperating voluntarily?

18 A Yes.

19 LUCK CAMPBELL: Your Honor, may I approach?

20 THE COURT: Yes, ma'am.

21 BY LUCK CAMPBELL:

22 Q And, again, on State's Exhibit 4, the second advice of

23 rights, he signed off on that as well?

24 A Yes.

25 Q What happened next?

1 A He was given the test by Detective Brodick. He failed
2 the test when he was asked whether he had killed the
3 victim and whether he had knowledge of the murder. At
4 first he denied it, but then he admitted that he had
5 strangled her.

6 Q Okay. And he admitted that to whom?

7 A Myself and Detective Brodick.

8 Q And he admitted that verbally first?

9 A Yes.

10 Q And once he admitted that to you, did you do anything
11 to memorialize that?

12 A I had him write out another statement. He wrote out
13 the first portion, and then I followed that up with
14 questions and answers and I wrote out the questions and
15 his answers.

16 Q I'm going to show you what's been marked as State's
17 Exhibit Number 5. Do you recognize that?

18 A Yes. This is the statement Mr. Myers wrote out on
19 December 6th, 2007, at the Daytona Beach Jail.

20 Q And, again, at any time when he was writing out that
21 statement or that you were talking on that day, did you
22 promise him anything or threaten him in any way?

23 A No, ma'am.

24 Q Did he ever invoke any rights --

25 A No.

- 1 Q -- for an attorney or to remain slight?
- 2 A No, ma'am.
- 3 Q And was he cooperating with you voluntarily?
- 4 A Yes.
- 5 Q And in that statement, the top part, the top paragraph,
6 whose handwriting is that?
- 7 A That's his handwriting.
- 8 Q And he wrote that out?
- 9 A Yes.
- 10 Q And then you followed up with a number of questions
11 afterwards?
- 12 A Correct.
- 13 Q And was that to clarify certain information you needed?
- 14 A Yes.
- 15 Q And that was done in your handwriting?
- 16 A Correct.
- 17 Q And once the statement was completed, as with all these
18 statements, did he have an opportunity to review it?
- 19 A Yes. He reviewed it, and then I had him sign it.
- 20 Q And that was done in all three statements?
- 21 A Yes.
- 22 Q And if he wanted to, he could make any changes?
- 23 A Yes.
- 24 Q And once he reviewed it, he did sign off on it?
- 25 A Yes, ma'am.

1 Q Just in the same manner he had in the other ones?

2 A Yes.

3 LUCK CAMPBELL: Your Honor, may approach?

4 THE COURT: Yes, ma'am.

5 LUCK CAMPBELL: Beg the Court's indulgence.

6 BY LUCK CAMPBELL:

7 Q The person that you had interviewed on December 5th and
8 December 6th of 2007, do you see him here in the
9 courtroom?

10 A Yes. He's seated at the defense table in the blue
11 shirt.

12 Q In the navy blue shirt?

13 A Yes.

14 Q Between his lawyers?

15 A Yes, ma'am.

16 LUCK CAMPBELL: Your Honor, may the record reflect
17 he's identified the Defendant as who he interviewed.

18 THE COURT: All right.

19 LUCK CAMPBELL: That's all we have as to voluntary
20 -- Your Honor.

21 THE COURT: Ms. Davis?

22 JENNIFER DAVIS: Thank you, Your Honor. May it
23 please the Court.

24 THE COURT: Yes, ma'am.

25 JENNIFER DAVIS: And Your Honor, if I could, I'm

1 just going to move the microphone up. He's still having his
2 hard time hearing.

3 THE COURT: Go ahead.

4 CROSS-EXAMINATION

5 BY MS. DAVIS:

6 Q Investigator Vincent, how long have you been a cold
7 case investigator?

8 A For about six years.

9 Q And so we heard basics, the process of what went when
10 Mr. Myers gave these three statements. The first day
11 when you got this first statement from him, it was just
12 you and Mr. Myers in the interview room?

13 A Yes.

14 Q And that was the same on -- as the second statement.
15 You continued to talk to him and it was just the two of
16 you in that room?

17 A Correct, yes.

18 Q And when he signed that advice of rights, initialed it,
19 on December 5th, clearly you gave him those rights
20 before he had given Statement Number 1 or Statement
21 Number 2?

22 A Correct.

23 Q And we know from the second statement -- or the first
24 statement we know he says he found the body but that
25 was it, right?

- 1 A Correct.
- 2 Q And then the second statement, he admits that he
- 3 actually went in the house, found the body, had, you
- 4 know, desecrated the body and gave a written statement
- 5 to that?
- 6 A Correct.
- 7 Q Before he gave that second statement, you told him --
- 8 you just testified that you had showed him some
- 9 pictures of, I believe it was, Elijah White, Barbara
- 10 Brown, and I didn't catch the third one?
- 11 A Alvin Dickson.
- 12 Q Alvin Dickson.
- 13 And then you also confronted him with a check
- 14 stub, or told him about the check stub?
- 15 A Correct.
- 16 Q And then you'd also told him about DNA being found?
- 17 A Correct.
- 18 Q And the purpose of telling him those particular things
- 19 was in the hopes that he would then, you felt, be more
- 20 honest with you or maybe fess up to something?
- 21 A Yes. And point out the fact that he had lied to me in
- 22 first statement.
- 23 Q Right. To change what he said initially to then say
- 24 what matched up to what you had found?
- 25 A Correct.

- 1 Q And that was why you confronted him with that
2 information?
- 3 A Yes.
- 4 Q And that's an investigation tool that you would use
5 when you are interrogating or interviewing a defendant?
- 6 A Yes.
- 7 Q You're not going to necessarily tell them what you have
8 at the front end --
- 9 A Correct.
- 10 Q -- right off the bat?
- 11 A Correct.
- 12 Q Okay. So then he gives that second statement as well
13 and reduces that to writing?
- 14 A Correct.
- 15 Q And at that point, you then leave?
- 16 A Yes.
- 17 Q Do you talk him that day about doing some sort of
18 polygraph, or is that not until the next morning?
- 19 A I asked him that day before I left if he was willing to
20 talk a polygraph about the truthfulness of the second
21 statement, and he said he was.
- 22 Q And during, I guess, day number one when you first
23 talked to him, did you ever tell him or imply to him
24 that if he were to cooperate, he might get a less --
25 lesser sentence?

1 A No, ma'am.

2 Q Do you ever tell him that you could probably get him

3 like ten years?

4 A No, ma'am.

5 Q Did you ever tell him that, if he didn't cooperate, the

6 evidence they had against him, he'd probably end up

7 with life or death?

8 A No, ma'am.

9 Q And did ever tell him -- or I assume you didn't tell

10 him that you could protect him or that he might be a

11 target in the jail and you could keep him safe?

12 A I never told him anything like that.

13 Q You didn't tell him any of that on day number one?

14 A No.

15 Q Or day number two?

16 A No.

17 Q And so the following day when you do come back, at this

18 point, it's actually not just you. It's you and

19 Investigator Brodick?

20 A Correct.

21 Q And he's with the Florida department or --

22 A Right --

23 Q -- Volusia --

24 A No. He's with Daytona Beach Police.

25 Q I'm sorry. Daytona Beach.

1 So he's with the -- he's an officer in Florida?

2 A Yes.

3 Q So the two of you, at that point, interview or
4 interrogate Mr. Myers that morning?

5 A Right. But he had -- Investigator -- Detective Brodick
6 was there to give him that voice stress analysis..

7 Q Right.

8 And at that -- initially, you'd asked him for a
9 polygraph?

10 A Right.

11 Q But they didn't do polygraphs?

12 A Right.

13 Q And so then you had him administer the voice stress
14 analysis test?

15 A Correct.

16 Q When you told him that he failed the test, that's when
17 he then gave this third statement?

18 A That's correct.

19 JENNIFER DAVIS: Beg the Court's indulgence.

20 BY MS. DAVIS:

21 Q And -- oh, I'm sorry.

22 And so you gave him the voice stress analysis --

23 A Right.

24 Q -- instead of the polygraph because that's what they
25 have?

- 1 A Correct.
- 2 Q The point of, in general, a polygraph in South
3 Carolina, y'all use that as kind of an investigation
4 tool?
- 5 A Correct.
- 6 Q Or an interrogation tactic when interviewing or
7 interrogating a defendant?
- 8 A Yes.
- 9 Q And that helps you decide if someone's -- if you think
10 they're telling the truth or not?
- 11 A Yes.
- 12 Q And then you confront the defendant with that?
- 13 A Yes.
- 14 Q And in this case, that's what you did?
- 15 A Yes.
- 16 Q Except in the polygraph, you used the voice stress?
- 17 A Correct.
- 18 Q After he wrote that third statement -- or I'm sorry.
19 After he wrote the second statement the day before, did
20 you know you were coming back to interview him again?
- 21 A Well, before I left, that's when I asked him about the
22 polygraph, and he agreed to take it. So, yes, I would
23 have assumed I was coming back.
- 24 Q And so you weren't satisfied at that point with the
25 statements he had given you?

1 A Correct.

2 Q Okay.

3 JENNIFER DAVIS: Beg the Court's indulgence.

4 THE COURT: Yes, ma'am.

5 BY MS. DAVIS:

6 Q Couple more questions. I'm sorry, Investigator
7 Vincent.

8 The other thing, I guess it's important when
9 you're getting a statement or when you do get a
10 statement from a defendant, you also want that to match
11 up with what had actually happened, what the crime
12 scene shows?

13 A I'm not sure what you're saying. I want them to tell
14 the truth.

15 Q Right. But -- well, I mean, I'm guess what I'm saying,
16 you would take into account if you had a shooting death
17 and you had a defendant saying, your know, I choked
18 her, you would have some concerns about a statement
19 like that that didn't match --

20 A Yes.

21 Q -- at all?

22 A Yes.

23 Q Okay. And in this case, you believe that it was a
24 strangling or a choking and he admitted to such things
25 so --

1 A Correct.

2 Q -- you were satisfied with the third statement?

3 A I had already reviewed the autopsy report.

4 Q Okay. And just to go back for a second, turn to the
5 voice stress analysis. I know we talked that's an
6 investigation tool that you use, or an interrogation
7 tactic that can be used. That's something that you
8 used to then confront the Defendant on whatever he had
9 previously given you as a statement, right?

10 A Right.

11 Q And that's something you used to then, again, kind of
12 like when you confronted him with the DNA stub -- or
13 the DNA or the check stub, you're hoping that
14 confronting him with the results of, you know, failing
15 the test would then elicit him to then tell you
16 something different --

17 A Right.

18 Q -- than what he had previously said?

19 A Yes.

20 JENNIFER DAVIS: Nothing else, Your Honor.

21 THE COURT: All right. Anything further?

22 LUCK CAMPBELL: Just one question.

23 REDIRECT EXAMINATION

24 BY LUCK CAMPBELL:

25 Q You hope people will tell you the truth?

1 A Correct, yes, ma'am.

2 LUCK CAMPBELL: Thank you, Your Honor.

3 THE COURT: All right. Anything further from this
4 witness?

5 JENNIFER DAVIS: Nothing for Investigator Vincent.

6 THE COURT: All right. You may step down.

7 Any motions regarding this hearing?

8 JENNIFER DAVIS: Your Honor, we're going to call
9 Mr. Myers to the stand.

10 THE COURT: All right.

11 THE CLERK: Raise your right hand.

12 Do you solemnly swear or affirm that the testimony
13 you're about to give in this case is the truth, the whole
14 truth, and nothing but the truth so help you God?

15 (There was no response.)

16 THE COURT: He's got to speak. You need to say
17 something. You need to use your voice.

18 JENNIFER DAVIS: I think he's just having hard
19 time hearing, Your Honor.

20 THE COURT: That's fine, but he can talk, can't
21 he?

22 Can you understand what she just said?

23 THE DEFENDANT: I didn't hear her, Your Honor.

24 THE COURT: All right. Swear him again, Jackie.
25 I mean, Ms. Pentagrass.

1 THEREUPON,

2 CLARENCE T. MYERS,

3 after having been duly sworn, testified as follows:

4 THE COURT: All right.

5 DIRECT EXAMINATION

6 BY JENNIFER DAVIS:

7 Q I'm going to speak loud, Clarence. Can you hear me?

8 A (Indicating).

9 Q Are you able to hear me?

10 A (Indicating).

11 Q Can you hear me, Clarence, when I'm asking you
12 questions?

13 A Okay. You're going to have speak up a little louder.

14 Q Okay. We're going to talk about the statements that
15 you gave to Investigator Vincent.

16 A Okay.

17 Q And you need to make sure -- let me know if you're not
18 hearing me.

19 A All right.

20 Q So we just heard Investigator Vincent testify in terms
21 of the three statements that you gave involving this
22 case.

23 A (The witness nodded head.)

24 Q In Statement Number 1, what did you essentially
25 initially tell Investigator Vincent about your

1 involvement?

2 A Statement Number 1, I said that I was outside of the
3 house and I seen -- I seen a dead body inside of the
4 house. And after that, I immediately left and went to
5 a pay phone and called my mother to tell the
6 authorities to pick the body up.

7 Q Okay. And Investigator Vincent had read you your
8 rights?

9 A Yes.

10 Q After that first statement, what, if anything, did
11 Investigator Vincent tell you?

12 A That he didn't believe my first statement because of
13 the check stub that was found inside the house.

14 Q Okay. And so then what happened?

15 A And, basically, you know, they were pictures shown and
16 he was asking me questions if I knew certain
17 individuals. And he showed me pictures of the lady
18 that was found inside of the house. And I told him
19 that I knew -- that I've seen her before and -- would
20 you repeat the last question again, please?

21 Q I just asked what he told you after you gave the first
22 statement?

23 A That he didn't believe me. He told me he didn't
24 believe me.

25 Q Okay. And so then did -- Investigator Vincent stayed

1 in that room and kept asking you questions?

2 A Yes.

3 Q And at some point -- you just mentioned at some point
4 he then told you about a check stub?

5 A Yes.

6 Q And what else did he tell you about involving the case?

7 A Basically, he didn't believe me. He didn't believe the
8 first statement that I wrote.

9 Q Okay.

10 A So then I wrote the next statement.

11 Q But he also told you about some DNA?

12 A Excuse me?

13 Q He also told you about some DNA?

14 A Yes.

15 Q Okay. And after he told you about the check stub and
16 the DNA, then what did you do?

17 A Then I wrote the next statement.

18 Q Okay. And the next statement essentially was that you
19 what?

20 A Well, basically, the truth. I entered the house from
21 the back of the house, went to the front of the house.
22 I seen her dead body on -- in the front of the house on
23 the floor. I attempted to move the body. Okay? And
24 then I ejaculated on her. And after that, I left. I
25 called my mother on the pay phone, and I told her that

- 1 it was body that I found that needed to be picked up
2 and I asked her to call the authorities to pick up the
3 body.
- 4 Q And during the first day when Investigator Vincent was
5 talking to you, was it just him and you in the room?
- 6 A As far as I remember, yes.
- 7 Q Okay. And this was done in Florida, right?
- 8 A Yes, it was.
- 9 Q And just for the record, Clarence, how tall are you?
- 10 A Four-eleven.
- 11 Q How much do you weigh?
- 12 A Little over a hundred pounds.
- 13 Q Okay. Is that about the same size as you were back in
14 2007 --
- 15 A Yes.
- 16 Q In terms of weight?
- 17 A (The witness nodded head.)
- 18 Q Did he tell you -- during that first day, did
19 Investigator Vincent tell you anything else about what
20 he thought happened?
- 21 A Yes, he did.
- 22 Q And what did he tell you?
- 23 A Basically, he figured that I knew of her already
24 because of the check stub that was in the house. And
25 he was trying to say because of that, that, maybe, I

1 knew her and we had some dealings going on. And he was
2 trying to say that, maybe, it was -- had something to
3 do with sex, and, maybe, I was paying her money for sex
4 and she did something and -- that upset me and that --
5 that was just cause for me to take her life.

6 Q Okay. And so that was the first day and the second
7 day?

8 A Yes.

9 Q But he started telling you those things the first day?

10 A Yes.

11 Q Did Investigator Vincent tell you anything else about
12 if you're cooperated with him what might happen to you?

13 A Yes. He was saying that, you know, because of the
14 check stub and because of the DNA and him not agreeing
15 with my first statement, you know, that it looked like
16 I was being dishonest. So he said that if I told the
17 truth then, you know, it would be a difference between
18 me --

19 THE COURT: Stop, stop, stop. He needs to back
20 away a little bit a couple of inches.

21 Now, that's better I think. Let's give it a shot.

22 Can everybody hear?

23 (The witness nodded head.)

24 THE COURT: All right.

25 BY JENNIFER DAVIS:

1 A He said that I -- am I speaking too loud?

2 Q No, you're fine.

3 THE COURT: No, you're fine.

4 BY JENNIFER DAVIS:

5 Q You're fine. Just stay back from the microphone a

6 little bit. You're good.

7 A He said, basically, you know, if I -- you know, if I

8 admitted to murdering her, okay, then it would be the

9 difference between me, maybe, getting the death penalty

10 or a life sentence versus ten years and police

11 protection.

12 Q What do you mean by police protection?

13 A Like, he was saying, you know, people would probably

14 target me because of the nature of my crime and my

15 charge. So, you know, it might be a scenario where I

16 could be at place where people would target me and

17 might want to do me bodily harm and, maybe, sexually

18 assault me, rape me. And he was saying that, if I

19 admitted to this crime, then it could be the difference

20 between that or getting ten years. And the protective

21 aspect was, you know, that I would be at a place where

22 they would be able to keep a eye on me and make sure

23 that I was unharmed.

24 Q And the the second day, correct -- or, I mean, the

25 first day, when he first came and talked to you that

- 1 first day in -- at the jail?
- 2 A Yes.
- 3 Q And then it continued some into the second day?
- 4 A I -- could you speak up?
- 5 Q He talked about some of this same stuff the second day?
- 6 A Yes.
- 7 Q All right. When he left you that first day, did he ask
- 8 you about taking a polygraph? Or do you remember him
- 9 asking?
- 10 A I don't remember.
- 11 Q Okay. But he did come back the next day, right?
- 12 A Yes, he did.
- 13 Q And when he left, at that point, you had given just the
- 14 two statements?
- 15 A Yeah.
- 16 Q And at that point, you had not admitted to anything in
- 17 terms of harming her?
- 18 A Repeat the --
- 19 Q You did -- at that point, you had not admitted anything
- 20 in terms of harming her?
- 21 A I didn't -- I didn't admit -- no, I didn't admit to
- 22 anything.
- 23 Q So, let's move to the next day, the following day.
- 24 Okay?
- 25 A (The witness nodded head.)

1 Q When he came back at that point it was -- was it two
2 investigators then?

3 A Yes, it was.

4 Q Okay. And you were in the same room or a different
5 room?

6 A Huh?

7 Q Were you in the same room --

8 A Yes.

9 Q -- as the day before?

10 A Yes.

11 Q And at that point, did they give you a test of some
12 sort?

13 A Yes. I was told it was a polygraph, and he asked me
14 questions and, you know --

15 Q Okay.

16 A And he gave me the test.

17 Q After you took the test, what did they tell you about
18 how you had done?

19 A Well, he said that I failed the test.

20 Q Okay. When you -- when they told you you had failed
21 the test, what did that make you think?

22 A Well, it made me feel like I was -- I had no -- there
23 was no hope left. You know, maybe, I was trapped. You

24 know, I was guilty. That's how it made me feel, you
25 know. And, I guess, there was no way I could get out

1 of it unless, you know.

2 Q And so when you felt like you were trapped or that you
3 didn't have any hope, what did you then do?

4 A I agreed to write a confession.

5 Q And that's when you wrote the third statement?

6 A Yes, it is.

7 Q And after you wrote that third statement, what did you
8 actually think was going to happen to you?

9 A I thought that he was going to do what he had
10 propositioned, you know, as far as, you know, maybe,
11 getting me less time and I would be under some type of
12 protection, you know. But I wouldn't -- my life
13 wouldn't be in danger.

14 Q And so you thought by confessing, you were going to get
15 a better deal and/or they would keep -- and that they
16 would keep you safe if were in jail?

17 A Yes.

18 Q Okay. If he had not told you those things, would you
19 have give that third statement?

20 A If he had not told me what?

21 Q If he had not told you that he -- that if you
22 cooperated that you could get a better deal or that you
23 could get protection, would you have given that third
24 statement?

25 A No, I wouldn't have.

1 Q And would you have given that statement if they had --
2 if they had not told you you had failed that voice
3 stress test?

4 A No.

5 Q Okay. When you did give that third statement, why did
6 you give that third statement?

7 A The reason being because -- basically, because of the
8 voice stress analysis test, the polygraph or whatever.

9 Q Uh-huh.

10 A It was -- because I failed -- because he told me that I
11 failed it, you know. Based on that, you know, I felt
12 like I didn't have any hope. You know, I was thinking
13 that this machine, you know, was making me look guilty
14 in a certain type of way. And then the fact that I
15 thought that, because of what he had offered me, that
16 it would just be in my best possible interest if I
17 confessed to it, even though I know that I was falsely
18 incriminating myself and lying on myself. It -- just
19 because of circumstances and the way things have looked
20 because of the voice stress analysis.

21 Q All right. And you thought that if you did not
22 cooperate, something worse would happen to you?

23 A Yes.

24 JENNIFER DAVIS: Nothing further, Your Honor.

25 THE COURT: All right. Ms. Campbell.

1 LUCK CAMPBELL: May it please the Court?

2 THE COURT: Yes, ma'am.

3 CROSS-EXAMINATION

4 BY LUCK CAMPBELL:

5 Q Mr. Myers, you understand what your rights are?

6 A (There was no response.)

7 Q Do you understand what your rights are?

8 A Yes.

9 Q And I'm going to show you this form. Is that your
10 signature?

11 A Yes, it is.

12 Q Did you sign that?

13 A Yes, I did.

14 Q No question, that's your signature?

15 A Yes.

16 Q And you waived your rights?

17 A Yes.

18 THE COURT: That's Exhibit Number 1?

19 LUCK CAMPBELL: That'd be Exhibit Number 1, our
20 exhibit, Your Honor.

21 THE COURT: All right.

22 BY LUCK CAMPBELL:

23 Q I'm going to show you this first statement. You
24 recognize that?

25 A Yes, I do.

1 Q Is that your handwriting?

2 A Yes.

3 Q And is that your first version of what happened?

4 A (The witness nodded head.)

5 Q Is that your signature?

6 A (The witness nodded head.)

7 Q No question about that?

8 A (The witness nodded head.)

9 THE COURT: You need to speak, Mr. Myers. You
10 need to talk in response to the questions. Okay?

11 THE DEFENDANT: Okay.

12 BY LUCK CAMPBELL:

13 A Yes.

14 Q That's your handwriting, your signature?

15 A Yes.

16 Q I'm going to show you the second statement on that same
17 day.

18 A (The witness nodded head.) Yes.

19 Q It would be State's Exhibit --

20 LUCK CAMPBELL: -- I believe, 3, Your Honor?

21 THE COURT: Yes, ma'am.

22 BY LUCK CAMPBELL:

23 Q You recognize that?

24 A Yes.

25 Q Whose handwriting is this in the body of it?

- 1 A Mine.
- 2 Q Whose signature is that on the bottom?
- 3 A Mine.
- 4 Q And you signed that and you wrote that?
- 5 A Yes, I did.
- 6 Q I'm going to show you State's Exhibit Number 4, the
- 7 advice of rights, the next day.
- 8 A (The witness nodded head.)
- 9 Q Do you remember him advising you of your rights?
- 10 A Yes.
- 11 Q Did you understand what he was saying?
- 12 A Yes.
- 13 Q Did you agree to talk to him?
- 14 A Yes.
- 15 Q And that's your signature there that says you agreed to
- 16 talk to him?
- 17 A Yes, it is.
- 18 Q There's no doubt you agreed to talk to him?
- 19 A Yes.
- 20 Q And you were doing that?
- 21 A (The witness nodded head.)
- 22 Q And I'm going to show you State's Exhibit Number --
- 23 LUCK CAMPBELL: -- 5 or 6, Your Honor, the last
- 24 statement?
- 25 BY LUCK CAMPBELL:

1 Q You recognize that?

2 A Yes.

3 Q And whose handwriting is this in the middle?

4 A Mine.

5 Q And whose words are those?

6 A Mine.

7 Q And whose signature's at the bottom of both these pages
8 of the statement?

9 A Mine.

10 Q And is that the information you wrote out?

11 A Yes, it is.

12 Q And those are your words?

13 A (The witness nodded head.)

14 Q And in both days you waived your rights and agreed to
15 talk to him?

16 A Yes.

17 Q And you're familiar with law enforcement and the advice
18 of rights because you've got a pretty long record?

19 A Yes.

20 Q Okay. And as far as what, if anything, Investigator
21 Vincent told you about this case, you've explained that
22 to the Judge?

23 A Could you repeat that?

24 Q As far as what Investigator Vincent told you about the
25 case --

1 A Yes.

2 Q -- you've already given that information to the Judge
3 when your lawyer asked you those questions?

4 A Yes.

5 Q That's what all he said to you?

6 A Yes.

7 Q And that's the extent of it?

8 A Excuse me?

9 Q That's what he said to you?

10 A Yes, it is.

11 Q And you've told the Judge all that he said to you?

12 A Yes.

13 Q And there's no question you waived your rights, like
14 you signed off on?

15 A Yes.

16 Q And there's no question that those are your statements
17 that wrote out in your own handwriting except for the
18 follow-up questions?

19 A (The witness nodded head.)

20 THE COURT: You need to speak, Mr. Myers, yes or
21 no?

22 THE DEFENDANT: Yes.

23 BY LUCK CAMPBELL:

24 Q So, you agreed to talk to him?

25 A Yes, I did.

1 LUCK CAMPBELL: Beg the Court's indulgence.

2 THE COURT: Yes, ma'am.

3 LUCK CAMPBELL: For the purposes of this hearing,
4 Your Honor.

5 BY LUCK CAMPBELL:

6 Q And do you remember when you were arrested on January
7 15th, of 2009?

8 A Could you --

9 Q Do you remember when you were arrested in January of
10 2009?

11 A Yes.

12 Q And they served the warrants here by Investigator
13 Vincent?

14 A Yes.

15 Q And at that point, you stated that you only confessed
16 to get investigators out of your face?

17 A Yes.

18 Q Not because they had promised you anything or
19 threatened you?

20 A I was promised things too.

21 Q I'm saying, when you were arrested, you say -- did you
22 just confess to get investigators out of your face?

23 A Yes.

24 Q But now you're saying you were promised things too?

25 A (Defendant smiles.)

1 Q Is that true? Now that's what you're saying?

2 A (There was no response.)

3 Q Do you remember telling investigators that you just
4 confessed to get them out of your face?

5 A I confessed -- I confessed to get them out of my face,
6 yes. I told him that.

7 Q Okay. Thank you.

8 THE COURT: Ms. Davis, anything further?

9 JENNIFER DAVIS: I have nothing further.

10 THE COURT: All right. You may step down, sir.

11 Anything further on behalf for Mr. Myers in this
12 hearing?

13 JENNIFER DAVIS: No, Your Honor.

14 THE COURT: You have a motion?

15 JENNIFER DAVIS: Yes, sir, Your Honor. Two-part
16 motion, basically. First part is, based on the -- testimony
17 today that this is an involuntary statement. Based on
18 Mr. Myers's testimony today, he stated that he had been
19 promised things in terms of getting less time or a ten-year
20 sentence, that if he had not cooperated that he -- things
21 would be worse for him, potentially life or, I think he
22 said, death. But much more severe if he did not cooperate
23 and tell them what happened. He testified that he was given
24 information from Investigator Vincent about basically how he
25 thought it might have happened and testified that he would

1 not have given those statements had he not been given those
2 promises to -- of a lenient sentence and protection in the
3 form of, if he was in the prison, they would keep him from
4 anyone beating up him or harming him in any way.

5 Your Honor, I believe that for all those reasons,
6 that reaches the level of involuntarily statement and that
7 that should be inadmissible in terms of this hearing.

8 And generally, Your Honor, I also have a motion I
9 handed up. I don't know if Your Honor wants me to go into
10 that.

11 THE COURT: No. Just stop for right now on the
12 Jackson versus Denno.

13 JENNIFER DAVIS: Yes, sir.

14 THE COURT: Ms. Campbell, be happy to hear from
15 you.

16 LUCK CAMPBELL: May it please the Your Honor.
17 I'll be brief.

18 Basically, the Defense -- the Defendant got on the
19 stand, he indicated that he willingly and cooperated with
20 them and talked to them. He is now here in some four --
21 three years later, Your Honor, stating that now he was
22 promised something that has changed for the -- in between, I
23 believe, his contention's just as to the third statement.

24 Your Honor, Investigator Vincent testified that
25 what all went on, and he also testified that he did not

1 promise him anything; he did not mention the death penalty;
2 he didn't do anything of the things that the Defendant's now
3 alleging.

4 In addition to that, Your Honor, even when he was
5 confronted with the warrants in 2009, he explained that the
6 only reason he confessed and the only explanation at that
7 point was not that they had promised him anything or
8 threatened him in any way, but that he just wanted them out
9 of his face, Your Honor, and now here we are three years
10 after that fact and he has come up with a different story.

11 Based on the credible evidence that's before Your
12 Honor, we would state that for purposes of this hearing it
13 would be voluntarily.

14 THE COURT: All right. Thank you, ma'am.

15 Anything further from any one?

16 JENNIFER DAVIS: Not [check 02:38] of that day,
17 Your Honor.

18 THE COURT: All right. I find that the statements
19 that were taken by Investigator Vincent, Mr. Myers, he gave
20 those statements freely and voluntarily after being properly
21 advised of his rights, that the police did everything that
22 they usually do to protect a defendant's rights, that was
23 done in this case, and the statement shall be admitted.

24 Anything further on this issue.

25 All right.

1 JENNIFER DAVIS: Your Honor --

2 THE COURT: Go ahead. On this issue.

3 JENNIFER DAVIS: I would say yes, in terms of the
4 voice stress analysis and my motion that that --

5 THE COURT: Have y'all read the response?

6 JENNIFER DAVIS: That --

7 LUCK CAMPBELL: Your Honor, I'm sorry. We just
8 were given this motion this morning. We would like an
9 opportunity just to brief.

10 THE COURT: Okay.

11 LUCK CAMPBELL: But in my brief I don't think it's
12 a problem, but we just wanted to make sure we've got our
13 ducks in a row because they did hand over all of this
14 information and we had not seen it prior to this morning
15 walking into court.

16 THE COURT: So, y'all want a little break before
17 we address that issue or?

18 Well, I got to take one anyway.

19 LUCK CAMPBELL: Okay.

20 THE COURT: Let's take a little break.

21 And let me see y'all just briefly back here to
22 decide how we're going to proceed from this point on.

23 (Whereupon, a short recess was held.)

24 NICHOLE SIMPSON: State calls Clarence Myers.

25 THE COURT: Come around, Mr. Myers.

1 THE CLERK: Raise your right hand.

2 THEREUPON,

3 CLARENCE MYERS,

4 after having been duly sworn, testified as follows:

5 THE COURT: Yes, ma'am.

6 MARK VINCENT: Thank you. May it please the
7 Court.

8 Your Honor, standing before you is Clarence Myers.

9 He is represented by Jennifer Davis of the Public Defender's
10 Office. He is pleading guilty here today to one count -- he
11 was originally charged with murder and indicted for murder
12 as well as desecration of human remains. He is pleading
13 guilty here today to one count of voluntary manslaughter
14 straight up, which carries two to 30 years and one count of
15 human -- or desecration of human remains, which carries zero
16 to ten years. Your Honor, this case was scheduled and
17 prepared and ready to go forward as a trial next week.

18 And with respect to Indictment Number
19 2009-GS-40-612, the State would like to amend that
20 indictment. The title on the front of the indictment
21 reflects the appropriate charge. However, on the back of
22 the indictment with the substance and body portion, the
23 title of that is armed robbery. That is incorrect; however,
24 the substance of it does represent and reflect the
25 appropriate charge.

1 THE COURT: Oh, I see. Armed robbery's been
2 stricken out and desecration of human remains has been
3 written in.

4 NICHOLE SIMPSON: Correct, Your Honor.

5 JENNIFER DAVIS: Yes, sir.

6 THE COURT: Any problem with that?
7 Now it's just a straight-up plea?

8 NICHOLE SIMPSON: It is, Your Honor.

9 THE COURT: Is that correct, Ms. Davis?

10 JENNIFER DAVIS: Yes, Your Honor.

11 THE COURT: All right. Now, Ms. Davis, you
12 represent Clarence Myers; is that correct?

13 JENNIFER DAVIS: Yes.

14 THE COURT: Have you explained to Mr. Myers the
15 charges contained in these two indictments, the possible
16 punishments, and his rights, including his constitutional
17 right to a jury trial?

18 JENNIFER DAVIS: Yes, Your Honor.

19 THE COURT: In your opinion, does Mr. Myers
20 understand these charges, these punishments, and his rights?

21 JENNIFER DAVIS: He does.

22 THE COURT: How does he indicate to you he wishes
23 to plead: Guilty or not guilty?

24 JENNIFER DAVIS: Your Honor, he wishes to plead
25 guilty under North Carolina V. Alford.

1 THE COURT: Is that correct? That's what I read a
2 moment ago.

3 NICHOLE SIMPSON: Yes, Your Honor.

4 THE COURT: All right. Straight-up plea on the
5 North Carolina versus Alford?

6 JENNIFER DAVIS: Yes, sir.

7 THE COURT: Do you agree with his decision to
8 enter this plea?

9 JENNIFER DAVIS: Yes, Your Honor.

10 THE COURT: From your investigation of the facts
11 and circumstances surrounding these cases, do you feel that
12 the State could produce sufficient evidence to convince a
13 jury here in Richland County of Mr. Myers's guilt beyond a
14 reasonable doubt, and if he were to stand trial on these
15 charges, his convictions would be probable?

16 JENNIFER DAVIS: Yes, Your Honor.

17 THE COURT: All right. Now, has Mr. Myers been
18 ordered to submit to a mental examination to determine his
19 competency to stand trial?

20 JENNIFER DAVIS: Your Honor, he did have an
21 evaluation, not specific to competency. I have no questions
22 about his competency.

23 THE COURT: All right. So you feel he is
24 competent to enter this plea?

25 JENNIFER DAVIS: Yes, Your Honor.

1 THE COURT: All right. You're Clarence Myers; is
2 that correct?

3 THE DEFENDANT: (The witness nodded head.)

4 THE COURT: Can you hear me, Mr. Myers?

5 THE DEFENDANT: Yes.

6 JENNIFER DAVIS: Speak up.

7 THE COURT: All right. Mr. Myers, before I can
8 accept your plea of guilty, it's necessary for me to make
9 sure that you're making this plea freely and voluntarily.
10 To do that, sir, I need to ask you a series of questions.
11 At any point during my questioning of you, if you do not
12 understand anything that I say or any words that I use, if
13 you can't understand what I'm saying, ask me to repeat it.
14 I'll be more than happy to do so.

15 Do you understand, Mr. Myers?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: How old you are you, Mr. Myers?

18 THE DEFENDANT: 35.

19 THE COURT: How far did go in school?

20 THE DEFENDANT: Three years in college.

21 THE COURT: All right. What kind of work have you
22 done?

23 THE DEFENDANT: Excuse me, Your Honor?

24 THE COURT: What kind of work have you done,
25 Mr. Myers?

1 JENNIFER DAVIS: What kind of work have you done?

2 THE DEFENDANT: Maintenance, restaurant work,
3 manual labor.

4 THE COURT: Okay. Okay.

5 THE DEFENDANT: Along those lines.

6 THE COURT: Yes, sir.

7 Mr. Myers, have you ever been treated for the
8 abuse of alcohol or drugs or for mental illness?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: What have you been treated for and
11 when?

12 THE DEFENDANT: I was -- been -- I was
13 rehabilitated twice; once in 2002, and next time was in
14 2007, drugs an alcohol.

15 THE COURT: All right. Now, have you taken any
16 medications, drugs, or alcohol in the past 24 hours?

17 THE DEFENDANT: No.

18 THE COURT: Are you today aware of any physical,
19 nervous, or emotional problems that might keep you from
20 understanding what you're doing?

21 THE DEFENDANT: No.

22 THE COURT: You know what you're doing, Mr. Myers;
23 is that correct?

24 (There was no response.)

25 THE COURT: You know what you're doing here today;

1 is that correct?

2 THE DEFENDANT: Yes.

3 THE COURT: You agree, Ms. Davis, that Mr. Myers
4 knows, understands, and appreciates what he's doing here
5 today?

6 JENNIFER DAVIS: Yes, Your Honor.

7 THE COURT: Now, Mr. Myers, you heard your lawyer,
8 Ms. Davis, tell me that she has explained to you the charges
9 contained in the these two indictments, possible
10 punishments, and your rights, including your right to a jury
11 trial and that you understand these things; is that correct?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right. Mr. Myers, you're first
14 before me on Indictment Number 2009-611, the State versus
15 Clarence Myers. This is an indictment for murder, but
16 you're here before me today to proffer a plea; that is, to
17 actually plead guilty to voluntary manslaughter.

18 Do you understand this charge, sir?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And you want to enter this plea
21 pursuant to United States Supreme Court, I think it's 1972
22 North Carolina versus Alford; is that correct?

23 (There was no response.)

24 JENNIFER DAVIS: Under Alford?

25 THE DEFENDANT: The witness nodded head.) Okay,

1 yes, sir.

2 THE COURT: Is that correct?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: You know what Alford means; has that
5 been explained to you?

6 THE DEFENDANT: Yes.

7 THE COURT: Basically, it means that they're
8 giving you the benefit of the doubt and making you an offer,
9 a deal, instead of prosecuting you for the murder, they're
10 letting you plead to voluntary manslaughter.

11 Do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And when I asked your lawyer, is it
14 probable that you can be convicted, you want to take
15 advantage of this offer that has been extended to you to
16 plea to voluntary manslaughter rather than be tried for
17 murder; is that correct.

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: All right. So you want to enter a
20 plea under North Carolina versus Alford to voluntary
21 manslaughter; is that correct, Mr. Myers?

22 THE DEFENDANT: What'd he say?

23 Could you repeat that, please, Your Honor?

24 THE COURT: All right. You want to enter a plea
25 to voluntary manslaughter under North Carolina versus

1 Alford; is that correct?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: This indictment charging you with
4 voluntary manslaughter, Mr. Myers, alleges that you did here
5 in Richland County on or about April the 20th of 2001,
6 without malice aforethought, did kill one Angela Coleman by
7 means of choking and that she died as a proximate result
8 thereof under, or in the sudden heat and passion of the
9 moment.

10 Do you understand this, sir?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And you want to plead guilty to
13 voluntary manslaughter; is that correct?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: You realize, Mr. Myers, that by
16 pleading guilty to voluntary manslaughter, that you could go
17 to jail for 30 years?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: But in any event, you can receive no
20 less than two years, I do believe, on this offense by
21 pleading guilty to it under Alford.

22 Do you understand this?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Knowing then, Mr. Myers, that you
25 could receive a sentence of up to 30 years by pleading

1 guilty to voluntary manslaughter, do you still want to enter
2 this plea?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Now, Mr. Myers, voluntary manslaughter
5 is one of those serious or violent crimes that requires you
6 to do 85 percent of whatever sentence I impose upon you
7 before you are eligible for parole.

8 Do you understand this, sir?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Knowing that, you still want to
11 continue and plead guilty to voluntary manslaughter under
12 Alford; is that correct?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: All right. Next, Mr. Myers, I have
15 before me Indictment Number 2009-612, the State versus
16 Clarence Myers. This is an indictment for destruction or
17 desecration of human remains.

18 Do you understand this charge, Mr. Myers?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Now, this indictment, sir, alleges
21 that you did here in Richland County on or about April 20th
22 of 2001 willfully and knowingly, without proper legal
23 authority, destroy or damage the remains of a deceased human
24 being and/or desecrate human remains.

25 Do you understand this allegation, Mr. Myers?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: You want to plead guilty to
3 desecration of human remains; is that correct?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: You realize that by pleading guilty to
6 this charge, Mr. Myers, you could go to jail for ten years?

7 THE DEFENDANT: Yes, Your Honor.

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

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Now, Mr. Myers, I can run the
13 sentences on these two charges consecutively; that is, put
14 one after the other or add one to the other. If I did so,
15 Mr. Myers, you're looking at 40 years in the penitentiary.

16 Do you understand that, sir?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Knowing then, Mr. Myers, that you
19 could go to prison for 40 years by pleading guilty to these
20 two charges, do you still wish to pled guilty to them?

21 (Defendant consults with counsel.)

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right. You understand all that,

24 Mr. Myers?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Now, Mr. Myers, when you plead guilty,
2 you to have give up certain basic rights. First of all, you
3 have to give up your right to remain silent. Now, this is
4 your right against self-incrimination, Mr. Myers. This is
5 your right to say nothing at all. No one can compel you to
6 come into court to provide evidence or to testify against
7 yourself.

8 Do you understand this, sir?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Secondly, Mr. Myers, when you plead
11 guilty, guilty under Alford or any other way, you have to
12 give up your constitutional right to a jury trial.

13 Do you know what a jury trial is?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: That's where 12 people from the
16 community come here, they listen to the evidence presented
17 by the State, they listen to any evidence you and Ms. Davis
18 want to present, and they make the decision on your guilt or
19 innocence.

20 Do you understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: You don't want a jury trial; is that
23 correct?

24 THE DEFENDANT: I didn't hear. Do I want the
25 retrial?

1 THE COURT: Do you want a jury trial?

2 THE DEFENDANT: No. No, sir.

3 THE COURT: You want to plead guilty; is that
4 correct?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right. Also, Mr. Myers, when you
7 plead guilty, you have to give up your right to confront and
8 to be confronted by the witnesses against you; that is, your
9 right to see, hear, and cross-examine any witnesses the
10 State may call to testify against you. And also, you have
11 to give up your right to subpoena and call witnesses on your
12 own behalf; that is, someone who may testify for you.

13 Do you understand that, sir?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And you want to give up this right,
16 also; is that correct?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right. Mr. Myers, I tell you all
19 this, sir, because -- well, first of all, you understand the
20 rights I just mentioned to you?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Do you understand, sir, that when you
23 plead guilty, you have to give up these constitutional
24 rights?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And that's what you want to; do is
2 that correct?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: You want to give up your
5 constitutional rights?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: You realize you will not receive a
8 jury trial on any of these two charges by pleading guilty to
9 them.

10 Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right. Once again, Mr. Myers,
13 you're pleading guilty under Alford to voluntary
14 manslaughter; you're pleading guilty to desecration of human
15 remains. I've explained to you that you're facing 40 years
16 in jail. You're giving up all of your constitutional right,
17 once again.

18 Now, considering what I just said to you; that is,
19 the time you're facing and giving up your constitutional
20 rights, I will ask you once again, how do you wish to pled
21 to these charges: Guilty or not guilty?

22 THE DEFENDANT: I thought I was going to plead no
23 contest.

24 THE COURT: I've already said Alford. When I say
25 guilty, it means guilty under North Carolina versus Alford.

1 Do you understand that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And that's what you want to do; is
4 that correct?

5 THE DEFENDANT: Yeah.

6 THE COURT: All right. I tell you all this,
7 Mr. Myers, because you may have some defenses to these
8 charges. Of course, I have no way of knowing that, but you
9 need to realize that by entering this plea today, you give
10 up any defenses may have.

11 Do you understand that, sir?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Also, Mr. Myers, I tell that you
14 because, when you were arrested by the Columbia Police
15 Department, you may, as I know you have, given some
16 incriminating statements. You need to realize that by
17 pleading guilty here today you waive your right to later on
18 challenge or contest by giving these statements whether or
19 not they were taken or obtained from you freely and
20 voluntarily in accordance with your constitutional rights.

21 Do you understand that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: So, once again, Mr. Myers, I'll ask
24 you, on Indictment Number 2009-611, voluntary manslaughter,
25 you want to enter an Alford plea to the allegation that you

1 did here in Richland County on or about April the 20th of
2 2001 kill one Angela Coleman by means of choking in the
3 sudden heat and passion of the moment; is that correct?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: All right. And, once again,
6 Mr. Myers, in connection with Indictment Number 2009-612,
7 destruction and desecration of human remains, once again,
8 you want to plead guilty to the allegation that you did here
9 in Richland County on or about April 20th of 2001 willfully
10 and knowingly, without proper legal authority, destroy and
11 damage the remains of a deceased human being and/or
12 desecrate human remains.

13 You want to plead guilty to this; is that correct,
14 once again?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Have there been any plea negotiations,
17 Solicitor?

18 NICHOLE SIMPSON: Yes, Your Honor, with respect to
19 we have agreed to reduce the charge from murder to voluntary
20 manslaughter. Outside of that, there have been no
21 additional negotiations.

22 THE COURT: All right. Is that correct,
23 Ms. Davis?

24 JENNIFER DAVIS: Yes, Your Honor.

25 THE COURT: Anything additional needs to be added

1 to the record in connection with any plea negotiations or
2 any recommendations?

3 JENNIFER DAVIS: No, sir.

4 THE COURT: You still wish to continue with this
5 plea, Mr. Myers?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Now, sir, has anyone promised you
8 anything or has anyone held out any hope of reward in order
9 to get you to enter this plea?

10 THE DEFENDANT: No, sir, Your Honor.

11 THE COURT: Has anyone threatened you or used
12 force to get you to plead guilty?

13 THE DEFENDANT: No, sir, Your Honor.

14 THE COURT: Has any one used any pressure or
15 intimidation to cause you to plead guilty?

16 THE DEFENDANT: No, sir, Your Honor.

17 THE COURT: Have you had enough time to make up
18 your mind as to whether or not you want to pled guilty?

19 THE DEFENDANT: Yes, sir, Your Honor.

20 THE COURT: And are you pleading guilty of your
21 own free will and accord?

22 THE DEFENDANT: Yes, sir, Your Honor.

23 THE COURT: Now, Mr. Myers, are you satisfied with
24 the manner in which your lawyers, Ms. Davis, Ms. Pringle,
25 and Mr. Shealy, the way they have advised and represented

1 you on these charges?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Have you talked with them for as long
4 and as -- for as often as you feel it necessary for them to
5 properly represent you?

6 THE DEFENDANT: Yes, thus far, Your Honor.

7 THE COURT: All right. Do you need any more time
8 to talk to them?

9 THE DEFENDANT: No, sir, Your Honor.

10 THE COURT: Have you understood your talks with
11 them?

12 THE DEFENDANT: Yes, I have.

13 THE COURT: Mr. Myers, has Ms. Davis, Ms. Pringle,
14 and Mr. Shealy done everything for you you feel they should
15 do or could do on your behalf in advising and representing
16 you on these charges?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Have they done anything you feel they
19 should not have done?

20 THE DEFENDANT: No, sir, Your Honor.

21 THE COURT: Are you completely satisfied with
22 their services?

23 THE DEFENDANT: Yes, I am, Your Honor.

24 THE COURT: Do you have any complaints, Mr. Myers,
25 against anyone at the Columbia Police Department; any

1 complaints against anyone at the Columbia Police Department?

2 THE DEFENDANT: (Defendant laughs.) (Defendant
3 consults with his attorney).

4 JENNIFER DAVIS: Your Honor, I'm just going to
5 write because he's --

6 THE COURT: Go ahead.

7 (Brief pause.)

8 THE DEFENDANT: No, sir, Your Honor.

9 THE COURT: No complaints.

10 Do you have any complaints against anyone in the
11 Solicitor's Office?

12 THE DEFENDANT: No, sir, Your Honor.

13 THE COURT: Have you understood my questions?

14 THE DEFENDANT: Yes, sir, Your Honor.

15 THE COURT: Is there anything you want to ask me
16 about what I just went over with you, Mr. Myers?

17 THE DEFENDANT: No, sir, Your Honor.

18 THE COURT: All right. Mr. Myers, you realize
19 that you have the right to appeal this guilty plea and
20 whatever sentence I may impose upon you. But if you go into
21 appeal, you need to file a notice of intent to appeal within
22 ten days of today's date.

23 Do you understand that?

24 THE DEFENDANT: Yes, sir, Your Honor.

25 THE COURT: Also, Mr. Myers, once you're in the

1 Department of Corrections, if you later on think or find or
2 feel that you have some complaints against your lawyers,
3 against the Columbia Police Department, against the
4 Solicitor's office, or anybody else involved in your case,
5 you need to make those complaints known by filing a
6 post-conviction relief application within one year of
7 today's date.

8 Do you understand that, sir?

9 THE DEFENDANT: Yes, sir, Your Honor.

10 THE COURT: Very well. Solicitor, I'd be willing
11 to hear about it.

12 NICHOLE SIMPSON: Thank you, Your Honor.

13 This incident occurred on or between April 20th of
14 2001 and April 21st of 2001 at [REDACTED] Avenue, which is
15 located here in Richland County. Officers responded to a
16 call from an unknown caller in reference to a victim down
17 inside the incident location. Officers, as well as EMS,
18 responded and observed the victim, Angela Coleman, lying
19 face down on the floor naked with a blanket wrapped over her
20 body and a pair of gray sweat pants wrapped around her --
21 the back of her neck and head area.

22 Her neck and head had been set on fire and she was
23 pronounced dead upon arrival. She did not have any
24 identification on her at the time, so, of course, they
25 investigated and she was ultimately identified by her

1 fingerprints.

2 Crime scene investigators processed the scene and
3 collected a number of items. Investigators began to search
4 the area for possible witnesses and attempted to locate the
5 actual home where Ms. Coleman had been living. It was
6 believed and later determined that the incident location
7 served as an abandoned or vacant house which was often used
8 as a place for squatters and to do drugs.

9 Throughout the course of the investigation, the
10 crime scene unit would actually revisit the scene several
11 times. Attempts were made to process the scene for
12 fingerprints; however, those were negative. With respect to
13 the victim's body at the scene and the processing,
14 investigators were able to collect five swabs from the
15 outside of her body on the back area. Those, of course,
16 will be come important later.

17 At the autopsy, which was [check 21:10] Dr. Clay
18 Nichols on April 23rd of 2001, he observed that her hair was
19 singed down to the scalp and the neck and shoulders were
20 actually scorched from the burning. He also noted that
21 there was a single petechial hemorrhage to the right eye and
22 that the left eye was swollen and bulging. There was also
23 bruising -- or a bruised area under Ms. Coleman's tongue;
24 however, no hemorrhage was found beneath the skin or within
25 the neck and organ area.

1 Dr. Nichols at that time determined the cause of
2 death was asphyxiation due to probable manual strangulation
3 and that the manner of the death was a homicide.

4 A assault kit was also completed and smears, to
5 include vaginal, oral, and rectal, were -- were completed,
6 and DNA profiles were actually developed from several of the
7 swabs including those from the sexual assault kit, as well
8 as those that were collected from her back area. The DNA
9 was actually entered into CODIS at that time as they had no
10 known profile to compare it to.

11 Investigators continued to speak with a number of
12 people including possible suspects. One of those was a man
13 by the name of Elijah White. He was actually Ms. Coleman's
14 ex-boyfriend. However, they kind of had a continuing
15 relationship which was primarily based on drug use and
16 things of that nature. She learned -- officers actually
17 learned from people in the area that Ms. Coleman had stated
18 to them that she was afraid of him and that he had
19 threatened her on several occasions. So they went and spoke
20 with Mr. White who was cooperative and stated that he -- the
21 victim had been living with him; however, he had changed the
22 locks several weeks earlier and that she was kicked out.
23 However, he did see her in the week prior to her death I
24 believe around the 18th or at some point, which is
25 consistent with the evidence in this case, as a CODIS match

1 was later come back to the vaginal smears, or vaginal swabs
2 that were collected from her as a match to Elijah White.
3 That would occur in 2009. Mr. White is actually deceased
4 now and, as it continues on, the evidence was not supportive
5 of his guilt, but would later be towards that of the
6 Defendant.

7 Many of the witnesses in this case at the time
8 were frequent crack users and unsure of timing and certain
9 events and moments. And several investigation --
10 investigative agencies were actually involved in this case,
11 including SLED, the FBI, et cetera. So there were few
12 credible leads. This case actually went cold. And so
13 nothing occurred. The family was left without knowing.

14 However, on -- I believe in 2007, Investigator
15 Mark Vincent, with the Columbia Police Department's Cold
16 Case Unit, took over this case and began an investigation.
17 Mr. Myers -- there was a CODIS hit for his DNA which came
18 back to several of the swabs that were collected from the
19 victim's body, and at that time, they finally have an
20 identifiable, credible suspect in this case. So he
21 continues. He actually goes down -- Mr. Myers was
22 incarcerated on other charges, I believe robbery charges, in
23 Florida. And he went down and spoke to him initially. And
24 he went down there armed with the information regarding the
25 DNA as well as a check stub that had been found in the pants

1 of -- in a pair of pants which the Defendant later admitted
2 was -- were, in fact, his pants at the incident location.
3 He initially advised the Defendant of his rights, which he
4 waived. He denied knowing Ms. Coleman. He denied going
5 into the location, pretty much denied every -- everything
6 about it. He was then confronted with additional
7 information, and at that point, he said, Yes. I did come
8 upon it and I did observe her body.

9 Most -- most important was her final -- his final
10 confession in this case in which he actually did admit to
11 killing the victim. He stated that, essentially, this was a
12 drug/sex for money relationship and he'd given her some
13 money. He was upset over the arrangement, and in the heat
14 of passion, he got upset and choked her to death. And it
15 was after she stopped breathing that he burned her face. He
16 -- then he indicated in that statement several things that
17 only the killer would know; specifically, that the victim
18 was burned, that the cause of death was strangulation, and
19 that the victim had been moved after death and that clothing
20 was, in fact, placed over her face.

21 Officers then learned that his mother, at the time
22 of this incident, was living very near [REDACTED] and the
23 incident location and that she had actually been the caller
24 who had call 911. And then -- which we do have that
25 recording. She requested the number for Crime Stoppers, and

1 at that point, she is actually the voice identified that led
2 officers to this abandoned house. Investigators spoke with
3 her, and she indicated that the Defendant had come to her
4 and told her that he woke up and a dead body was beside him.
5 And she actually did identify the tape as being her voice.

6 He was arrested and served with these warrants.

7 Your Honor, we have also had Dr. Marcus conduct an
8 independent review of the reports in this case as cause of
9 death was one of the issues for the Defense. And he
10 determined, too, that Ms. Coleman died as a result of
11 probable asphyxiation and that her manner of death was best
12 classified as a homicide. I believe the evidence supports
13 strangulation in this case. The Defendant's confession, the
14 fact that two pathologists concur with asphyxiation and
15 strangulation or choking in some manner. And I think it's
16 important to note the area of burned on the victim was only
17 the neck area. Even though she was wrapped in blankets and
18 other things, there were no attempts made to set the blanket
19 on fire or the house. It was actually the neck area.

20 Your Honor, that's the extent of the facts in this
21 case. We do have victim impact at the appropriate time, and
22 I'll be happy to give you his prior record.

23 THE COURT: All right. You want to go ahead and
24 tell me now?

25 NICHOLE SIMPSON: Yes, Your Honor.

1 THE COURT: His prior record.

2 NICHOLE SIMPSON: 2003, pedestrian on a
3 controlled-access highway; shoplifting, the dates are
4 unknown on those, he has few; as well as loitering in 2004
5 in Florida; a legal possession of controlled substance in
6 Florida, also 2004; and trespassing in Florida. Then in
7 2007, also a conviction out of Florida, of burglary; and a
8 robbery conviction from Florida in 2008.

9 THE COURT: All right.

10 Now, Ms. Davis, your heard the presentation by the
11 Solicitor's office, and I'm sure none of this takes you by
12 surprise inasmuch as waiting to go to trial. Is that what
13 you substantially expect for the State to present during the
14 trial?

15 JENNIFER DAVIS: Substantially, yes, Your Honor.
16 She did mention one thing that we were not aware of in terms
17 of the vaginal swab matching Elijah -- Elijah White. That's
18 something we were not aware of.

19 THE COURT: Okay.

20 JENNIFER DAVIS: That's the only difference that
21 I'm aware of. The rest of it, in terms of the recitation
22 other than this, yes.

23 THE COURT: All right. Now, you understand all of
24 this, Mr. Myers, what was just said?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And you realize, or do agree or
2 disagree that that is your prior record, sir? That is your
3 prior record, what she read out to me?

4 THE DEFENDANT: Yes, sir, Your Honor.

5 THE COURT: And you agree, Ms. Davis?

6 JENNIFER DAVIS: Yes, Your Honor.

7 THE COURT: Very well, Mr. Myers, I find that
8 there's a substantial factual basis for your plea. I
9 further find your decision to plead guilty pursuant to
10 Alford, and I believe straight up of desecration?

11 JENNIFER DAVIS: Yes, Your Honor.

12 THE COURT: -- that you made this plea freely and
13 voluntarily, knowingly, and intelligently, you know what
14 you're doing. You've been represented by competent counsel
15 whom you indicated to me you're completely satisfied with;
16 therefore, I will accept this plea.

17 Ms. Davis, I'll be happy to hear from you, ma'am.

18 JENNIFER DAVIS: Thank you, Your Honor.

19 This case, as you've heard, is from 2001. He was
20 arrested and served with this hold -- I'm sorry, he was
21 served with a hold down in Florida while he was incarcerated
22 in an unrelated matter on December 6th of 2007. He was then
23 transported back up here. He's told you his age and things
24 about him in terms of the kind of work he has done.

25 Your Honor, just given the facts and the State's

1 recitation of the facts and why this a voluntarily, I just
2 ask Your Honor to consider all those things and a fair
3 sentence be given to Mr. Myers and will ask for the credit
4 from the time that that hold was placed on him and --

5 THE COURT: All right.

6 JENNIFER DAVIS: -- I think that's it.

7 THE COURT: Thank you, Ms. Davis.

8 JENNIFER DAVIS: Thank you, Your Honor.

9 THE COURT: Yes, ma'am.

10 LUCK CAMPBELL: May it please the Court, Your
11 Honor, I did speak to the victims in the courtroom today,
12 Your Honor, or they're technically her aunts, but they were
13 like sisters to the victim in this case. They are here
14 today. They have been here on multiple occasions in our
15 courthouse, Your Honor. I want to personally thank them for
16 their patience with the State as far as getting this case.
17 There have been a number of issues with experts involved and
18 scheduling was just a problem. Lawyers have changed some
19 things of that nature, and they have been very patient with
20 dealing with us.

21 They just wanted me -- Your Honor, we discussed
22 this matter. They leave it up to your -- they trust you in
23 your decision-making. They do feel like a substantial
24 sentence would be appropriate, one towards -- more towards
25 the upper end than the lower end of the voluntary range.

1 However, they trust you in your judgment, Your Honor.

2 They also wanted to let you know that she did have
3 two children. They are not here today. They have not
4 really been able to come to court so much, but they have
5 been fully supportive of everyone in this entire system and
6 as this has progressed rather slowly.

7 Your Honor, he was extradited back in January of
8 2009, so I believe he would be given credit from that point
9 forward. And they understand that, by law, he gets credit
10 for that. But this has been a very, very, traumatic thing
11 for them. This happened back in 2001. It was solved
12 basically at the end of 2007. Warrants weren't served until
13 2009 because he was serving time down in Florida at that
14 point, and that was when he was extradited, and correct me
15 if I'm wrong on the date. And so this has been a very, very
16 long, on-going process. They have been extremely supportive
17 of us. And --

18 THE COURT: All right. Do you mind telling me
19 their names for the record?

20 LUCK CAMPBELL: If they could state their names
21 for the record so it would be correct, Your Honor?

22 THE COURT: Are you an aunt?

23 OPHELIA DAVIS: Yes.

24 THE COURT: And your name, please, ma'am?

25 OPHELIA DAVIS: Ophelia Davis.

1 THE COURT: Ophelia Davis?

2 OPHELIA DAVIS: Yes.

3 THE COURT: All right, Ms. Davis.

4 And you are?

5 MS. PATTERSON: Ms. Patterson.

6 THE COURT: Ms. Patterson? And y'all are both
7 aunts of Ms. Coleman?

8 MS. PATTERSON: Yes. More like sisters.

9 OPHELIA DAVIS: We were more like sisters. My
10 mother raised her.

11 THE COURT: Okay. While y'all are standing up,

12 let me tell you this. This is not easy. And the sentence

13 I'm going to impose does not reflect the value of the life

14 of Ms. Coleman. It reflects the desire of my part to try to

15 bring closure to it, some peace of mind to you. Okay? It's

16 no sentence, whether it's a life sentence or a death

17 sentence that could bring Ms. Coleman back. It breaks my

18 heart to have to say these words to you knowing the loss

19 that you've suffered. There's nothing I can do, there's

20 nothing I can say to take that back. I mean, the suffering

21 that you've undergone knowing how you lost a loved one.

22 I'm happy to this extent, that it brings you

23 closure. And, you know, only God can solve your grief. I

24 can't. But I'm satisfied that this matter here today brings

25 it to a close, and I wish you the very best going forward in

1 the future, and that nobody wants to know that they're loved
2 one passed in such a way. But if it does bring some legal
3 closure and some moral closure for you, I certainly hope so.
4 So y'all have my best wishes and good luck to you. Okay?

5 MS. PATTERSON: Thank you.

6 THE COURT: Thank you all so very much.
7 Anything further?

8 JENNIFER DAVIS: No, sir, Your Honor.

9 THE COURT: Very well. On Indictment Number
10 2009-611, State versus Clarence Myers, voluntary
11 manslaughter, sentenced 15 years.

12 On Indictment Number 2009-612, destruction and
13 desecration of human remains, sentenced ten years. These
14 sentences are to run concurrent. And I give Mr. Myers the
15 benefit of the doubt for helping us bring this matter to a
16 close for the reason I so stated.

17 My sympathy goes out to you-all once again. I
18 give sentences, not because this is the way I personally
19 feel, but because it's the way of beginning the healing
20 process, in this particular case, for you, Ms. Davis, and
21 for you, Ms. Patterson. Good luck to both of you.

22 MEGHAN WALKER: Your Honor, may I, for the record,
23 just state one more thing?

24 THE COURT: Yes, ma'am.

25 MEGHAN WALKER: It was brought up that they were

1 unaware of the CODIS hit for the Elijah White. Our records
2 indicate that that would have been sent to them
3 February 13th of 2009 and May 6 of 2009.

4 THE COURT: And that -- she said she was unaware.
5 She never said she specifically didn't get it. It's a minor
6 thing. Anyway, the record is covered for everybody.

7 JENNIFER DAVIS: We didn't get it.

8 THE COURT: My sentence remains the same.

9 Good luck.

10 JENNIFER DAVIS: Thank you, Judge.

11 MEGHAN WALKER: Thank you, Your Honor.

12 END OF PROCEEDINGS

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1 COUNTY OF RICHLAND)

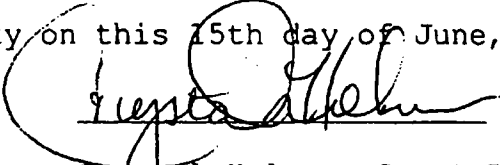
2 CERTIFICATE OF REPORTER

3 I, Crystal Holmes, hereby certify that I reported
4 the preceding case entitled State of SC V. Clarence T. Myers
5 Case No. 2009-GS-40-611; 612, at the Richland County
6 Courthouse, October 19, 2012.

7 I FURTHER CERTIFY that the foregoing pages 1
8 through 83 constitute a true, accurate and full transcript
9 of said hearing.

10 I FURTHER CERTIFY that I am not employed by any of
11 the parties hereto and I have no financial interest in the
12 outcome of said case.

13 IN WITNESS WHEREOF, I have heretofore set my hand
14 and seal at Richland County on this 15th day of June, 2013.

15 
16 Crystal Holmes, Court Reporter
17 and Notary Public for the
18 State of South Carolina my
Commission Expires:
April 21 2014

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2012 CP 4000 922 85 54hr
 2/12

STATE OF SOUTH CAROLINA)

COUNTY OF Richland)

IN THE COURT OF COMMON PLEAS

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

Clarence T. Myers / 352916)

v.)

State of South Carolina)

APPLICATION FOR)

POST-CONVICTION RELIEF)

2013 FEB 11 PM 11:31
 FILED
 RICHLAND COUNTY
 JEANETTE M. McBRIDE
 C. P. & G. S.

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 Alvin S. Glenn Detention Center
2. Name and location of Court which imposed sentence Richland County Judicial Center
1701 MAIN St. Columbia, S.C. 29201
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 09GS40 0611 MURDER
 - (b) 09GS40 0612 DESECRATION OF HUMAN REMAINS
 - (c)
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) October 14, 2012
 - (b) 15 years

- (c) N/A
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. N/A
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. N/A
- iii. N/A
- (c) the date of each such result:
- i. N/A
- ii. N/A
- iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. N/A
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Because I never went to trial. Instead I plead during pre trial
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: When case was first open in 2001 I was never under investig: even though a check stub was found with my name on it, at the same house where I found Angela Coleman's body. Plus the fact that I made the phone call to my mother about having the body picked up.

- consistent with state evidence as far as the mal strangulation 87
- (c) Competent forensic stress analysis is not legal in South Carolina. Mark Van is a South Carolina detective following a South Carolina crime, CUSA should not have been used even in another state. Even if another detective is responsible for giving the test, or whether I made the test, I would not protect the CUSA.
- (c) d) Jim Mays (my previous lawyer) version of the autopsy was not included in my Motion of discovery.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SAME as 10
- (b) SAME as 10
- (c) SAME as 10
- (d) SAME as 10
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? No
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
- (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) Because I wasn't familiar with P.C.B. or did not have an application

(b) _____

(c) _____

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

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

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. Jennifer Davis
 - ii. Luke Shealy
 - iii. Fielding Pringle
- (b) the proceedings at which each such attorney represented you:
 - i. Pre-trial
 - ii. Pre-trial
 - iii. Pre-trial

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

Time cut

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

No

STATE OF SOUTH CAROLINA)

County of Richland)

VERIFICATION

I, _____, 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.

Cherette

SWORN to and subscribed before me this 12
day of February, 2013.

[Signature] (L.S.)
Notary Public

My Commission Expires: 10/15/2014

RICHLAND COUNTY
FILED
2013 FEB 14 AM 11:31
JEANETTE W. MCBRIDE
C.C.P. & G.S.

**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.

Clarence T. Byers
Applicant

SWORN or affirmed to and subscribed before me this

12 day of February, 2013.

[Signature]
Notary Public

My Commission Expires: 10/8/2014

RICHLAND COUNTY
FILED
2013 FEB 14 AM 11:31
JEANETTE W. MCBRIDE
C.C.P. & G.S.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

)
)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Clarence T. Myers, #352916,

)

Case No. 2013-CP-40-00962

Applicant,

)
)

v.

)

RETURN

State of South Carolina,

)
)

Respondent.

)
)

Respondent, making its Return to the application for post-conviction relief filed February 14, 2013 and amended on March 17, 2013 would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was true bill indicted during the February 2009 term of the Richland County Grand Jury for murder (2009-GS-40-0611) and destruction or desecration of human remains (2009-GS-40-0612). James Hunter May, Esquire, represented Applicant. On October 19, 2012, Applicant appeared before the Honorable L. Casey Manning and pled guilty to the lesser included offense of voluntary manslaughter and desecration of human remains. Judge Manning sentenced Applicant to fifteen years imprisonment for voluntary manslaughter and ten years imprisonment for the desecration of human remains, with both sentences to served concurrently. Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction and Applicant's records from the South Carolina Department of Corrections. Applicant's guilty plea transcript has been ordered and will be

forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel
 - a. "Former pre-trial counsels Jennifer Davis, Luke Shealy, and Fielding Pringle" their "acts and performance during the entire phase of representation was both unreasonable and prejudicial."
 - i. "Pre-trial counsels presented a Brady violation due to the fact that applicant did not receive his Rule-5 Discovery material."
 - ii. "Pre-trial counsels failed to investigate"
2. Applicant alleges various other allegations that Respondent cannot decipher at this time

Any claims not specifically enumerated in the 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 his application, Applicant alleges ineffective of assistance of counsel. In a post-conviction relief action, the 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, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Where there has been a guilty plea, the applicant must prove prejudice by showing that, but for counsel's errors, there is a reasonable probability that he would not have pled guilty and instead would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366, 370, 88 L.Ed.2d 203, 210 (1985); Jordan v. State, 297 S.C. 52, 54, 374 S.E.2d 683, 684 (1988). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the post-conviction relief hearing. Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984).

Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an

evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

In his current Application, the Applicant also alleges other claims which Respondent interprets to be improper in a post-conviction relief action. The Respondent submits that these claims in the Application should be 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; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. *Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.*

[Emphasis supplied.] S.C. Code Ann. § 17-27-20 (1976). These facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds.

V.

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

VI.

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, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

By: Megan E. Harrigan
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

May 16, 2013.

State of South Carolina)	In the Court of Common Pleas
County of Richland)	Fifth Judicial Circuit
	2013-CP-40-0962

Clarence Myers,	)	
	)	
Applicant,	)	
	)	
vs.	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	
	)	

March 19, 2014
Columbia, South Carolina

B E F O R E:

The Honorable Alison Renee Lee, Judge

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

Anna R. Good, Esquire
Attorney for Applicant

Megan E. Harrigan, Esquire
Attorney for Respondent

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

I N D E X

Proceedings	4
TESTIMONY - WITNESS	
Clarence Myers,	
Direct Examination by Ms. Good	6
Cross-Examination by Ms. Harrigan	16
Redirect Examination by Ms. Good	27
Jennifer Davis, Esq.,	
Direct Examination by Ms. Harrigan	29
Cross-Examination by Ms. Good	42
Redirect Examination by Ms. Harrigan	49
Certificate Page	53

EXHIBITS

<u>No.</u>	<u>Description</u>	<u>Page No.</u>
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No Exhibits Introduced.

TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 9:37 a.m.)

THE COURT: Good morning.

MS. HARRIGAN: Good morning, Your Honor. May ---

THE COURT: Yes, ma'am.

MS. HARRIGAN: May it please the Court: The first matter of the day is *Clarence Myers v. the State of South Carolina*, Docket No. 2013-CP-40-962. Mr. Myers was indicted during the February 2009 term of the Richland County Grand Jury for murder and desecration of human remains. Mr. Myers was represented by Jennifer C. Davis.

On October 19th, 2012, following pretrial hearings, Mr. Myers appeared before -- before the Honorable L. Casey Manning and pled guilty pursuant to *North Carolina v. Alford* to the lesser-included offense of voluntary manslaughter and, as indicted, to desecration of human remains. Judge Manning sentenced Mr. Myers to 15 years for voluntary manslaughter and a concurrent 10-year sentence for desecration of human remains. No direct appeal was taken.

On February 14th, 2013, Mr. Myers filed an application for postconviction relief, alleging ineffective assistance of counsel for failure to provide discovery materials and for failure to investigate his case. The state made its return on May 16th of 2013, requesting an evidentiary

1 hearing be held. And Mr. Myers is represented in this
2 action by Anna Good, and I'll turn it over to Ms. Good at
3 this time.

4 THE COURT: Yes, ma'am.

5 MS. GOOD: Thank you, Your Honor. At this time the
6 applicant would call Clarence Myers.

7 (Whereupon, Ms. Good and the applicant conferred.)

8 THE COURT: Mr. Myers, if you'd step forward, please,
9 to be sworn.

10 (Whereupon, the witness came forward.)

11 CLARENCE MYERS, having been first duly sworn,
12 testified as follows:

13 THE COURT: And whoever is with Mr. Myers, if you
14 could release -- which -- which one is your dominant hand,
15 Mr. Myers?

16 THE WITNESS: Clarence Terrell Myers.

17 THE COURT: Which -- which hand is your dominant hand?
18 Are you right-handed or left-handed?

19 THE WITNESS: Right-handed.

20 THE COURT: If you would release his right hand,
21 please.

22 And you said your name again was Clarence ---

23 THE WITNESS: --- Terrell Myers.

24 THE COURT: Thank you.

25 (Off the record briefly.)

DIRECT EXAMINATION BY MS. GOOD - CLARENCE MYERS

6

1 DIRECT EXAMINATION

2 BY MS. GOOD:

3 Q Good morning, Mr. Myers. You just ---

4 A Morning.

5 Q --- heard the attorney general mention that you were
6 originally charged with murder and pled guilty to voluntary
7 manslaughter on October 19th, 2012, correct?

8 A Yes.

9 Q When were you originally arrested on the murder
10 charges?

11 A January -- I think January the 15th, 2009.

12 Q 2009? Okay. And ---

13 A Yeah.

14 Q --- who was your attorney at that time?

15 A Jim Mays [sic].

16 Q All right. And how long did you have Mr. May as your
17 attorney?

18 A About three years.

19 Q Okay. And after Jim May was your attorney, who
20 eventually became your attorney after that?

21 A Ms. Jennifer Davis.

22 Q Okay. How many meetings do you remember having with
23 Ms. Davis?

24 A About five to six meetings.

25 Q Okay. And when was the first time you met with her,

1 if you can remember?

2 A First time I met with her, specifically, sometime, I
3 think, after January 2012.

4 Q Okay. And at that point was that after a motion to
5 dismiss had been filed by Jim May?

6 A No. He -- he never filed a motion to dismiss.

7 Q Okay.

8 A But there were several things he did that -- there
9 were several things that he offered to do but didn't do,
10 and that's why I fired him.

11 Q And when you met with Ms. Davis in approximately May
12 of 2012, what was your first discussion with her about?

13 A Going to trial.

14 Q Okay. At that point did y'all determine that you were
15 going to go to trial on your case?

16 A Yes, we did.

17 Q Okay. And about how long did that meeting last?

18 A About a hour -- thirty minutes -- maybe two hours.

19 Q Okay. And you said between that time and the time
20 that you went to go to trial, you met with her about five
21 or six times?

22 A Yes.

23 Q Okay. In October of 2012, did y'all begin your trial
24 with ---

25 A No.

DIRECT EXAMINATION BY MS. GOOD - CLARENCE MYERS

8

1 Q --- a motion to suppress?

2 A We never made it to trial. The Friday was offered --
3 was -- excuse me -- October 19th, 2012, on that Friday, we
4 was going for a plea.

5 Q Okay.

6 A Well, actually, it was pretrial, but it turned into a
7 plea.

8 Q Okay. I'm going to -- what I want to talk about right
9 now is the pretrial. What kind of pretrial was this? Do
10 you remember?

11 A It was a pretrial, I guess, preparing me for the
12 actual trial.

13 Q Okay. Was it to suppress one of your statements?

14 A Yes, I guess. I -- I really don't remember.

15 Q Is there a reason that you can't really tell what was
16 happening that day? Did you have any health issues that
17 day?

18 A Yeah. My ears were clogged up. I ---

19 Q Your hearing ---

20 A --- couldn't hear.

21 Q --- was clogged up?

22 A Yeah. I couldn't hear at all.

23 Q Which ear was clogged up?

24 A My left ear. I can hear a little out my right, but I
25 was really having problem with my left ear.

1 Q And at any point did you let Ms. Davis know about
2 this?

3 A Yes, I did.

4 Q And when did you tell her about this issue?

5 A Well, she had known about it prior to that day ---

6 Q Uh-huh.

7 A --- especially during the meetings when she came to
8 the county jail. And I was having problems with my hearing
9 then, and she knew about it.

10 Q Could you hear people if they were right in front of
11 you, talking to you?

12 A Yes, pretty ---

13 Q Could you ---

14 A --- much.

15 Q --- hear people if they were, for example, from me to
16 you, testify right now? Could you hear somebody testifying
17 if they were that far away?

18 A No, I couldn't.

19 Q Okay. And this motion to suppress, did anybody
20 testify?

21 A Yes. Actually, yeah.

22 Q Could you hear that testimony from the investigator?

23 A Yes.

24 Q Could you hear all ---

25 A I -- I ---

DIRECT EXAMINATION BY MS. GOOD - CLARENCE MYERS

10

1 Q --- of it?

2 A --- couldn't -- I couldn't hear everything.

3 Q Okay. Were you able to help Ms. Davis when it came to
4 that motion to suppress due to your hearing?

5 A No. I was -- I was just really -- it was just really
6 complicated because of my problems hearing.

7 Q Okay. After the hearing, which was eventually denied,
8 when you went back down to the holding cell, did Ms. Davis
9 come down to see you there?

10 A Yes, she did.

11 Q At that point did y'all have a conversation about your
12 case?

13 A Yes.

14 Q Can you discuss what the conversation was?

15 A Basically, it was about a -- me deciding to take a
16 plea.

17 Q Okay. And what plea was given to you?

18 A Fifteen years.

19 Q Okay. Were you going to be pleading to murder?

20 A No. I was going to be pleading to a voluntary
21 manslaughter.

22 Q Okay. And I want to back up a little bit and discuss
23 your discovery. Did you ever receive discovery from Ms.
24 Davis?

25 A Not until after that day.

1 Q Okay. Did you have a packet of your discovery from
2 Mr. May?

3 A No.

4 Q Okay. At some point when you were discussing the case
5 with Mr. May and Ms. Davis, were there two other -- two or
6 three other suspects mentioned?

7 A Yes, there were. Alvin Dixon, Elijah White, a lady
8 named Barbara Brown.

9 Q Okay. And were these suspects ever investigated, to
10 the best of your knowledge?

11 A No, not really. They -- not -- well, if -- they were
12 investigated. But my opinion, they weren't investigated
13 ---

14 Q Did your attorney investigate these suspects?

15 A No.

16 Q Okay.

17 A No.

18 Q Did you ask them to?

19 A No.

20 Q Okay. And were you given all of the information
21 regarding Elijah White before you pled guilty?

22 A No.

23 Q What information did you find out after you pled about
24 Elijah White?

25 A A -- a CODIS match with his DNA on it that was found

DIRECT EXAMINATION BY MS. GOOD - CLARENCE MYERS

12

1 inside the victim's vaginal -- inside her vagina -- vaginal
2 swab.

3 Q And were you aware of that before you pled?

4 A No, I wasn't.

5 Q Okay. Now, I'm going to get back to the original
6 discussion of the plea. When they came down to the holding
7 cell to speak to you, who all was with you?

8 A Luke Shealey, Fielding Pringle, and Jennifer Davis.

9 Q Okay. And when they were discussing with you about
10 pleading and getting 15 years, how were you feeling at that
11 time?

12 A It was very uncomfortable because I had already made
13 up my mind, you know, that I would want to go to trial
14 because, you know, I -- I'm innocent. Nobody else knows
15 this, but I wanted to prove my innocence.

16 Q Okay. And were you scared at all?

17 A Yeah, I was.

18 Q Were they pressuring you in any way to plead?

19 A Yeah.

20 Q And how were they doing that?

21 A Well, basically, they were telling me that the judge
22 had spoke with them and told them that it was already set
23 up for me to receive 30 years to life. You know, if -- if
24 I didn't want to receive that, you know, as far as going to
25 trial, then accept this plea, basically, because the judge

1 didn't want to be the one to sentence me with all the time.

2 Q Okay. Were they acting as -- as if they were prepared
3 for trial, or did they want you to plead?

4 A They were more supportive of me pleading. They
5 started showing doubt. All before then they were showing,
6 you know, great encouragement, like, "Yeah. We're going to
7 go to trial and -- and we're going to do the best we can,
8 you know, to prove your innocence."

9 But on that day, at that particular moment, you know,
10 "You really need to take this plea, because if you don't,
11 then you're going to get this time. And if you do -- if
12 you do take this plea, then you'll see -- it's -- you'll
13 see freedom again."

14 Q Okay. When they were discussing the plea, as you
15 know, you pled under *North Carolina v. Alford*. Was that
16 explained to you in any way?

17 A None of that was explained.

18 Q Okay. And go into your education a little bit here.
19 How far did you go in school?

20 A Three years in college.

21 Q Okay. And when was the last time you were in school?

22 A 1999.

23 Q And did you have any significant prior record when it
24 came to criminal offenses?

25 A Are you saying 1999 or ---

DIRECT EXAMINATION BY MS. GOOD - CLARENCE MYERS

14

1 Q Or when this was coming about. Had you ever pled
2 under *North Carolina v. Alford* in any way before?

3 A Not at all.

4 Q Okay. And when you were plea'ing, did you understand
5 what you were pleading to regarding *North Carolina v.*
6 *Alford*?

7 A No, I didn't.

8 Q During the plea how were you feeling? Were you
9 disoriented in any way?

10 A Well, basically, I wanted to bring the best solution I
11 could, based on the agreement that was made between me and
12 my lawyer.

13 Q Okay. And did you understand what was going on when
14 it came -- came to *North Carolina v. Alford*?

15 A No. I had never even heard that during the time.

16 Q Okay. If you had been aware of all the facts
17 surrounding the case, including the match to Elijah White,
18 what went on in the suppression hearing regarding your
19 hearing, would you have pled guilty that day?

20 A No. If -- if -- if I could give a -- a longer answer?

21 Q Yeah. Go for it.

22 A Basically, they were saying -- my lawyers were telling
23 me, right, it was a previous case that was similar to my
24 case, but the guy had received life. So they were using
25 that. And based on what the judge was saying, as far as

1 telling them that if I did go to trial, that I will receive
2 all this time, they were using these two instances to try
3 and create fear and doubt in me to coerce [sic] me to
4 agree to plead.

5 Q And did it create fear and doubt in you?

6 A Yes, it did, especially with the statements that they
7 were pushing during the actual pretrial before that *Alford*
8 -- the plea.

9 Q Okay. And do you feel like you were prejudiced and
10 had a -- involuntarily gave up your right to a jury trial
11 in order to plead guilty?

12 A Yes.

13 Q Okay. Is there anything else you would like to tell
14 the Court that we may have missed or skipped over?

15 A Not in any shape, form, or -- do I want to seem like
16 I'm offending the court system or trying to be dishonest or
17 make it seem like I was being dishonest. You know, it's
18 just that I wanted to create the best solution possible,
19 you know, as far as the agreement that was made between me
20 and my lawyer. But when I discovered that they withheld
21 this CODIS match from me until after I pled -- and then,
22 the fact also that the state had this file with this match
23 on it since 2009, but my lawyer, Jennifer Davis, at that
24 time was not aware of it until that specific date.

25 Q Okay.

CROSS-EXAMINATION BY MS. HARRIGAN - CLARENCE MYERS 16

1 A You know, 2009 to 2012 is a long time. If that charge
2 withheld this information and if it would've been brought
3 to me in my motion of discovery or would've been brought to
4 her so she would've brought it to my attention, I would've
5 felt more comfortable about going to trial.

6 Q Okay. And are you asking the judge today to overturn
7 your guilty plea so you can go back to the solicitor's
8 office for a trial?

9 A Yes, I am.

10 Q Okay.

11 MS. GOOD: I have no further questions, Your Honor.

12 THE COURT: Any cross?

13 MS. HARRIGAN: Yes, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. HARRIGAN:

16 Q Good morning, Mr. Myers. So your testimony is that
17 Jim May was your first attorney for approximately three
18 years?

19 A Yes.

20 Q How many times did you meet with Mr. May?

21 A Somewhere close to maybe ten times.

22 Q And you testified that you met with Ms. Davis five or
23 six times?

24 A Yes.

25 Q And the first meeting lasted two hours?

1 A Yes.

2 Q You testified that Ms. Davis never reviewed discovery
3 with you, correct?

4 A I didn't say that. I said that I never received a
5 copy of my discovery.

6 Q So she did review it with you and you just weren't
7 given a physical copy?

8 A Yes.

9 Q How many times did she review it with you?

10 A Each time when she came to visit.

11 Q So you reviewed discovery with her five or six times?

12 A Yes.

13 Q Had you gone over discovery with Mr. May at all?

14 A No.

15 Q So in that three years, Mr. May never showed you any
16 of the state's evidence against you?

17 A He never showed me discovery.

18 Q Do you recall what was in the discovery from the state
19 the five or six times you reviewed it with Ms. Davis?

20 A Yes. It's the investigative report when they were
21 investigating the female's death, as far as when they found
22 her and proceeding through the whole investigation in 2001.
23 There was also my criminal history inside of it. There was
24 autopsy reports when they would, I guess, going through
25 toxicology about certain things that they found inside of

CROSS-EXAMINATION BY MS. HARRIGAN - CLARENCE MYERS 18

1 her body during the time that the -- they found her; also,
2 certain information from my lawyer on his behalf of his
3 pathologist and his investigators.

4 Q So Ms. Davis reviewed with you her pathology and --
5 what was the other thing you said?

6 A Telephone calls that were made; the investigative
7 report; my criminal history was inside of it also.

8 Q Do you recall in the discovery any information that
9 your DNA matched semen that was found on the victim?

10 A Yes.

11 Q So Ms. Davis let you know your DNA was -- your DNA
12 matched semen found on the victim, correct?

13 A Yes.

14 Q Was there also information of a pay stub with your
15 name and address found near the body?

16 A Yes.

17 Q You gave several statements to law enforcement when
18 you were incarcerated in Florida, correct?

19 A Yes.

20 Q And you also failed a voice-stress test down in
21 Florida?

22 A Yes.

23 Q And in one of those statements, you admitted to
24 ejaculating on the deceased victim, correct?

25 A Yes.

1 Q And then, in the final statement, you admitted to
2 strangling the victim to death, correct?

3 A Yes.

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

6 A Yes.

7 Q What defenses did you talk about with her?

8 A Basically, that I was tricked into writing a false
9 confession on myself because of how the voice-stress
10 analysis was used and certain offers that were made, which
11 were denied. And I just wanted to use the evidence and --
12 versus the statements that was wrote to prove my innocence.
13 And that's why I wanted to go to trial.

14 Q Did she explain to you that's what a *Jackson v. Denno*
15 hearing would be: where you'd challenge the voluntariness
16 of your statement?

17 A Actually, no.

18 Q So you didn't ---

19 A I ---

20 Q --- know ---

21 A --- hear anything about *Jackson v. Denno*.

22 Q Were you aware that the pretrial hearing that you had
23 before the jury was ever picked was to determine whether
24 your statement was voluntary?

25 A Could you repeat that again, please?

CROSS-EXAMINATION BY MS. HARRIGAN - CLARENCE MYERS 20

1 Q The pretrial hearing you had in front of Judge Manning
2 and when you took the witness stand, were you aware that
3 that was a hearing to determine whether your statement was
4 voluntarily given? Did she explain that to you?

5 A (Shook head from side to side.)

6 Q So you had no idea what the pretrial hearing was
7 about?

8 A Basically, no. I -- I was just thinking we were just
9 prepping for my actual trial.

10 Q You thought you were just prepping in front of the
11 judge with the solicitors?

12 A Yes. I actually did.

13 Q You testified that you wanted your attorneys to
14 investigate the three other suspects, correct?

15 A (Nodded head up and down.)

16 Q Did you ---

17 A No ---

18 Q --- give them ---

19 A --- no, no, no.

20 Q No. You didn't want them to investigate the three
21 other suspects?

22 A They actually -- when I asked -- when I asked the --
23 my -- my lawyers question, right, I was given a direct
24 answer. But actually, it was never put on the table, you
25 know: "Do you want me to investigate such, such, such,

1 such?" Because I was thinking that that had already been
2 handled already. You know, they ---

3 Q Did you ever discuss with Ms. Davis or Mr. May
4 investigating these three other suspects?

5 A I did with Mr. Mays. Yeah. But by that time, when I
6 went through it with Ms. Davis, it was already confirmed
7 that, you know, certain people had died and certain people
8 were already interviewed or questioned and it was no need
9 to investigate any further. This is why I told Ms. Davis,
10 and me and her made a decision it wasn't necessary to go
11 back on that.

12 Q And when you say "certain people had died," what
13 witnesses are you talking about?

14 A Elijah White.

15 Q And then, you just said that certain other people had
16 already been talked to. Did your attorneys or law
17 enforcement already take statements from these other
18 suspects?

19 A Yes, they did.

20 Q Did your attorneys use a private investigator to help
21 with your case?

22 A Yes.

23 Q Did he ever meet with you?

24 A Yes.

25 Q How many times did you meet with him?

CROSS-EXAMINATION BY MS. HARRIGAN - CLARENCE MYERS 22

1 A Weren't that many; maybe two or three.

2 Q And you testified that after your pretrial hearing,
3 Mr. Luke Shealey, Ms. Fielding Pringle, and Ms. Jennifer
4 Davis came and talked to you about the state's plea offer,
5 correct?

6 A Yes.

7 Q And they informed you that it was for the lesser-
8 included offense of voluntary manslaughter?

9 A (Nodded head up and down.)

10 THE COURT: You need to answer verbally, please.

11 A Yes.

12 Q Did they tell you what potential sentence you could
13 receive for voluntary manslaughter?

14 A (Nodded head up and down.)

15 Q And what sentence was that?

16 A Two to fifteen.

17 Q And I believe your testimony on direct was that those
18 three attorneys told you that they had spoken with the
19 judge and set up with the judge that you would be sentenced
20 to thirty years to life if you were convicted?

21 A They said I could be.

22 Q Could be?

23 So did they advise you that murder carries a sentence
24 of thirty years to life?

25 A Yes.

1 Q Were you scared you'd get a life sentence if you were
2 convicted at trial?

3 A Yes.

4 Q Did you plead guilty because you didn't want to get a
5 life sentence?

6 A I pled guilty because I wanted to plea and get fifteen
7 years, based on the agreement that was made between me and
8 my lawyers.

9 Q So you pled because you wanted a fifteen-year
10 sentence?

11 A Yes.

12 Q And you got a fifteen-year sentence, correct?

13 A Yes.

14 Q Do you recall, during the guilty-plea proceeding, the
15 solicitor's telling the judge the facts giving rise to
16 these charges? Went over all the evidence briefly to the
17 Court?

18 A Could you repeat that, please?

19 Q Do you recall, during your guilty plea, the assistant
20 solicitor standing up and telling the judge the facts of
21 your case?

22 A (Nodded head up and down.)

23 Q Do you recall agreeing with those facts, that they
24 were enough to convict you in front of Judge Manning?

25 A (Shook head from side to side.)

CROSS-EXAMINATION BY MS. HARRIGAN - CLARENCE MYERS 24

1 Q You don't ---

2 A No.

3 Q --- recall that?

4 A (Shook head from side to side.)

5 Q Do you recall telling Judge Manning, while under oath,
6 that you wanted to plead guilty pursuant to *North Carolina*
7 *v. Alford*?

8 A (Nodded head up and down.)

9 THE COURT: Again, Mr. Myers, you need to answer out
10 loud, verbally, so that we can record your answer.

11 A Yes.

12 Q Do you recall telling Judge Manning under oath that
13 you were being truthful to all of his responses?

14 A Yes.

15 Q Do you recall telling Judge Manning under oath that
16 you were satisfied with Ms. Davis and your different
17 attorneys' representation of you?

18 A Yes.

19 Q And you were originally indicted for murder, correct?

20 A Yes.

21 Q And you testified that Ms. Davis and your other
22 attorneys informed you that the sentence for murder was
23 thirty years to life, correct?

24 A Yes.

25 Q Did they advise you that the mandatory-minimum thirty-

1 year sentence must be served day for day?

2 A Yes.

3 Q So you understood, if you were convicted, you were
4 facing thirty years bare minimum at the Department of
5 Corrections, correct?

6 A Yes.

7 Q And you're aware that if you're successful in this
8 PCR, the state can seek murder charges against you again,
9 correct?

10 A Yes.

11 Q And you testified that you pled guilty because you
12 wanted a fifteen-year sentence, correct?

13 A Yes.

14 Q And you did receive the fifteen-year sentence,
15 correct?

16 A Yes.

17 Q One of your allegations is that your attorneys did not
18 do a proper investigation, correct?

19 A Yes.

20 Q What else did you want them to investigate?

21 A Well, it really wasn't the fact that they didn't do a
22 proper investigation. It was the fact that they didn't --
23 they didn't seek all of the information that was --
24 should've been in my discovery to create the proper defense
25 on my behalf. Because if they would had, then they

1 would've got this CODIS match.

2 Q And that DNA match you're speaking about, that was for
3 one of the other suspects, correct?

4 A Yes.

5 Q But you were aware that your DNA matched semen found
6 on the victim's body, correct?

7 A Yes.

8 Q And I believe you testified on direct that you didn't
9 have a prior record, correct?

10 A No. I had -- I had a prior record.

11 Q You have a prior record?

12 A (Nodded head up and down.)

13 Q What is your prior record?

14 A Burglary, robbery.

15 Q So this wasn't your first time in a general-sessions
16 court, correct?

17 A No.

18 Q You'd been in front of a judge before?

19 A (Nodded head up and down.)

20 Q Did you ---

21 A Yeah.

22 Q --- previously plead guilty or go to trial?

23 A Pled guilty.

24 Q And how many times had you pled guilty to various
25 charges?

1 A Once before. I had already -- I had only been in
2 prison one time prior to this.

3 Q And was that in South Carolina?

4 A No. That was in Florida.

5 MS. HARRIGAN: Moment's indulgence, Your Honor. No
6 further questions, Your Honor.

7 THE COURT: Redirect?

8 MS. GOOD: Yes, ma'am, briefly.

9 REDIRECT EXAMINATION

10 BY MS. GOOD:

11 Q Mr. Myers, when you were discussing going over
12 discovery with Ms. Davis, do you remember approximately how
13 much discovery there was?

14 A Could you repeat that, please?

15 Q When you were going over discovery with Ms. Davis, do
16 you remember how big your discovery was -- how much
17 discovery was involved in your case?

18 A Yes. It was over a thousand pages.

19 Q And so when you said that you went over the discovery
20 every time with Ms. Davis when she came, you didn't go over
21 a thousand pages every time when she came, did you?

22 A No. They -- it was -- it -- it was close to it,
23 though, the majority of the discovery.

24 Q Did she show you the discovery or did she just speak
25 about it to you?

REDIRECT EXAMINATION BY MS. GOOD - CLARENCE MYERS 28

1 A No. There was a copy that was actually shown to me.

2 Q Okay. And in the discovery when you were discussing
3 Elijah White with Mr. May and investigating Mr. White, were
4 you informed that Mr. White could not be investigated since
5 he was dead?

6 A Yes.

7 Q So did they ever investigate Mr. White since he was
8 dead?

9 A Course -- course not.

10 Q Okay. And Ms. Harrigan asked you about prior that you
11 had pled guilty in Georgia [sic]. Were any of those pleas
12 under *North Carolina v. Alford*?

13 A I'm not aware of that.

14 Q So the first time you ever heard about *North Carolina*
15 *v. Alford* was that morning when Ms. Davis talked to you
16 about in the holding cell before your plea?

17 A I didn't hear about it then.

18 Q Okay. And Ms. Harrigan asked you about -- at your
19 plea you discussed that you were satisfied with Ms. Davis's
20 services, correct?

21 A (Nodded head up and down.)

22 Q And you said "yes"?

23 A Yes.

24 Q At that time did you know about the DNA swab, the
25 CODIS match for Elijah White?

DIRECT EXAMINATION BY MS. HARRIGAN - JENNIFER DAVIS 29

1 A No, I didn't. Because, see, my hearing was messed up.
2 So, you know, as far as what my transcript say, when I read
3 the transcript, they did actually discuss this for a brief
4 moment at the very end. But this is after I pled. But I
5 wasn't aware of that because I couldn't hear.

6 Q Okay. And so if you had known about that match, would
7 you have said that you were satisfied with her services at
8 that time?

9 A No.

10 Q Okay.

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

12 MS. HARRIGAN: No recross, Your Honor.

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

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

15 MS. GOOD: Applicant rests, Your Honor.

16 MS. HARRIGAN: The state would call Jennifer Davis at
17 this time.

18 (Whereupon, the witness came forward.)

19 JENNIFER DAVIS, having been first duly sworn,
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MS. HARRIGAN:

23 Q Good morning, Ms. Davis.

24 A Morning.

25 Q How long have you been practicing law?

DIRECT EXAMINATION BY MS. HARRIGAN - JENNIFER DAVIS 30

1 A I've been in the public defender's office about 7 1/2
2 years, so 7 1/2.

3 Q So your practice is 100 percent criminal defense at
4 this point?

5 A Yes.

6 Q And also, at the time you represented Mr. Myers?

7 A Yes.

8 Q Do you recall the approximate date you were appointed
9 to this case?

10 A I went back through my notes. I was actually the
11 second seat on this case when Jim May initially had it. So
12 I had met with Clarence at least once before I actually
13 inherited the case. But I believe I got it officially as a
14 first chair in May of 2012 when Mr. May left the office.

15 Q Do you recall how long Mr. May had represented Mr.
16 Myers before you took the case ---

17 A He ---

18 Q --- as first chair?

19 A Jim May was appointed in, I believe, January of 2009.
20 And so he represented him from January 2009 until May or
21 thereabout of 2012.

22 Q When you inherited this case from Mr. May, did you
23 receive a full copy of the file?

24 A I received his copy of the file and the discovery that
25 Mr. May had received at that time. Yes.

1 Q Were you privy to the notes from Mr. May in the file?

2 A The notes that he had, yes.

3 Q Okay. How often -- or how many times did you meet
4 with Mr. Myers?

5 A Between May and October 19th, which was the pretrial
6 day, I met with him 12 times.

7 Q Do you have any notes or notations in the file to
8 reflect how often Mr. May met with Mr. Myers?

9 A I looked through what Mr. May had just documented in
10 the database. And from what I showed -- that he actually
11 entered into the computer, anyway -- he had met with him at
12 least six times. But the notes stopped at one point, and
13 so he may have just put notes in the file, instead of on
14 the computer at some point.

15 Q When you answered, you said as to what Mr. May put in.
16 Was it his standard practice to not always make notations
17 when he visited with clients?

18 A I don't know what Mr. May's standard practice was. I
19 just know you have the ability to either just put a
20 physical note in the file; or some attorneys will always
21 put the notes in the computer. I don't know which he
22 usually did. But it seemed that at some point, he stopped
23 putting the notes in the computer, based on the notes I
24 had.

25 Q Did you file any *Brady*, or Rule 5, motions in this

DIRECT EXAMINATION BY MS. HARRIGAN - JENNIFER DAVIS 32

1 case?

2 A That was filed by Mr. May.

3 Q Did you have a copy of discovery when you took over
4 the file?

5 A Yes.

6 Q Did you review discovery materials with Mr. May?

7 A With Mr. Myers?

8 Q Oh. Yes.

9 A Yes. Several times.

10 Q Were you aware what was in discovery when you were
11 second chair on this case?

12 A I was aware overall of what the evidence was. Mr. May
13 at that point was the one that was going through all the
14 evidence with Mr. Myers at that point. So I became more
15 familiar with all of it once I inherited the case.

16 Q Did you ever give Mr. Myers a copy of the discovery?

17 A I don't know that I ever physically gave him his own
18 copy. I have notes that we discussed where he had
19 requested a copy of his own at one point, and I had shared
20 with him my concerns about him having it at the jail. And
21 at that time he trusted me, he said, at that point to just
22 come down and go over it with him. And so I would
23 physically bring the whole file down there for him to
24 review. And we did that several times.

25 Q When you say you were concerned with giving him a

1 physical copy to keep at the detention center, can you
2 elaborate on what those concerns are?

3 A Generally, if I have a client that's incarcerated, I
4 will -- and if they ask for discovery, I will let them know
5 that they have a right to it and I can't keep them from
6 having it. But I will let them know that I generally
7 prefer that they not have their own copy down there because
8 of other inmates perhaps seeing the discovery or reading
9 the discovery, which can lead to other people then becoming
10 witnesses against him later, just by looking over the
11 information that might be at the jail.

12 Sometimes I will give them a copy and then ask if it's
13 okay to come pick it up within a week or ten days so that
14 they have it. But I can get it back from them. Mr. Myers
15 was okay with me just bringing it down to him anytime he
16 wanted to review it.

17 Q And Mr. Myers was charged with murder and desecration
18 of human remains, correct?

19 A Yes.

20 Q Did you review all the elements of those charges with
21 him?

22 A Yes. We went through his charges and the elements of
23 them and the discovery.

24 Q Okay. Did you advise him of the potential sentences
25 for both of those offenses?

DIRECT EXAMINATION BY MS. HARRIGAN - JENNIFER DAVIS 34

1 A Yes.

2 Q Did you explain to him that murder carried a
3 mandatory-minimum sentence?

4 A Yes. He was aware of that.

5 Q Did he -- did you explain to him that it was a day-
6 for-day thirty years?

7 A Right. Yes.

8 Q Did you discuss Mr. Myers' version of the facts with
9 him?

10 A Yes. At length.

11 Q Based on these discussions, were you able to start
12 preparing a defense?

13 A A -- the defense was pretty well set when I inherited
14 the case. I agreed with the defense at that point. We had
15 two different investigators actually on this case. Mr. May
16 had retained Elizabeth Cook. And at some point I then
17 substituted counsel -- or substituted an investigator and
18 had Bobby Watkins investigate and tried to find as much
19 information as we could to corroborate what the defense was
20 going to be.

21 Q What was the defense?

22 A There's a lot going on in Clarence's case. We
23 actually had a pathologist that believed the results -- or
24 the cause of death was actually an overdose, not
25 strangulation. We also had a false-confession expert to

1 try and help explain any of the confessions or statements
2 that were given by Mr. Myers. And we also had -- were
3 planning to have a third-party guilt, including Elijah
4 White, who Mr. Myers mentioned, who was a boyfriend or ex-
5 boyfriend of the victim at the time. And so it was all of
6 those things.

7 Q Okay. Regarding the third-party guilt of Elijah --
8 what's ---

9 A --- White ---

10 Q --- his -- Myers?

11 A Elijah White.

12 Q Elijah White?

13 A Yes.

14 Q Did you -- were you aware that there was a DNA match
15 found on the victim from Mr. White?

16 A I was not. At the time of the plea -- and that's
17 reflected in the transcript that when they mention that in
18 their colloquy, I state that we did not have that
19 information. And after the -- or -- I think after the plea
20 was accepted, I again stated that that was not turned over
21 when the solicitor tried to correct -- or did correct the
22 record. So that was not something I was aware of.

23 I contacted Mr. May directly after that plea to see if
24 he had any recollection of receiving that -- because he had
25 actually done a motion to compel specifically for that

DIRECT EXAMINATION BY MS. HARRIGAN - JENNIFER DAVIS 36

1 information -- and he did not believe he ever received it.
2 I then went through another file that Mr. May had, and it
3 was the literal last page of that file. And so they had
4 given it to Mr. May in 2009.

5 After the plea I spoke with Mr. Myers about that. I
6 was caught completely off-guard by that information and
7 asked him if he wanted us to move to withdraw his plea
8 based on that and explained what his options would be at
9 that point and also let the judge know our concern.

10 Q When you say that you talked to Mr. Myers about that
11 and asked if he wanted to withdraw the plea, what was his
12 response to that?

13 A What -- after the plea I went and spoke with him in
14 holding and explained to him and showed him the copy of the
15 evidence. At that point he basically said he believed that
16 if he had been charged with a CSC or a rape charge, he felt
17 that it would've been more important and that he did not
18 want to withdraw his plea and did not want to go to trial.
19 And then we had a hearing about that issue on October 25th
20 before Judge Manning.

21 Q What was the result of that hearing?

22 A That Mr. Myers stated he did not wish to withdraw his
23 plea based on that information.

24 Q Okay. So he knew about this at the plea; and then
25 shortly thereafter, you discussed it with him?

1 A He is correct. He did not know about the results
2 until after the plea was accepted. But as soon as we had
3 that, I went and explained to him what his options were and
4 asked about him wanting to withdraw his plea based on that.
5 And then, I think it was two or three days after that;
6 that's when we had the hearing before Manning on that issue
7 in which he had indicated he did not want to withdraw his
8 plea.

9 Q In discovery provided by the state, do you recall any
10 information with Mr. Myers' DNA matching anything found on
11 the victim's body?

12 A There was DNA on -- on the body that matched Mr.
13 Myers.

14 Q Do you recall what bodily fluid matched? Was it
15 semen?

16 A Yes.

17 Q Did he ever deny to you ejaculating on the body?

18 A That was never our defense at trial. No. Not that
19 that that didn't happen.

20 Q Do you recall a pay stub being found on it with his
21 name on it near the victim's body as well?

22 A Yes.

23 Q You testified that one of your defenses that you
24 planned to set forth at trial was a false-confession
25 expert. Can you elaborate for the Court what statements

DIRECT EXAMINATION BY MS. HARRIGAN - JENNIFER DAVIS 38

1 Mr. Myers gave?

2 A Mr. Myers gave three different statements while he was
3 in Florida. I believe the first one was a complete denial
4 of having anything to do with the crime scene; having never
5 been in that house that the body was located in. I believe
6 the second was that he had just found the body and had
7 ejaculated on the body. And the third statement was that
8 he -- that all of that happened and that he had strangled
9 the victim.

10 Q How do you think a false-confession expert would've
11 been useful here?

12 A The third statement that he gave was after he was
13 given a voice-stress-analysis test in Florida at the
14 request of a Richland County -- I think it was a Richland
15 County officer. So we had two different ways that we were
16 trying to suppress the statement. One was a *Jackson v.*
17 *Denno*, basically just trying to elicit that the use of the
18 voice-stress analysis coerced the statement; and secondly,
19 that the use of the voice-stress-analysis test in general
20 was improper interrogation because in South Carolina that
21 test is not legal.

22 And despite that they used it in Florida, it was a
23 request of a officer that was employed in South Carolina.
24 And so we felt that that was something we could use to
25 suppress the third statement.

1 Q Did you explain to him the purposes of a *Jackson v.*
2 *Denno* hearing?

3 A Mr. Myers and I sat down several times before the
4 trial date, which was, I think, scheduled for the --
5 October 22nd, and discussed what the pretrial was going to
6 be, what the witnesses would be, how witnesses would be
7 called, all of our investigation -- or I'm sorry -- all of
8 our pretrial issues that we would be arguing, what we would
9 be arguing. So we went through in detail what would be
10 presented pretrial and what could be presented at trial.

11 Q What was the conclusion of the *Jackson v. Denno*
12 hearing?

13 A We got through the first part, which was just the
14 *Jackson v. Denno*, and Judge Manning indicated that he was
15 going to allow the -- all three statements. At that point
16 we had not argued the suppression issue of the voice-stress
17 analysis being used. But he had allowed it based on that
18 hearing alone.

19 Q At that time did you receive any plea offers from the
20 state?

21 A I -- honestly, I can't remember exactly how it all
22 transpired. I remember that after we did the *Jackson v.*
23 *Denno*, Judge Manning asked us if we wanted to take a break
24 and consult with Mr. Myers, knowing that the statements
25 were now going to be admissible, because Judge Manning knew

DIRECT EXAMINATION BY MS. HARRIGAN - JENNIFER DAVIS 40

1 that that was one of our main issues of trying to get the
2 statements suppressed. And we did take a break. I believe
3 at that point we were told he could plead to voluntary
4 manslaughter. And we discussed that.

5 We were also -- it was indicated that he would receive
6 a fifteen-year sentence. And at that point, if I recall
7 correctly, I think we actually met in the jury room, not --
8 not in holding. But it was me, Mr. Shealey, and Ms.
9 Pringle, as they were the second and third seat on the
10 trial. And then we -- we met with Mr. Myers about that.

11 Q When you say it was indicated he'd receive a fifteen-
12 year sentence, was that a negotiation or recommendation
13 from the state?

14 A It was not. There was a meeting in -- I think either
15 in chambers or in the jury room.

16 Q And who did you get a fifteen-year assurance from?

17 A We were told by the judge that he would receive
18 fifteen.

19 Q Did you convey that to Mr. Myers?

20 A Yes.

21 Q Did you explain to him the consequences of his plea?

22 A Yes.

23 Q Did you explain to him that this was pursuant to *North*
24 *Carolina v. Alford*?

25 A Yes. We went through all that. And I knew for --

1 from all my representation with Mr. Myers, that he had
2 always denied strangling this woman and explained to him
3 that if he wanted to take the plea, that he could do that
4 without admitting to any strangulation and explained what
5 *North Carolina v. Alford* meant.

6 Q You heard Mr. Myers' testimony earlier today, correct?

7 A Yes.

8 Q Did you advise him, when you were in the jury room
9 with Mr. Shealey and Ms. Pringle, that murder carried a
10 sentence of thirty years to life?

11 A We would've talked about it at that point. But we had
12 talked about it prior to that when we were getting ready
13 for trial. So he knew that if -- if he went to trial and
14 got convicted, we had talked about it several times that he
15 could get thirty to life if he was convicted.

16 Q Did either yourself or the other two attorneys from
17 your office ever threaten Mr. Myers that he would receive a
18 thirty-year sentence or a life sentence if he went to
19 trial?

20 A There was no threat. I mean, I -- it was clear that
21 if -- and explained that if he got convicted of murder at
22 trial, that he would have to receive a sentence between
23 thirty and life, based on the law.

24 Q Did he seem to understand this?

25 A Yes.

CROSS-EXAMINATION BY MS. GOOD - JENNIFER DAVIS

42

1 Q And Mr. Myers testified before that he has three years
2 of college. Did you ever have any problems or issues with
3 him not understanding your communications with him and the
4 ---

5 A In ---

6 Q --- advice you were giving him?

7 A No, I didn't. And prior to my taking over the case,
8 he had actually been evaluated and found competent and
9 criminally responsible. And I confirmed that with the
10 doctor after I took the case.

11 Q Whose decision was it for Mr. Myers to plead guilty?

12 A At that time Mr. Myers decided he wanted to plead
13 guilty and did not want to risk going to trial and getting
14 convicted of murder.

15 MS. HARRIGAN: Moment's indulgence, Your Honor. No
16 further questions, Your Honor.

17 THE COURT: Any cross?

18 CROSS-EXAMINATION

19 BY MS. GOOD:

20 Q Good morning.

21 A Morning.

22 Q You stated at the plea that Mr. Myers was not aware of
23 the DNA match to Elijah White, correct?

24 A Right. Because I was not aware of it.

25 Q And you were not aware of it because Mr. May put it in

1 the wrong file, correct?

2 A He -- it was -- he didn't remember getting it. So
3 whenever we discussed the case, it was always something
4 that was outstanding. He had done a motion to compel on it
5 with -- which further made me believe it didn't -- you
6 know, that we had never received it.

7 It ended up being in the back of his file on the last
8 page when I ---

9 Q And ---

10 A --- went back through it.

11 Q When was it discovered as to what date it was actually
12 given to you?

13 A When did I learn that ---

14 Q Or ---

15 A --- it was ---

16 Q --- Mr. May?

17 A --- that it had been turned ---

18 Q When was ---

19 A --- over?

20 Q --- it supposedly turned over to the public defender's
21 office in discovery?

22 A Per the solicitor and the note, I believe it was in
23 2009.

24 Q Okay. So y'all had this for -- for three years, till
25 2012, and never knew about it?

1 A Correct.

2 Q Okay. And when was the motion to compel done
3 regarding this information?

4 A I don't know what the date of it was. That was -- Mr.
5 May had done that prior to ---

6 Q Was that ---

7 A --- my having ---

8 Q --- early on ---

9 A --- the case.

10 Q --- in the representation or later? Do you know?

11 A It was while he still had the file.

12 Q Okay. And you said you put it on the record that you
13 were not aware of this information, correct?

14 A When the solicitor, at the time of the plea, went
15 through her colloquy and then at the -- I believe it was
16 towards the end of it, she noted that that existed. In
17 response, I did say, "Your Honor, you know, the rest of
18 that is substantially correct. However, I was not aware of
19 that DNA match." Yes.

20 Q And if you had been aware of that DNA match, would
21 that have changed your advice to Mr. Myers regarding going
22 to trial?

23 A My advice to Mr. Myers always was that it was his
24 choice and his choice alone. We were prepared for trial.
25 We had our pretrial motions ready, done. We had experts

1 retained and hired.

2 So we were ready for trial. That had always been what
3 he wanted to do as well.

4 Q Would that have changed your defense as to third-party
5 guilt? Would it have helped your defense?

6 A I'm sure.

7 Q And so Mr. Myers were not -- was not aware that that
8 would've helped his defense at the time of the plea?

9 A When his plea was accepted, he was not aware of that.
10 No.

11 Q And you said you had two investigators on this case.
12 What investigation was done as to Elijah White?

13 A At that time Jim May initially had Elizabeth Cook on
14 the case. She had investigated Elijah White. She -- we
15 did know he was deceased. But there were witnesses that
16 had seen him with something that they thought could have
17 been a person over his shoulder or something to that
18 effect.

19 And so at that -- Ms. Cook had gone out to try and
20 find and interview those witnesses. So we -- the
21 investigation was still done about what we could still
22 interview about Elijah White and his past, his rap ---

23 Q And were ---

24 A --- sheet ---

25 Q --- those ---

1 A --- and all ---

2 Q --- witnesses ---

3 A --- those things.

4 Q --- found?

5 A I believe she spoke with at least one, if not two,
6 people.

7 Q Okay. And was Mr. Myers aware of these witnesses?

8 A Yes. He was -- it was gone -- all of the
9 investigation was gone through with Mr. Myers.

10 Q Okay. Regarding the false-confession experts and the
11 stress test, what research did you and Mr. May do regarding
12 the voice-stress test?

13 A We did -- we pulled all case law and research and
14 actually did a written memo that was given to Judge Manning
15 on that issue.

16 Q And you said you didn't actually argue the stress
17 analysis, correct?

18 A We ---

19 Q Why is that?

20 A We were prepared to do that in pretrial. When we
21 started pretrial, I explained to Judge Manning that we had
22 a two-part suppression to the statement: one being the
23 *Jackson v. Denno* hearing itself; and then, supplementing
24 that was the voice-stress-analysis test. We got through
25 the *Denno* hearing itself.

1 Judge Manning indicated he was going to allow the
2 statements. I asked, before we broke, if we could do the
3 voice-stress-analysis-test suppression hearing as well.
4 And at that point he just indicated he was going to take a
5 break first.

6 Q Okay.

7 A And that's when the offer and those things came up.

8 Q During this entire time, were you aware of Mr. Myers'
9 health issue regarding his hearing?

10 A I remember him having some difficulty. I remember
11 meeting with him at the jail and him indicating that and
12 stating that it was getting better and asked him if I
13 needed to follow up with medical. The day of the hearing
14 -- and it's reflected in the order that I'm asking them to
15 speak up and letting the judge know that he was having some
16 trouble hearing. When I was asking him at the table after
17 they spoke up if he could hear, he indicated that he could
18 do -- that he could at that point, as long as they were
19 speaking loudly. And Ms. Pringle was also sitting there,
20 taking notes and letting him read what was being said in
21 case there was any other problems.

22 Q Was Mr. Myers aware of all the pathologist and false-
23 confession experts and all the defenses in this case?

24 A Yeah. We talked at length, in depth, several times
25 leading up -- the weeks prior to trial about what we would

1 be calling as a defense, what witnesses we'd be presenting,
2 what our strategies were..

3 Q And you said there was a hearing on October 25th of
4 2012 with Judge Manning.

5 A Uh-huh.

6 Q What was this hearing about?

7 A That was regarding the DNA hit on Elijah White that I
8 wasn't aware of and didn't realize and, obviously, that Mr.
9 Clarence Myers didn't know about. The plea was on the
10 19th. I talked with him after that -- after the plea that
11 day and then went back and spoke with him October 22th,
12 again explaining to him what the match was, what it meant,
13 and what his options were: if he thought that he might
14 want to withdraw his plea based on that evidence. Because
15 to me, at that time, I was -- that was important to me.

16 Q Uh-huh.

17 A And so I wanted to see if he might want to withdraw
18 his plea based on that.

19 Q Was this a motion to reconsider or ---

20 A At that point I don't know that it was a motion to
21 reconsider. I -- no. It wasn't a motion to reconsider.
22 Because what happened, I went and talked to him on the
23 22nd; indicated that he could withdraw his plea or we could
24 make a motion to withdraw his plea, based on that. He
25 indicated he did not want to go to trial; did not want to

1 withdraw his plea.

2 I followed up with Judge Manning and the -- indicated
3 -- let him know that my understanding, from Clarence, is
4 that he did not want to withdraw his plea. And Judge
5 Manning indicated he wanted to hold a hearing on that
6 issue, as did I. And we did that on October 25th,
7 specifically addressing whether he wanted to withdraw his
8 plea, based on that information.

9 Q And did you ever discuss a motion to reconsider with
10 Mr. Myers as a result of this new information?

11 A To reconsider the sentence?

12 Q Yes.

13 A We never discussed it. I -- I thought the more
14 prudent avenue would be to withdraw his plea.

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

16 MS. HARRIGAN: Briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. HARRIGAN:

19 Q Ms. Davis, you testified that learning the DNA match
20 of Elijah Wood would have helped with your third-party-
21 guilt defense, correct?

22 A If we had proceed to trial, yes.

23 Q Okay. But your client's semen was found on deceased
24 victim's body, correct?

25 A Elijah White's was found inside her vagina, if I

REDIRECT EXAMINATION BY MS. HARRIGAN - JENNIFER DAVIS 50

1 recall correctly; Mr. Myers' was found, I believe, on her
2 inner thigh. But both were located. Yes.

3 Q Did you explain to Mr. Myers that this would've helped
4 with his third-party-guilt defense when you spoke to him
5 after his plea?

6 A Yeah. We talked about that. We discussed that when I
7 was asking him if he wanted to withdraw his guilty plea.

8 Q And at that time he told you he did not after learning
9 of this information and discussing with you?

10 A At that point he -- right. He felt that if he was
11 charged with a CSC or a rape of the victim, he thought that
12 that would be more important, and he didn't know that it
13 would help him as much at trial and that he still did not
14 want to withdraw his plea.

15 MS. HARRIGAN: No further questions, Your Honor.

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

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

18 MS. HARRIGAN: Your Honor, the state has no additional
19 witnesses to call.

20 THE COURT: Anything further from either party?

21 MS. GOOD: No, Your Honor.

22 THE COURT: Okay. Two things: I'd like to get a copy
23 of the October 25th transcript -- I assume that's October
24 25th, 2012 -- of that hearing before Judge Manning.

25 MS. HARRIGAN: Your Honor, our office does not have a

1 copy. But we were not aware that there was ---

2 THE COURT: Oh, I know.

3 MS. HARRIGAN: --- a -- a ---

4 THE COURT: I'm just saying -- I'm -- I'm asking ---

5 MS. HARRIGAN: I will ---

6 THE COURT: --- you all ---

7 MS. HARRIGAN: --- order ---

8 THE COURT: --- to -- to get a copy of it ---

9 MS. HARRIGAN: I will ---

10 THE COURT: --- and ---

11 MS. HARRIGAN: --- order it when I get back to the
12 office and ask that it be expedited so Your Honor can get a
13 copy soon, and I will copy Ms. Good and provide a good for
14 Ms. Copy so -- Ms. Good so she can provide a copy to her
15 client.

16 THE COURT: And then, what I would like is that after
17 receipt of that, I'll give you a period of time in -- in
18 order to do proposed orders. I -- I would like for y'all
19 to have the benefit of the transcript to see what it says
20 in case you want to add anything to your arguments.

21 MS. HARRIGAN: Thank you, Your Honor.

22 MS. GOOD: Thank you, Your Honor.

23 THE COURT: And so basically, what I'm doing is
24 holding this -- I'm holding this hearing open for the
25 purposes of the receipt of the transcript. And then, we

1 can have a -- a telephone conference.

2 MS. HARRIGAN: Certainly, Your Honor. Thank you.

3 MS. GOOD: Thank you, Your Honor.

4 (Whereupon, the proceeding was concluded at 10:34 a.m.)

5 --- 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

AUGUST 25, 2014

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Clarence T. Myers, #352916,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No. 2013-CP-49-08962

ORDER OF DISMISSAL

RECEIVED

S.C. Supreme Court

RICHLAND COUNTY
FILED
2014 MAY 29 AM 11:16
JEANETTE W. McBRIDE
CLERK
S.C.P. & G.S.

This matter comes before the Court by way of an application for post-conviction relief filed February 14, 2013. The State filed its Return on May 16, 2013. An evidentiary hearing into the matter was convened March 19, 2014, 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. After reviewing all testimony and other evidence presented at the hearing, along with a review of all records provided to the Court, this Court finds that there are no constitutional deprivations or other grounds on which to grant relief and is denying and dismissing this application with prejudice.

PROCEDURAL HISTORY

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 murder (2009-GS-40-0611) and destruction or desecration of human remains (2009-GS-40-0612). Jennifer C. Davis, Esquire, represented Applicant. On October 19, 2012, Applicant appeared before the Honorable L. Casey Manning, where he pled guilty pursuant to North Carolina v. Alford¹ to the lesser included offense of voluntary manslaughter and destruction or desecration of human remains. Judge Manning sentenced Applicant to fifteen years imprisonment for voluntary manslaughter and ten years imprisonment for the destruction or desecration of human remains, both sentences to be served concurrently.

¹ 400 U.S. 25 (1970).

During the plea, Applicant and his counsel learned of additional DNA swabs taken from the victim that did not match Applicant but another suspect, Elijah White. A subsequent hearing was convened on October 25, 2012 to address the additional DNA swabs. Applicant was present at this hearing with his attorney, Jennifer Davis. After a discussion between Applicant and the court, Applicant indicated that he was satisfied with the plea and the sentence imposed by the court and did not want to withdraw his plea. No subsequent appeal was taken.

In his application for post-conviction relief, Applicant alleged that he was being held in custody unlawfully based on allegations of ineffective assistance of counsel for failure to investigate and failure to provide discovery materials.

SUMMARY OF TESTIMONY PRESENTED AT EVIDENTIARY HEARING

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented testimony from plea counsel, Jennifer C. Davis (hereinafter "Counsel"). This Court also had before it Applicant's guilty plea and post-plea transcripts, the records from the Richland County Clerk of Court regarding the subject convictions, and Applicant's records from the South Carolina Department of Corrections.

Applicant testified first on his own behalf. He is a high school graduate who attended three years of college. He testified that he has no criminal record, but conceded on cross examination that he does have a prior record. See Guilty Plea Tr. p. 76. He was arrested in January 2009 for murder and James H. May from the Richland County Public Defender's Office was originally appointed to represent him. May represented Applicant for approximately three years and that he met with May approximately ten times. May offered to do a lot of things for him but never ended up doing them, so Applicant fired May. His next appointed attorney was Counsel, with whom he met five or six times. He met with Counsel for the first time in May 2012 and this initial meeting lasted for two hours. Applicant informed Counsel that he wanted to proceed to trial at this first meeting.

Applicant testified that he never reviewed discovery with May, but that he reviewed all discovery materials with Counsel five or six times. The discovery materials contained: a DNA report showing that his DNA matched semen found on the victim; a paystub containing his name found near the victim's body; statements he had given to law enforcement; investigative reports; autopsy photographs; pathology and toxicology reports; and crime scene photographs. He testified that there were three other suspects, but at least one suspect, Elijah White, could no

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longer be investigated because he was deceased. He testified that Counsel used a private investigator to help with his defense and that he met with the investigator two or three times. Applicant discussed possible defenses with Counsel and thought they were prepared for trial.

The trial began in October 2012 with a pre-trial Jackson v. Denno hearing on his motion to suppress his statements. He testified that he had trouble hearing due to a clog in his left ear. He testified that Counsel, along with co-counsel Fielding Pringle, was aware of this and acknowledged that they wrote notes for him so that he could follow the hearing's progress.

After the denial of his motion to suppress his statements, Counsel presented him with a plea offer from the State allowing him to plead guilty pursuant to Alford for a fifteen year sentence. He testified that he felt threatened by Counsel, who told him if he did not accept the plea offer he would likely be convicted and receive a sentence between thirty years to life imprisonment. However, he acknowledged that Counsel explained to him numerous times that murder carries a mandatory minimum sentence of thirty years imprisonment up to life imprisonment without parole. He testified that he accepted the State's plea offer because he wanted a fifteen year sentence and acknowledged that he did receive a fifteen year sentence.

He testified that he first learned that another suspect Elijah White's DNA was also found on the victim at the plea proceeding. He elaborated that White's semen was found in the victim. He testified that Counsel never informed him of this, but acknowledged that Counsel objected at the plea and stated this was the first time she had learned of this as well. He testified that he would not have pled guilty if he had known this. He testified that he appeared before the plea court for a subsequent hearing shortly after his plea. He testified that the plea court questioned him regarding a withdrawal of his plea based on the discovery of White's DNA and that he decided not to withdraw his plea because he wanted the fifteen year sentence the court had imposed.

Following Applicant's testimony, the State presented testimony from Counsel. Counsel testified that she has been employed by the Richland County Public Defender's Office for seven-and-a-half years. She was originally assisting with Applicant's case as a second chair to James May and that when May left the Public Defender's Office she took over the case as lead counsel. She met with Applicant at least twelve times and that based on notes in the file, May met with Applicant at least six times. Notes in the file reflect that May gave Applicant a complete copy of

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all discovery materials. She reviewed all discovery materials with Applicant several times. She also used two private investigators to help with the case.

Counsel was prepared for trial and that the defense strategy was three-fold: first, the pathologist's report showed that the victim's cause of death was a drug overdose, not strangulation; second, Applicant's confessions were false and coerced by a voice stress test outlawed in South Carolina; and third, Elijah White was the actual perpetrator. Applicant gave three statements to law enforcement: an initial statement completely denying involvement; a second statement that he found the victim after she was deceased and ejaculated on her; and a third statement that he strangled her to death and then ejaculated on her. Counsel moved to suppress these statements, which was denied following a Jackson v. Denno hearing. She testified that following the Denno hearing, the State made an offer for fifteen years imprisonment if Applicant pled pursuant to Alford. She testified that she explained the State's offer to Applicant, who decided to accept the offer.

Counsel did not learn of the DNA match of White to semen found in the victim until Applicant's guilty plea hearing. She testified that May had previously moved to compel the State to turn this information over and was shocked to learn that it was found buried in the discovery materials that comprised more than one thousand pages. She testified that she objected based on this information and the plea court held a subsequent hearing based on this. She fully explained to Applicant that he could move to withdraw his plea based on this information and proceed to trial. She testified that she explained to him that this would help with his third party guilty defense against Elijah White. Applicant ultimately decided not to withdraw his guilty plea because he was satisfied with the State's plea offer. She testified that he also informed her that he did not think the DNA sample matching White was that exculpatory, as he (Applicant) was not charged with any sex crime.

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 and that 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).

and
#4

In a post-conviction relief action, the applicant has the burden of proving the allegations in his or her 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 an 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, 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 (1985).

After careful review based on the standard discussed above, including a review of the testimony of the witnesses presented at the evidentiary hearing and the documentation provided, this Court denies this application on the basis that Counsel's performance did not fall below the standard required and there was no resulting prejudice to Applicant from any alleged deficiencies. Specifically, this Court notes that the case had been called for trial and a hearing was conducted pursuant to Jackson v. Denno on the voluntariness of the three statements given by Applicant. Both the officer and Applicant testified. Applicant asserted in his application that evidence regarding the voice stress test should not be admitted during the trial. Legal memoranda had been prepared on the voice stress test but had not been argued to the court. The court ruled the statements were admissible.

and
#5

Information about the other suspects had been provided to the defense in discovery. An appropriate investigation had been conducted, even though Elijah White was deceased at the time of trial. While the defense acknowledged that learning of the DNA of Elijah White earlier would have been helpful to the third party guilty defense, Applicant did not wish to go forward with trial. Applicant pled pursuant to Alford allowing him to acknowledge that the State had sufficient evidence on which the jury would likely find his guilt on the charge and to acknowledge that the benefit of the plea would allow him to avoid a lengthy prison sentence. Applicant was aware of and understood the plea, and it was freely and voluntarily entered. Based on the foregoing, this Court finds that this application must be denied and dismissed with prejudice.

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), SCRPC, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on an applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

and
*b

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief shall be denied and dismissed with prejudice; and
2. The Applicant shall remain remanded to the custody of the State.

AND IT IS SO ORDERED.


ALISON RENEE LEE
Presiding Judge
Fifth Judicial Circuit

May 28, 2014
Columbia, South Carolina.

arl
87

DOCKET NO. 2009-GS-40-611

WITNESSES

✓ (S) M. W. Vinson, CPD

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2009

42

ARREST WARRANT NUMBER

K291746

THE STATE

VS.

CLARENCE MYERS

ACTION OF GRAND JURY

TRUE BILL

FEB 12 2009

VERDICT

person of Petit Jury

Indictment for

MURDER

SC Code: 16-3-10

CDR Code: 0116

Class FEL/EXM(V)

After being fully advised as to my legal rights, I hereby waive presenting to the Grand Jury.

Defendant

Clarence Myers

hereby appear in my own proper person and plead guilty to the within indictment or to

Voluntary Manslaughter

Defendant

Clarence Myers

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

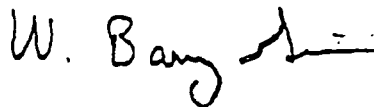
INDICTMENT

At a Court of General Sessions, convened on February 11, 2009, the Grand Jurors of Richland County present upon their oath:

MURDER

That CLARENCE MYERS did in Richland County on or about April 20, 2001, feloniously, willfully and with malice aforethought, kill one Angela Coleman by means of choking and that the said victim died as a proximate result thereof. All in violation of SC Code of Laws § 16-3-10.

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



Warren B. Giese, SOLICITOR

160 OF SOUTH CAROLINA

COUNTY OF Richland
STATE VS.
Clarence Myers

AKA:

Race: BLACK Sex: M Age: 35

DOB: [REDACTED] SS#: [REDACTED]

Address: NO PERM ADDRESS

City, State, Zip: COLUMBIA, SC 29201

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Voluntary Manslaughter

in violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0271

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 12009 Clarence Myers [Signature] 75392
Campbell, Luck SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 15 days/months/year or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS40611 ✓
A/W#: K291746
Date of Offense: 4/20/2001
S.C. Code § 16-03-0010
CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

PTUP days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge [Signature]
Judge Code: 2061
Sentence Date: 10/19/2009
SOUTH CAROLINA

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (03/2011)

ARREST WARRANT

K-291746

STATE OF SOUTH CAROLINA

County/ Municipality of

THE STATE
against

Address:

Phone:

SSN:

Race: Height: Weight:

DOB:

Agency ORI#:

Prosecuting Officer:

Offense:

Offense Code:

Code/Ordinance Sec:

This Warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to law.

Signature of Judge

(L.S.)

RETURN

A copy of this arrest warrant was delivered to

defendant

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

COUNTY COURT

PO BOX 644

COLUMBIA, SC 29202

STATE OF SOUTH CAROLINA)
County/ Municipality of)

AFFIDAVIT

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on

State of South Carolina (or ordinance of County/ Municipality of

in the following particulars:

DESCRIPTION OF OFFENSE: MURDER

I further state that there is probable cause to believe that the defendant named

the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID AT 2000 OAK ST COLUMBIA, SC KILL THE VICTIM

ARMED AND DANGEROUS TO HIMSELF AND OTHERS. THE DEFENDANT WAS

WITNESSED BY THE VICTIM'S NEIGHBORS AND OTHER WITNESSES. AFTER

THE VICTIM WAS KILLED, THE DEFENDANT FLED THE SCENE OF THE CRIME.

Signature of Affiant

Affiant's Address

Affiant's Telephone

STATE OF SOUTH CAROLINA)
County/ Municipality of)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of) as set forth below:

DESCRIPTION OF OFFENSE: MURDER

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest said

defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this arrest warrant shall be delivered to

the defendant at the time of its execution, or as soon thereafter as is practicable.

Form Approved by
S.C. Attorney General
JAN 20 2009
COUNTY
SOUTH CAROLINA

Set out by

on _____
 Type and Amount _____
 Name of Party _____
 PARTISANSHIP HEARING held by _____

DISPOSITION before

(include in this report the date, not from, etc.)

CO-DEFENDANTS

WITNESSES

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

CO-DEFENDANTS

163

WITNESSES

(S) Investigator Mark Vinson, CPD

DOCKET NO. 2009-GS-40-612

The State of South Carolina

County of Richland

42

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2009

ARREST WARRANT NUMBER

15 7775

THE STATE

VS.

CLARENCE MYERS

Defendant

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY
TRUE BILL

Mark Vinson
person of Grand Jury FEB 12 2009

VERDICT

Indictment for

DESTRUCTION OR DESCERATION OF
HUMAN REMAINS

SC Code: 16-17-600(A)

CDR Code: 0471

Class: E-FELONY

Person of Petit Jury

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 COPY
OF COURT RECORD
JAN 20 2010
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

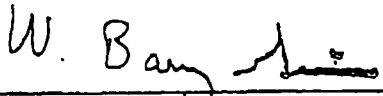
INDICTMENT

~~ARMED ROBBERY~~ Desecrate Human Remains

At a Court of General Sessions, convened on February 11, 2009 the Grand Jurors of Richland County present upon their oath:

That CLARENCE MYERS did in Richland County on or about April 20, 2001, willfully and knowingly, and without proper legal authority destroy or damage the remains of a deceased human being and/or desecrate human remains. All in violation of § 16-17-600, 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

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Clarence Myers

AKA:

Race: BLACK Sex: M Age: 35

DOB: SS#: [REDACTED]

Address: M ADDRESS [REDACTED]

City, State, Zip: COLUMBIA, SC 29201 29201

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Graves / Destruction, desecration or removal of human remains

IN THE COURT OF GENERAL SESSIONS

165

INDICTMENT/CASE#: 2009GS40612 ✓

A/W#: K357775

Date of Offense: 4/20/2001

S.C. Code §: 16-17-0600(A)

CDR Code #: 0471

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-17-0600(A) of the S.C. Code of Laws, bearing CDR Code # 0471
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY: [Signature] 13009 SC Bar# [Signature] Defendant [Signature] Attorney for Defendant [Signature] SC Bar# 75392

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2009GS-40-611☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: _____

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2061

Sentence Date: 10/19/17

ARREST WARRANT
K- 357775

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

THE STATE
against

Address: _____

SSN: _____

Race: _____ Height: _____ Weight: _____

DL State: _____ DL #: _____ Agency ORI#: _____

DOB: _____

Prosecuting Agency: _____

Prosecuting Officer: _____

Offense: _____ Offense Code: _____

Code/Ordinance Sec: _____

This Warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge _____ (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant CLAYTON MYERS on 01-15-84

Signature of Constable/Law Enforcement Officer M.W. V.

RETURN WARRANT TO:

CITY OF COLUMBIA
MUNICIPAL COURT
P.O. BOX 444
COLUMBIA, SC 29202

STATE OF SOUTH CAROLINA
☐ County/ ☐ Municipality of

AFFIDAVIT

Personally appeared before me the affiant _____ being duly sworn deposes and says that defendant _____ did within this county and state on _____ violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) in the following particulars:
DESCRIPTION OF OFFENSE: _____

I further state that there is probable cause to believe that the defendant named _____ the crime set forth and that probable cause is based on the following facts: _____

Form Approved by
S.C. Attorney General
April 21, 2003
Book 6189
FILED
CLAYTON MYERS
JAN 20 2004
COLUMBIA COUNTY
SOUTH CAROLINA

Signature of Affiant

STATE OF SOUTH CAROLINA
☐ County/ ☐ Municipality of

Affiant's Address _____

Affiant's Telephone _____

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that defendant _____ did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) as set forth below:
DESCRIPTION OF OFFENSE: _____

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on _____

Signature of Issuing Judge _____ (L.S.)

Judge Code: _____

Judge's Address _____

Judge's Telephone _____

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

of and by

by _____

on _____

Type and amount _____

Name of Surety _____

PRELIMINARY HEARING held by

Judge _____

at _____

Defense Counsel _____

Decision _____

DISPOSITION before

Judge _____

at _____

by _____

(Indicate jury trial, bench trial, plea, not guilty, etc.)

Disposition _____

Sentence _____

CRIMINAL

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS
