

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Orangeburg County
Maite Murphy, Circuit Court Judge

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S.C. Supreme Court

JEFFREY N. GRIMES,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-002025

APPENDIX

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INDEX

INDEX i

GUILTY PLEA HEARING TRANSCRIPT (NOVEMBER 15, 2012) 1

APPLICATION FOR POST-CONVICTION RELIEF 24

RETURN 35

POST-CONVICTION RELIEF HEARING TRANSCRIPT (MAY 27, 2014)..... 41

ORDER OF DISMISSAL 91

INDICTMENT 100

SENTENCING SHEET 102

State of South Carolina)	In the Court of General Sessions
)	First Judicial Circuit
County of Orangeburg)	2012-GS-38-01259

State of South Carolina)
)
)
 Plaintiff)
)
 vs.)
)
 Jeffrey N. Grimes,)
)
 Defendant.)
)
 _____)

Transcript of Record

November 15, 2012
Camden, South Carolina

B E F O R E:

The Honorable Howard King, Judge

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

Harrison Bell, Esq.
Attorney for the Plaintiff

Mark Wise, Esq.
Attorney for the Defendant

Bonnie H. Kelly, CVR
Circuit Court Reporter

I N D E X

1	<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
2	Case Called/Mr. Bell	4
3	Direct Examination by The Court/Defendant	4
4	Recitation of the facts/Mr. Bell	9
5	Mitigation/Mr. Wise	17
6	Sentence by the Court	21
7	Certificate Page	23

EXHIBITS

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

NO.	DESCRIPTION	I.D.	EVID
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- NO EXHIBITS -

1 THE COURT: All right. Mr. Bell.

2 MR. BELL: If it please the Court, Your Honor, this is
3 Indictment 2012-GS-38-1259, *The State vs. Jeffrey Nikko*
4 *Grimes*. He was originally charged in a true-billed
5 indictment with attempted murder. The State would accept a
6 plea to the statutory assault and battery of a high and
7 aggravated nature.

8 He would -- he is represented by Mr. Wise, and the
9 victim is present in this matter, Your Honor.

10 JEFFREY NIKKO GRIMES, having been first duly
11 sworn, testifies as follows:

12 THE COURT: Mr. Wise, you represent the defendant?

13 MR. WISE: I do, Your Honor.

14 THE COURT: Have you explained to him the charge
15 contained in the indictment, the possible punishment, and
16 his constitutional rights, including his right to a jury
17 trial?

18 MR. WISE: I have.

19 THE COURT: In your opinion, does he understand those
20 things?

21 MR. WISE: He does, Your Honor.

22 DIRECT EXAMINATION BY THE COURT:

23 Q You are Jeffrey Grimes; is that correct?

24 A Yes, sir, Your Honor.

25 Q All right. Mr. Grimes, before I can accept your plea

1 of guilty, I need to make sure that it is freely and
2 voluntarily given. I need to ask you some questions. If
3 you don't understand the questions or the words I use, you
4 tell me. I'll be glad to explain them to you. Do you
5 understand?

6 A Yes, sir.

7 Q How old are you?

8 A Thirty-nine.

9 Q How far did you go in school?

10 A Two -- two years college.

11 Q What kind of work do you usually do?

12 A I was in sales management. I was actually working at
13 the time of the incident.

14 Q Are you today under the influence of any kind of drugs
15 or alcohol?

16 A No, sir.

17 Q Are you today aware of any physical, emotional, or
18 nervous problem that would keep you from understanding what
19 you're doing here today?

20 A No, sir, Your Honor.

21 Q You have heard your lawyer tell me that he has
22 explained to you the charge against you, the possible
23 punishment and your constitutional rights, and that you
24 understand these things; is that correct?

25 A Yes, sir, Your Honor.

1 Q All right. The indictment in this case, which has
2 been returned as a true bill by the grand jury of
3 Orangeburg County -- and thus this Court has jurisdiction
4 of the matter -- charges that you did, in Orangeburg
5 County, on or about June the 2nd of 2012 -- did, with
6 intent to kill, attempt to kill Shirley Love, with malice
7 aforethought. And the charge is one, originally, of
8 attempted murder. Do you understand that charge?

9 A Yes, sir, Your Honor.

10 Q Do you understand that for attempted murder you could
11 have gotten up to 30 years in prison?

12 A Yes, sir.

13 Q Now, the State has indicated a willingness to accept a
14 plea to assault and battery of a high and aggravated
15 nature, which carries a maximum of 20 years in prison. Do
16 you understand that?

17 A Yes, sir.

18 Q Do you understand that this offense, the assault and
19 battery of a high and aggravated nature, is a violent
20 crime? And has your lawyer explained to you what is meant
21 by a "violent crime"?

22 A Yes, sir, he has.

23 Q Okay. And do you also understand that it falls under
24 our two-strike/three-strike law and is considered a serious
25 offense; and that after you get out of prison, if you were

1 to have three serious offenses or two most serious
 2 offenses, that you would be subject to life in prison? In
 3 other words: This is your first strike. You understand
 4 that?

5 A Yes, sir.

6 Q All right. Now, Mr. Grimes, when you plead guilty,
 7 you give up important constitutional rights. You give up
 8 your right to remain silent, that is your privilege against
 9 self-incrimination, your right to say nothing at all. You
 10 cannot be required to provide testimony or evidence against
 11 yourself.

12 You give up your right to have a jury trial, that is
 13 your right to have a jury decide whether you're guilty
 14 beyond a reasonable doubt. In a trial, you would be
 15 presumed innocent and the State would have to produce
 16 evidence that would convince all 12 members of the jury of
 17 your guilt beyond a reasonable doubt.

18 And finally, you give up the right to confront the
 19 witnesses against you, that is the right to require the
 20 witnesses against you to come into court, testify, have
 21 your lawyer cross-examine those witnesses, and the right to
 22 subpoena and call witnesses on your own behalf.

23 Do you understand those constitutional rights?

24 A Yes, sir, Your Honor.

25 Q Do you understand that when you plead guilty, you

1 waive or give up those constitutional rights, and there
2 will not be a jury trial?

3 A Yes, sir.

4 Q Understanding then the nature of the charge against
5 you and the consequences of a guilty plea, how do you wish
6 to plead to this charge of assault and battery of a high
7 and aggravated nature, guilty or not guilty?

8 A Guilty, Your Honor.

9 Q You understand that when you plead guilty, you're
10 admitting the truth of the charge against you?

11 A Yes, sir, Your Honor.

12 Q And you're pleading guilty because you are guilty?

13 A Yes, sir.

14 THE COURT: Any negotiations, Mr. Bell?

15 MR. BELL: Only the reduction in charge, Your Honor.

16 THE COURT: Okay.

17 DIRECT EXAMINATION BY THE COURT (continues):

18 Q Other than the reduction in charge, has anyone
19 promised you anything to get you to plead guilty?

20 A No, sir, Your Honor.

21 Q And are you pleading guilty of your own free will and
22 accord?

23 A Yes, sir.

24 Q Has anyone threatened you or tried to intimidate you
25 to get you to plead guilty?

1 A No, sir.

2 Q You're represented in this case by Mr. Wise. Are you
3 satisfied with the manner in which Mr. Wise has advised and
4 represented you?

5 A Yes, sir, I am.

6 Q Has he done everything for you that you feel he could
7 have or should've done on your behalf?

8 A Yes, sir.

9 Q Has he done anything you feel he should not have done?

10 A No, sir.

11 Q And you're completely satisfied with his services?

12 A Yes, sir.

13 Q Do you have any complaint that you want to make about
14 your lawyer, the police officers, or anybody involved in
15 this case?

16 A No, sir.

17 Q And do you understand that you have the right to
18 appeal, and you must do so within ten days?

19 A Yes, sir.

20 THE COURT: All right. Mr. Bell.

21 MR. BELL: If it please the Court, Your Honor, this
22 occurred on June the 2nd, 2012. This occurred at [REDACTED]
23 [REDACTED] in Orangeburg County. That was the residence
24 of Ms. Shirley Love, who is the victim in this case, who's
25 present in the courtroom. She and Mr. Grimes were in a

1 relationship.

2 The police were called to a shooting incident to that
3 location. Their investigation, after talking with the
4 neighbor, with Ms. Love's daughter who was present, and
5 with Ms. Love, was that apparently Ms. Love and Mr. Grimes
6 had a verbal argument early in the -- in the evening or
7 that evening, before this, about his drinking.

8 At some point, she left the residence to let things
9 cool off, went to a neighbor's house. When she came back,
10 he was in the -- I think he was in the living room. She
11 went to the bedroom.

12 At some point that morning -- I think she was getting
13 ready to take her daughter to work -- she went to the
14 shower. When she was in the shower, Mr. Grimes came into
15 the bathroom, fired a gun, hit her in the arm while she was
16 in the shower. And then she kind of hunkered down and
17 tried to protect herself and he shot her, I believe, four
18 more times, for a total of shooting her five times.

19 He left at that point -- basically he unloaded the
20 gun, I believe.

21 He left at that time, she ran out of the residence,
22 went to the next door neighbor; and at some point, I
23 believe, her daughter went to the neighbor to report this.
24 Her neighbor started -- reported that when she came out to
25 see what was going on, she -- she stated she saw Mr. Grimes

1 next to a vehicle going -- appearing to reloading the gun.

2 The neighbor got Ms. Love, I believe, in her vehicle,
3 got something to cover her, because she came out of the
4 shower and she was without clothes on, and -- and started
5 taking her to the -- to the emergency room. And I think at
6 some point the police intercepted them and provided escort.

7 Also in this investigation, the police officers talked
8 to Mr. Grimes after giving him Miranda. His version was
9 that they had had an argument, that she'd had knives
10 around; but in the end he stated that she was in the shower
11 or getting out of the shower when he shot her five times.

12 I know that Ms. Love would like to address the Court
13 at the appropriate time, and I think that on the State's
14 behalf the -- the facts of this crime -- I think the -- the
15 -- the -- the -- the reduction in charge is the only
16 mitigation that we would see in this particular type of
17 crime.

18 And as I said, Ms. Love would like to address the
19 Court at the appropriate time.

20 THE COURT: All right. All right. Court finds that
21 there is a substantial factual basis for the plea. I find
22 the defendant's decision to plead guilty is freely,
23 voluntarily, knowingly, and intelligently made; that he has
24 had the advice and counsel of an attorney with whom he says
25 he's satisfied. The Court will accept the plea.

1 Before I call on the victim, Mr. Bell, what about
2 prior record.

3 MR. BELL: Your Honor, the only prior record that I
4 see -- that we've seen is a 1996 conviction for criminal
5 domestic violence first, which was a magistrate court
6 conviction.

7 THE COURT: All right. All right. Ms. Love, under
8 the Victim's Right's Amendment that was passed to the
9 Constitution a number of years ago and the implementing
10 legislation, you, of course, have the right to be kept
11 advised of everything that is going on.

12 You also have the right to be present whenever there
13 is any proceeding in court involving this matter, and you
14 also have the right to address the Court. So I'll be glad
15 to hear from you if there's anything you'd like to tell me.

16 MS. LOVE: Yes, sir, Your Honor. I would like to --
17 the only thing I would like to say is that I would like to
18 see that Jeff Grimes get the maximum sentence for him.

19 THE COURT: I'm -- I'm sorry. I didn't quite -- quite
20 understand that. Step up a little bit. The only thing
21 you'd like to say is what?

22 MS. LOVE: I would like to say that I would like for
23 him to get the maximum sentence of what the crime that he
24 done to me, the pain and the suffering that I had went
25 through, the nightmares that I have. I'm still thinking

1 that when he get out, he's going to harm me.

2 I'm just going through tremendous pain. I'm not able
3 to do anything for myself at this time. As far as cooking
4 and cleaning, my daughters -- they're supervising with me
5 certain things.

6 And I don't even know why he done it. After -- even
7 after he done this to me -- do this to me, at all. Because
8 Jeff had lived a lovely life with me at that time. So
9 that's really all I have to say.

10 THE COURT: Is this -- you're the daughter that was
11 present that night --

12 MS. ELMORE: Yes, sir.

13 THE COURT: -- that morning when it happened?

14 MS. ELMORE: Yes, sir.

15 THE COURT: Okay.

16 THE COURT REPORTER: (To Ms. Elmore) May I have your
17 name, please?

18 MS. ELMORE: Aretha Elmore.

19 THE COURT: All right. Ms. Elmore, you've heard the -
20 - the State give the recitation of the facts, and you've
21 also heard what your mother has said in connection with
22 this. And I realize you're not the victim in this matter,
23 but you were present, so if there's anything you'd like to
24 tell me, I'd be glad to hear from you.

25 MS. ELMORE: Yes. I think he should get the maximum

1 time. That he -- like -- like she say, he shouldn't have
2 to do that. And I'm afraid for my life, too, if he get
3 out.

4 THE COURT: All right. Thank you. Thank you both for
5 being here.

6 All right. Anything else on behalf of the State at
7 this time, Mr. Bell?

8 MR. BELL: No, sir, Your Honor.

9 THE COURT: All right. Mr. Wise.

10 MR. WISE: Thank you, Your Honor. If it please the
11 Court. Your Honor, present in the court today with Mr.
12 Grimes are some family members: His Aunt Bessie Abraham is
13 here; he has a brother Ricky -- Ricky Grimes who is here;
14 Oneatha Grimes, his mother, is here; and his father, Calvin
15 Grimes. They would each like to be heard very briefly,
16 Your Honor. And then Mr. Grimes asked me to make a few
17 statements and that he'd like to be heard last.

18 THE COURT: All right. Fine.

19 MR. WISE: Your Honor, so we'd ask Ms. Abraham to
20 speak first?

21 THE COURT: All right. Sure. Come up Ms. Abraham.
22 Give the reporter your full name.

23 MS. ABRAHAM: Bessie Abraham.

24 THE COURT: Okay. Yes, ma'am.

25 MS. ABRAHAM: Your Honor, I've worked at the

1 Department of Mental Health for 34 years as director of the
2 local mental health center, and I am his aunt. And I have
3 known him for the 39 years that he's been on earth, and we
4 were devastated when we heard what had happened.

5 And we most certainly don't want to belittle what has
6 happened, but we most certainly have no idea what had
7 transpired, because we have never, ever seen that type of
8 behavior in him whatsoever.

9 And we most certainly would like for the Court to take
10 mercy, because we know that he -- we will be there for him
11 whenever he's released from jail. We know he's going to
12 have to spend some time, but we are there for him and we
13 will do all we can to support him in whatever way we can.

14 THE COURT: Okay. Thank you, ma'am, and thank you for
15 being here.

16 MR. WISE: His brother Ricky Grimes.

17 THE COURT: All right.

18 MR. RICKY GRIMES: All right. Good morning, Your
19 Honor.

20 THE COURT: Good morning.

21 MR. RICKY GRIMES: My name is Ricky Grimes. I'm
22 Jeffrey's older brother. I have almost 25 years in the
23 South Carolina Department of Corrections as -- as a
24 captain. So I do understand that he does have to take some
25 responsibility for his actions here today.

1 THE COURT: Are you still employed with the Department
2 of Corrections?

3 MR. RICKY GRIMES: Yes, sir. I am still employed with
4 the Department of Corrections.

5 Like my aunt said, this was devastating when we
6 initially heard. I can say that this is not his character.
7 You know, very surprised that this did -- did occur. And
8 he's pled guilty; so therefore, he's willing to accept
9 responsibility.

10 I want -- of course, you know, that I do love him, his
11 family loves him, and I do ask mercy on this Court today.
12 Thank you.

13 THE COURT: Thank you, and thank you for being here.

14 MR. WISE: Your Honor, his father, Calvin Grimes.

15 THE COURT: All right.

16 MR. CALVIN GRIMES: I'm Jeffrey's father.

17 MR. WISE: Speak up will you, please.

18 MR. CALVIN GRIMES: I'm Jeffrey's father, and he was
19 raised up in a Christian home. I'm sorry for what
20 happened, but I'm going to support him for whatever go
21 down. But I don't know what happened. I wasn't there, but
22 I'm sorry. I know he got to make some time --

23 THE COURT: All right.

24 MR. CALVIN GRIMES: I am so sorry for what happened,
25 but -- I know he's going to have to make some time The

1 Lord give him the strength that he need do his time. When
2 he get out, I'm going to support him a hundred percent.

3 THE COURT: Thank you, sir.

4 MR. WISE: And finally his mother, Oneatha Grimes.

5 MRS. GRIMES: Hello. My name is Oneatha Grimes.

6 Jeffrey is my youngest son, and like everyone say, I was
7 devastated when I heard it. I felt like I was having a
8 heart attack, because the first thing I wanted to do is go
9 see how the victim was doing.

10 And when I went to the hospital, they didn't want me
11 to come in, but she allowed the doctor to let me come in.
12 And when I saw her talking, that made me feel much better
13 to know that she was okay. Because I know where he was at.

14 But like I said, he raised up in the church. We have
15 about eight minister in our family. I can't figure out
16 what happened. I don't know whether he snapped or what
17 happened, but we're here to support him.

18 And since he's been in prison for the last six month,
19 I have seen a differ. Knowing his -- being his mother, I
20 can look at him and tell the differ. Amen.

21 So we appreciate whatever you can do. We thank you.

22 THE COURT: All right. Thank you for being here.

23 MR. WISE: Your Honor, very briefly, the only thing I
24 think I would add, as I think's been alluded to, there was
25 drinking involved. Mr. Grimes, I think, had been drinking,

1 and I think that's reflected in the police reports. I
2 don't say that, obviously, to minimize it or mitigate it,
3 but you know, people keep talking about how it's out of
4 character, and I think that's part of what led him to act
5 in the way that he did.

6 When I first met him, the way he described it was --
7 his words were, "I snapped." It is not any behavior he's
8 ever done before. I mean, he's got the prior '96
9 misdemeanor for criminal domestic violence, but otherwise
10 he has no crimes of violence, no crimes with weapons. It --
11 - it's just something that was out of character for him.

12 So we'd just like the Court, in addition to what the
13 family says, to consider that. And Mr. Grimes would like
14 to be heard last.

15 THE COURT: All right. Yes, sir, Mr. Grimes. Be glad
16 to hear from you.

17 MR. GRIMES: Your Honor, I'm very deeply sorry for
18 what I've done, the pain and suffering that I caused, not
19 only to the victim, but as well as her family. I did
20 committed the crime. I'm very sorry for what I've done,
21 and I'm asking for mercy on your behalf of this Court, Your
22 Honor.

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

24 MR. GRIMES: Also alcohol was very contributing factor
25 -- the major contributing factor involved in this incident.

1 THE COURT: Okay. Thank you, sir. All right. Mr.
2 Wise, anything else?

3 MR. WISE: No, Your Honor. Thank you.

4 THE COURT: Mr. Bell, anything else on behalf of the
5 State?

6 MR. BELL: No, Your Honor.

7 THE COURT: Okay. Mr. Wise, I assume that he's been
8 incarcerated since the -- the date of the incident, June 2,
9 2012?

10 MR. WISE: Yes, Your Honor.

11 DIRECT EXAMINATION BY THE COURT (continues):

12 Q Mr. Grimes, where did the pistol come from?

13 A I purchased it from a friend a good -- good many years
14 ago.

15 Q But it's a street gun.

16 A Huh?

17 Q Street gun. It wasn't a legal pistol. You didn't buy
18 it from a dealer or anything? Was it registered?

19 A No, sir. It wasn't -- it wasn't purchased from a
20 dealer. No, sir. But I've had it over 15 or 20 years.

21 (Brief pause.)

22 THE COURT: Those individuals that have been in court
23 with me before have heard me say that over 18 -- or about
24 18 years ago -- 17 and a half years ago when I got this
25 job, I was told by my colleagues that the most difficult

1 thing we judges would have to do would be criminal
2 sentencing. Nothing has changed in those 17-plus years to
3 change that. That is -- it is the most difficult thing
4 that we have to do.

5 We judges have no crystal ball. We can't see the
6 future. We're not omnipotent. All we can do is take the
7 facts of the case as they have been presented to us, as
8 well as the rights of the victim, and of course, the rights
9 of the defendant as well, including his family situation
10 and his background as well.

11 Very often the sentence that we impose does not
12 satisfy everyone. Sometimes it doesn't satisfy anyone. We
13 simply rely on our experience and our view of the facts as
14 they have been presented to us, and try to arrive at a
15 sentence that is appropriate.

16 The things that strike me in this case are that this
17 case falls clearly within the legal definition of attempted
18 murder, for which the legislature of this state has
19 provided a sentence of up to 30 years in prison.

20 Mr. Grimes, you're very fortunate that the victim in
21 this case did not suffer a fatal injury, because then you
22 would be facing a minimum of 30 years and up to life in
23 prison, perhaps even death if it qualified for the
24 statutory death penalty.

25 Another thing that strikes me about this case is that

1 it wasn't just one shot. That you didn't just shoot her
2 one time and run out, which kind of takes it out of the
3 heat of passion sort of a situation, and makes it really
4 looks like it was deliberate and intentional by emptying
5 the gun of all five shots.

6 What you have going for you, of course, is a good
7 family background and family support. And I think that it
8 is out of character, but at the same time, it was not just
9 a -- just the alcohol or -- it was really an intentional
10 thing. And as I say, there -- the thing that really does
11 bother me is the fact that the victim in this case was shot
12 five times and not just one time, out of getting real mad
13 or -- or heat-of-passion-type of an approach.

14 The State has done you a substantial favor in reducing
15 the charge from attempted murder to assault and battery of
16 a high and aggravated nature. And I'm going to come off of
17 the maximum for the high and -- battery -- assault -- the
18 maximum for assault and battery of a high and aggravated
19 nature a little bit, but not much, because of the very
20 serious nature of the crime, and that it was a -- a -- a
21 premeditated, intentional act.

22 Therefore, the sentence of the Court is defendant is
23 committed to the State Department of Corrections for a term
24 of 18 years, be given credit for the time that he's served.

25 Get this time behind you, and I hope that you can come

1 out and be a productive citizen.

2 I'm also going to put on the sentencing sheet that he
3 is to have no contact with the victim when he -- when he is
4 finally released from the State Department of Correction,
5 and would be in contempt of this Court if there's any
6 further contact with the victim.

7 Hearing is adjourned.

8 MR. BELL: Thank you, Your Honor.

9

10 -- END OF TRANSCRIPT OF RECORD --

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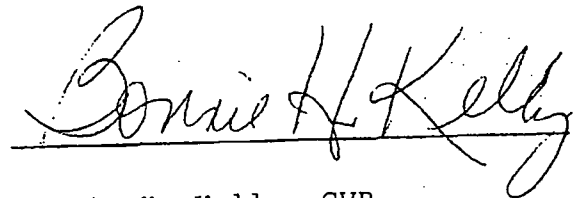
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25

CERTIFICATE

1
2 I, the undersigned Bonnie H. Kelly, Official
3 Court Reporter for the Fifth Judicial Circuit of the
4 State of South Carolina, do hereby certify that the
5 foregoing is a true, accurate, and complete excerpt of
6 transcript of record of all the proceedings had and
7 evidence introduced in the hearing of the captioned
8 cause, relative to appeal, in the First Judicial
9 Circuit for Orangeburg County, South Carolina, on the
10 15th day of November, 2012.

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

13
14 
15

16 Bonnie H. Kelly, CVR

17 Official Court Reporter

18
19 Columbia, South Carolina

20 May 4, 2013

FORM 5

STATE OF SOUTH CAROLINA)

County of ORANGEBURGH)

IN THE COURT OF COMMON PLEAS

JEFFREY N. GRIMES-353213)

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

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

ATTEST: TRUE COPY)

Winnifred B. Clark)

CLERK OF COURT)
ORANGEBURG COUNTY, SC)

INSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention LIEBER CORRECTIONAL INSTITUTION, P.O. BOX 205, RIGGSVILLE, SC 29472-0205
2. Name and location of Court which imposed sentence GENERAL SESSIONS, ORANGEBURG COUNTY, P.O. BOX 9000, ORANGEBURG, SC, 29118
3. Name(s) of co-defendant(s) (if any) NONE
N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) (2012GS38-1259)

- (b) _____
- (c) _____

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

- (a) NOV, 15th, 2012 - TERM OF SENTENCE OF 18 YEARS
- (b) N/A
- (c) N/A

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty to assault battery of high aggravated nature
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A

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

IMPOSITION OF SENTENCE.

8. If you answered Ayes@ to (7), list:

- (a) the name of each Court to which you appealed:
 - i. SOUTH CAROLINA COURT OF APPEALS
 - ii. N/A
 - iii. N/A

- (b) the result in each such Court to which you appealed:
 - i. (ORDER) THIS MATTER WAS DISMISSED, AND THE REMITTANCE WILL BE SENT AS REQUIRED BY RULE 221(b), SCACR.
 - ii. N/A
 - iii. N/A

- (c) the date of each such result:
 - i. FILED ON (01-15-13)
 - ii. N/A
 - iii. N/A

- (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. WRITTEN OPINION ENTERED along with petition filed to Clerk of Court, South Carolina Supreme, Don Shearouse
 - ii. N/A
 - iii. N/A

9. If you answered Ano@ to (7), state your reasons for not so appealing:

- (a) N/A

In Reference to Question (8) d.

(8d) if known, citations of any written opinion, or orders entered pursuant to such results.

i) Rule-220 - Opinions - The appellate court shall make its decisions in writing by published opinions or memorandum opinions.

Rule 224 - According to Rule (224) in the court of appeals, this rule governs all motions or petitions filed in appellate court, including but not limited to motions for extension of time, motions to reinstate, petitions for rehearing, motions to be relieved of counsel or for substitution of counsel.

- (b) N/A
- (c) N/A

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

- (a) I'm not alleging that I'm being held in custody unlawfully,
- (b) it's more important that is of the imposition of sentence.
- (c) N/A

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

- (a) The fact is that I have no prior record, and is in no way a
- (b) career criminal. Requested a plea with a cap on sentencing,
- (c) and not an open plea hearing but a negotiated plea.

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

- (a) any petition in a State Court under South Carolina Law? South Carolina State Supreme Court
- (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)? N/A
- (d) any other petitions, motions or applications in this or any other Court? Rule 2114-petition rehear

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

- (a) the specific nature thereof:
 - i. appeal
 - ii. petition
 - iii. Motion for Reconsideration
 - iv. Post Conviction Relief
- (b) the name and location of the Court in which each was filed:
 - i. South Carolina Court of Appeals - Appellate Case No-2017-213476
 - ii. South Carolina Supreme Court
 - iii. General Sessions Court

iv. N/A

(c) the disposition thereof:

i. This matter was dismissed, and the remittitur will be sent as required by (Rule 221) b) SCACR.

ii. HAS NOT HEARD ANYTHING

iii. HAS NOT HEARD ANYTHING

iv. N/A

(d) the date of each such disposition:

i. 01-15-13

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?

YES. GENERAL SESSIONS, South Carolina Appellate Court, South Carolina Supreme Court.

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

(a) which grounds have been presented:

i. NO PRIOR RECORD. PLEA WITH A CAP ON SENTENCING, misled about a Negotiated Plea

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) N/A
- (b) N/A
- (c) N/A

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

- (a) your arraignment and plea? YES
- (b) your trial, if any? N/A
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES ON AND OR ON THE IMPOSITION OF SENTENCE
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? REQUESTED MOTION OF RECONSIDERATION

18. If you answered Ayes@ to one or more parts of (17), list: HAVE NOT HEARD ANYTHING ON THIS MOTION

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

- i. MARK WISE, 372 ST. PAUL STREET, COVINGTON BLDG, ROOM 8-9
P.O. BOX 1112, ORANGEBURG, SC 29116-1112
- ii. N/A
- iii. N/A

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

- i. MARK WISE, - GENERAL SESSIONS CT; FILED APPEAL TO SOUTH CAROLINA COURT OF APPEALS
- ii. N/A
- iii. N/A

* Question 19 - State clearly the relief you seek in filing this application.

Due to the fact that I was misrepresentive due to ineffective assistance of counsel. This was my very first time in General Sessions Court ever, with no prior record and was taking advantage of totally. With limited or absolutely no knowledge about the judicial system, I was forced to take a open plea thinking that it was a negoti plea. Had I known it was an open plea, I would have ne signed the sentence sheet. There were no recommendation by the State, in fact there were no recommendations/or witha negotiations. This plea was clearly with the understanding that I was pleading guilty to the charges with a cap on sentencing. The day of my plea, I was told to sign my sentencing sheet without being told all of the important stipulations thereof. Again with me having no prior record, I never saw a sentencing sheet before in my life. With of course this being known to my counsel, he used this to his advantage to get a conviction. For me to be sentenced to 18 years in prison with no prior record is to severe. yet I did commit a crime, and obviously understand that punishment comes with committing crimes. I've been a outstanding citizen within this country, did everything right, I just made one mistake and have my entire life taken in to severe. I have since filed a motion for Reconsideration several months ago in writing to my counsel, and have yet not to have heard absolutely nothing. This fact along with all the other facts stated clearly the relief I'm seeking in filing this application for Post Conviction Relief.

(2)
with all questions answered with details and facts
to support ineffective assistance of counsel. In closing
with regards to my Motion for Reconsideration, what
happened to it?? This solidified the ineffective assistance
of counsel that was on my appointment sheet of Judge
Wepner that was signed on June, 5th, 2012, stamped and
clocked in Clerk of Court filed for record @ 1:27 PM.

Sincerely, Jeffrey Heim
IMMHE-353213

19. State clearly the relief you seek in filing this application:
See Attached listed on Question 19:

20. Are you now under sentence from any other court that you have not challenged?
No.
N/A

Revised 3/2003

STATE OF SOUTH CAROLINA)
County of Orangeburg)

VERIFICATION

I, JEFFREY N GRIMES, 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.

Jeffrey N. Grimes

SWORN to and subscribed before me this 20th day of March, 2013.

Sylvia Jones (L.S.)
Notary Public

My Commission Expires: 1/24/2018

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

I, JEFFREY N. CRIMES, 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.

Jeffrey N. Crimes
Applicant

SWORN or affirmed to and subscribed before me this

20th day of March, 2013.

Sylvia Jones
Notary Public

My Commission Expires: 1/24/2018

Dear, Clerk of Court,

Enclosed you will find a copy of my PCR applicat
If you could please send me a copy, when it is stamp
and filed in your court. Thank you for your time in the
matter.

Sincerely,
Jeffrey N. Grimes
JEFFREY N. GRIMES

FILED
2012 JUN 25 10 24 AM
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Jeffrey N. Grimes, #353213,)

Case No. 2013-CP-38-00432

Applicant,)

v.)

RETURN

State of South Carolina,)

Respondent.)

Respondent, making its Return to the Application for post-conviction relief filed March 25, 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 Orangeburg County Clerk of Court. Applicant was true bill indicted during the June 2012 term of the Orangeburg County Grand Jury for Attempted Murder (2012-GS-38-01259). Mark Wise, Esquire, represented Applicant. On November 15, 2012, Applicant appeared before the Honorable Howard P. King, where he waived presentment to the grand jury and pled guilty to Assault and Battery of a High and Aggravated Nature. Judge King sentenced Applicant to confinement for eighteen years.

A timely Notice of Appeal was filed with the South Carolina Court of Appeals. On January 13, 2013, the Court of Appeals dismissed Applicant's appeal and the Remittitur was issued on February 5, 2013.

Attached herewith and incorporated herein are the records of the Orangeburg County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina

Department of Corrections, the appellate records, and the guilty plea transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. I'm not alleging that I'm being held in custody unlawfully, it's more important that is of the imposition of sentence.
 - a. The fact is that I have no prior record, and is in no way a career criminal. Requested a plea with a cap on sentencing and not an open plea hearing but a negotiated plea.
2. Ineffective assistance of counsel.

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 first allegation, Applicant alleges the imposition of his sentence was incorrect. The Court should summarily dismiss this ground for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160 (2003). An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;

4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy.... S.C. Code Ann. § 17-27-20 (1976).

Even if the facts alleged by Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. Respondent therefore moves for summary dismissal of this allegation pursuant to S.C. Code Ann. § 17-27-70(c) (2003).

IV.

Applicant also 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 (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 trial counsel. First, the applicant must prove that counsel's performance was

deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, 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).

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

V.

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

VI.

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

[Signature on following page.]

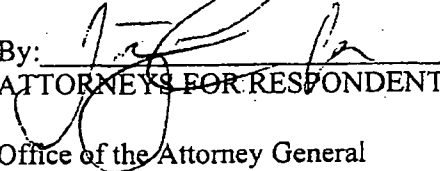
Respectfully submitted,

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: 
ATTORNEYS FOR RESPONDENT

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

September 5, 2013.

INDEX TO PROCEEDINGS	PAGE
PROCEEDINGS	3
POST CONVICTION RELIEF HEARING	
JEFFREY GRIMES	
Direct Examination by Mr. Waller	5
Cross-Examination by Ms. Harrigan	23
Redirect Examination by Mr. Waller	33
MARK WISE	
Direct Examination by Mr. Waller	37
Cross-Examination by Ms. Harrigan	43
CLOSING ARGUMENTS	
Remarks by Mr. Waller	47
Remarks by Ms. Harrigan	48
RULING BY THE COURT	49
CERTIFICATE OF THE COURT REPORTER	50

INDEX TO EXHIBITS

No exhibits were introduced

Jeffrey Grimes v State of S.C.
Proceedings
May 27, 2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
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PROCEEDINGS

THE COURT: You may proceed.

MS. HARRIGAN: The next matter is Jeffrey Grimes v State of South Carolina, docket number 2013-CP-38-00432. Mr. Grimes was true bill indicted during the June 2012 term of the Orangeburg County Grand Jury for Attempted Murder. Mark Wise represented him.

On November 15, 2012 Mr. Grimes appeared before the Honorable Howard P. King, where he waved presentment to the Grand Jury and pled guilty to Assault and Battery of a High and Aggravated Nature in exchange for the dismissal of his attempted murder charge. Judge King sentenced Mr. Grimes to confinement for 18 years. A timely notice of appeal was filed with the South Carolina Court of Appeals on January 13, 2013. The Court of Appeals dismissed Mr. Grimes appeal and the remittitur was issued on February 5, 2013.

On March 25, 2013 Mr. Grimes filed a timely application for post conviction relief alleging that counsel was ineffective for allowing him to plead guilty without a negotiated sentence. The State made its return on September 5, 2013 requesting an evidentiary hearing be held. And he's represented in this action by Jonathan Waller and I'll turn it over to Mr. Waller at this time.

THE COURT: Mr. Waller.

Jeffrey Grimes v State of S.C.
Proceedings
May 27, 2014

1 MR. WALLER: Thank you, Your Honor. The applicant
2 would call Jeffrey Grimes.

3 THE COURT: Mr. Grimes could you please come around
4 here to the witness stand?

5 [Whereupon, Mr. Grimes comes forward]

6 THE COURT: Please raise your right hand and place
7 your left hand on the Bible.

8 [Whereupon the witness is duly sworn by the Court]

9 CLERK OF COURT: Sir, please have a seat and please
10 state your full name for the record and spell your last
11 name.

12 THE WITNESS: Jeffrey Grimes, G-R-I-M-E-S.

13 THE COURT: Your witness, Mr. Waller.

14 MR. WALLER: Thank you, Your Honor.
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Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 JEFFREY GRIMES,
2 Having been first duly sworn,
3 Was examined and testified as follows:
4 DIRECT EXAMINATION
5 BY MR. WALLER:
6 Q. You all situated Mr. Grimes?
7 A. Yes, sir.
8 Q. Okay. How are you this morning?
9 A. Fine.
10 Q. Mr. Grimes, what were you originally arrested for?
11 What were you originally charged with?
12 A. I was originally charged with Attempted Murder.
13 Q. Okay. How did you -- so you were charged back in
14 2012, how did you get an attorney? What was the process?
15 How did Mr. Wise come to represent you?
16 A. Okay. Mark Wise worked for the Public Defender's
17 office and we paid the Public Defender's office 40
18 dollars and he was supposed to be a public defender
19 representing me on the case.
20 Q. Okay. And when you -- when he first began
21 representing you, did he go over the charge of Attempted
22 Murder with you?
23 A. He did, he did.
24 Q. Okay. Did he go over the penalties that that
25 charge carries?

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 A. He did, uh huh.

2 Q. What was your understanding of the penalties?

3 A. My understanding of the penalties was that the
4 Attempted Murder charge carried from zero to 30, but also
5 we had an agreement that the charge I was going to plead
6 to an ABMAN ---

7 Q. --- hold on, I'll get to that in one second, I hate
8 to stop you.

9 THE COURT: Mr. Grimes, you can scoot back just a
10 little bit so you're not right on top of the mic.

11 THE WITNESS: Okay, sure.

12 Q. [By Mr. Waller] I want to just so everything is
13 clear, I want to talk for a minute just about what you
14 were charged with.

15 A. Sure.

16 Q. So he did go over the penalties of Attempted Murder
17 which you were originally charged with?

18 A. Right, he did.

19 Q. Okay. Did y'all discuss the elements of that crime
20 and what the State would have to prove?

21 A. He did.

22 Q. Okay. And did you understand what y'all discussed?

23 A. Did I understand what we discussed?

24 Q. Yes, sir.

25 A. Right, I understood what the Attempted Murder charge

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 carried, right.

2 Q. Okay. Did you understand what the State would have
3 to prove against you?

4 A. Right, uh huh.

5 Q. Okay. And y'all discussed the evidence in the case
6 as well?

7 A. We did.

8 Q. Okay. Did y'all discuss any potential defenses that
9 you would have to that charge?

10 A. We did not discuss any defenses at all.

11 Q. Okay.

12 A. He never brought any defenses available to me at
13 all.

14 Q. Did y'all discuss that there may not have been
15 defenses -- did y'all discuss anything defense related I
16 guess is the best way to put it.

17 A. Again, he did not bring any defenses available to
18 the table to me.

19 Q. Okay. Did you, what kind of questions did you ask
20 him when y'all were going over the evidence? What did
21 you, I mean, did you -- what did you question him on?

22 A. My main concern was is there any way that I can make
23 a plea to a lesser charge with a cap on the sentencing?

24 Q. Okay. Well, in reviewing the evidence that was
25 against you, did y'all discuss that?

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

- 1 A. Did we discuss what now, I'm sorry?
- 2 Q. A plea to a lesser charge with a cap on the
3 sentencing.
- 4 A. Right, we did discuss that, yes.
- 5 Q. Okay. Did y'all ever discuss going to trial on the
6 Attempted Murder charge?
- 7 A. He did mention that. He did mention it at one time.
- 8 Q. Was that something you wanted to do?
- 9 A. Absolutely. I was going to insist on going to trial
10 if I knew that the State was not going to -- if the State
11 was going to breach the plea agreement.
- 12 Q. Mr. Grimes, can you back up just a little bit, I
13 think you're hitting that mic pretty hard.
- 14 A. Okay.
- 15 Q. When y'all were discussing going to trial, what did
16 y'all discuss as far as why you were going to go to trial
17 instead of pleading guilty?
- 18 A. All right, say that again.
- 19 Q. When y'all were discussing getting ready for trial
20 and deciding if you wanted to go to trial, what were
21 y'all's discussions in weighing one against the other?
- 22 A. He really didn't discuss much to me.
- 23 Q. Well how did you reach the decision to plead guilty
24 then? And I go back to my earlier question of what did
25 y'all review together of the evidence that the State said

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 they would use against you?

2 A. Right. When he came to me he basically said okay,
3 you're being charged with Attempted Murder, he gave me
4 the statute in terms of what the charge carries zero to
5 30 years and then that's when we got into the discussion
6 about pleading to a lesser charge.

7 Q. Okay. How long did Mr. Wise represent you?

8 A. For about six months.

9 Q. Okay. How many times did you meet with Mr. Wise?

10 A. Maybe, four or five times maybe.

11 Q. Okay. So y'all were discussing going to trial, but
12 at some point a plea offer came from the State is that

13 ---

14 A. --- that's correct, that's correct.

15 Q. And what was your understanding of what the plea
16 offer was?

17 A. My understanding was that I was going to plead to
18 the charge of Assault and Battery of a High and
19 Aggravated Nature with a 10 year cap. We talked about
20 that extensively.

21 Q. Okay. Did y'all talk about -- and again if you can
22 just back up just a little bit -- did y'all talk about
23 what Assault and Battery of a High and Aggravated Nature,
24 the elements of it and the penalties it carried?

25 A. We did, we did.

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 Q. Okay.

2 A. We talked about it and he said it maxes out at 20
3 years.

4 Q. Okay. And you said there was a cap -- it was your
5 understanding there was a cap of...

6 A. Of a 10 year cap ---

7 Q. --- of 10 years and that would be the recommendation
8 of the State, is that correct?

9 A. Right, right, that was my understanding. That's
10 what he told me.

11 Q. Did y'all discuss what a recommendation by the State
12 means?

13 A. No we didn't.

14 Q. Okay.

15 A. No we didn't. I mean, he just basically said that
16 you know we discussed when he said okay, Mr. Grimes you
17 can plead to an Assault and Battery of a High and
18 Aggravated Nature and then we discussed extensively about
19 with the 10 year cap. Which would be the 10 years was
20 the max on the Assault and Battery first, that's how the
21 10 years derived from.

22 Q. Okay.

23 A. So we both agreed that I would plead to the Assault
24 and Battery of a High and Aggravated Nature with a 10
25 year cap.

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 Q. Okay.

2 A. And had I known that the State was not going to
3 agree to that, I would have insisted on going to trial.

4 Q. Yes, sir. What -- do you have any notes or anything
5 with you ---

6 A. --- I do.

7 Q. Okay. If you could refresh your memory from your
8 notes or look at your notes. What do you have while you
9 were taking notes of you and Mr. Wise's conversation
10 about the terms of the plea agreement that was offered to
11 you by the State and that y'all entered in to?

12 A. Okay. All right, basically what we had talked
13 about okay. Okay, all right. We basically again, we
14 talked about me pleading to Assault and Battery of a High
15 and Aggravated Nature with the 10 years on the cap.

16 Q. Okay. How extensively did y'all talk about it?

17 A. Every -- on every visit. We had about four or five
18 visits.

19 Q. Okay. Was it ---

20 A. --- they would pull me from the county jail and I
21 would come over to the courthouse and talk with him. We
22 talked about it extensively on every visit ---

23 Q. --- okay ---

24 A. --- that's the only reason why I pled guilty to the
25 charge.

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 Q. Okay.

2 A. Other than that I would have insisted on going to
3 trial.

4 Q. Okay. And I want to talk for a little bit about
5 the actual plea itself. The day you stood up in court
6 and pled guilty. What -- have you ever done that before?

7 A. No, sir. I never been in General Sessions court a
8 day in my life.

9 Q. Okay. How -- what was your stress level like that
10 day, I guess is the best way to put it.

11 A. I would say very high.

12 Q. Okay. When the Solicitor told the Judge what they
13 were saying that the plea offer was the day you were
14 pleading, did you react in any way to that?

15 When the Solicitor said that the reduction in charge
16 was the only plea agreement, did you react in any way?
17 Did you get Mr. Wise's attention?

18 A. No, I didn't. No, I didn't. I mean I felt like
19 that was his job to bring it to the courts. He's an
20 officer of the court, that's his job.

21 Q. Okay. Were you fully paying attention and running
22 on 100 percent up here [indicates] while when it was --
23 stress level wise?

24 A. I mean, during that particular time, like I say the
25 stress level was very high. Your first time in General

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 Sessions court, I mean very extremely nervous about
2 what's going to be the outcome of the proceedings. So,
3 you know it was his job to bring it to the court's
4 attention; he's an officer of the court.

5 Q. Okay. What was the first time that you realized
6 that he hadn't brought that to the court?

7 A. Before I knew it, the plea hearing was over. Case
8 dismissed, you're being sentenced to 18 years to the
9 Department of Corrections. Have a good day.

10 Q. Okay. Did you ever see Mr. Wise again, after that?

11 A. No, sir.

12 Q. Okay. Did you ever write him a letter, have any
13 contact with him?

14 A. I sent him a copy of a motion that he had supposed
15 to have filed, a motion of reconsideration and I do have
16 copies of my exhibits and I would like to present them to
17 the court at the appropriate time.

18 Q. Okay. Hold on one second, we'll get right to that.
19 When did you contact him and send him a copy of that
20 motion?

21 A. I don't know the exact date, but I was at Kirkland
22 R and E.

23 Q. Okay, so relatively soon?

24 A. It was somewhere from the time of November 15 to
25 March 12 when I got on the Lieber yard.

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 Q. Okay. Did you have any of your family members
2 contact him?

3 A. You mean before or afterwards?

4 Q. Immediately after the sentencing.

5 A. Yes I did. We called him and we called him and told
6 and let him know that we was going to file an appeal. He
7 did file an appeal and I also contacted him and let him
8 know that I wanted to file a motion of reconsideration of
9 sentence, of which I do have a copy of here today.

10 Q. Okay.

11 A. And he failed to file it.

12 Q. Okay. When you -- when you were being, when the
13 plea was over and you were sentenced and you said you
14 were whisked away. How, were you able to have any
15 contact with him right then? Were there any
16 conversations as, you know as you're being led away in
17 handcuffs?

18 A. No, sir.

19 Q. Okay.

20 A. No, sir.

21 Q. Okay. Did you ---

22 A. --- I mean, the plea hearing lasted probably, I
23 would say maybe 10 minutes. After I got sentenced I was
24 being escorted out the back and that was it.

25 Q. Okay. Did you make any indications to him that you

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 wanted to appeal your conviction?

2 A. Yes. Again, as I said we did call -- my mother did
3 call him, he did file an appeal. I also wrote him
4 several times letting him know that I wanted to file a
5 motion of reconsideration of sentence, which I do have a
6 copy of here today.

7 Q. Okay. Mr...

8 MR. WALLER: Your Honor, may I approach the witness?

9 THE COURT: You may.

10 MR. WALLER: Mr. Grimes, can I see a copy of your
11 motion?

12 [Whereupon, Mr. Waller retrieves documents from the
13 witness]

14 [Whereupon, Mr. Waller and Ms. Harrigan confer]

15 MR. WALLER: Your Honor and Mr. Grimes, I
16 apologize. I'm trying to get all my ducks in a row up
17 here.

18 Q. [Mr. Waller] Mr. Grimes?

19 A. Yes, sir.

20 Q. When you forwarded this on to Mr. Wise, did you ever
21 hear anything back?

22 A. Absolutely nothing.

23 Q. Okay. Not a letter ---

24 A. --- not a letter, not a -- nothing.

25 [Whereupon, Mr. Waller and Ms. Harrigan confer]

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

- 1 Q. [Mr. Waller] Okay. Mr. Grimes, I'm going to do --
2 I'm going to do this. If you would, since the Attorney
3 General has indicated that she has a copy of this and has
4 seen -- actually she sent it to me. Would you flip to
5 the page where you signed it please?
6 [Whereupon, the witness complies]
7 A. Yes, sir.
8 Q. Is that your signature on the bottom?
9 A. It is.
10 Q. What's the date on that?
11 A. It's dated October 23.
12 Q. Okay ---
13 A. --- I'm sorry, I'm sorry, April the 23.
14 Q. Okay and back to the front, the heading ---
15 A. --- Uh huh ---
16 Q. --- what's the heading, what is the heading on the
17 top of it? What's it titled?
18 A. What is it titled? It's titled Amendment to Motion
19 for -- Sentence Reconsideration.
20 Q. Okay. Mr. Grimes, I have covered all the questions
21 that I have ---
22 A. --- sure ---
23 Q. --- is there anything that I have left out that you
24 would like the court to have knowledge of so they can
25 fully rule on all of your claims?

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 A. Absolutely. If it pleases the court, I do have some
2 exhibits that I would like to place into evidence.

3 THE COURT: Make sure ---

4 MS. HARRIGAN: --- The State will likely have an
5 objection. We need to see them first and then I might
6 have an objection to them.

7 THE WITNESS: Sure.

8 [Whereupon, Mr. Waller and Ms. Harrigan confer]

9 MS. HARRIGAN: Your Honor, a brief moment to check
10 my file and see if I received this. It appears to have
11 some correspondence that I sent Mr. Waller as well
12 there's parts of the transcript.

13 Q. [Mr. Waller] Mr. Grimes, the front of this packet,
14 where it says post conviction brief; did you ever serve a
15 copy of this on the Attorney General's Office?

16 A. Did I ever serve a copy on them?

17 Q. Yes, sir.

18 A. No, sir.

19 Q. Okay. That's fine, it's just ---

20 A. --- but I do would like to have an opportunity to
21 place this into evidence.

22 Q. Sure.

23 A. These are all the exhibits from the plea trial --
24 from the plea hearing as well as an exhibit from the
25 Orangeburg County Incident Sheriff's Department Board. I

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 would like to place them into evidence if it would please
2 the court if you will allow it.

3 MS. HARRIGAN: The State would have an objection to
4 this. The first two pages appear to be some notes he has
5 that are titled a post conviction brief. I think that
6 the best form of evidence would be testimony from him on
7 the issues he has and he has an attorney to represent him
8 and make his arguments on his behalf, so the State would
9 object to that.

10 Additionally, the rest just seems to be different
11 attachments including letters that I sent Mr. Waller from
12 my office, so the State would object to this. The rest
13 appears to be portions of the guilty plea transcript and
14 that is already part of the record.

15 THE COURT: Mr. Grimes, you understand that I have
16 the full transcript of your guilty plea. Do you
17 understand that?

18 THE WITNESS: Yes, I do.

19 THE COURT: And so that would just be a
20 supplemental, something I already have.

21 THE WITNESS: Okay. But is it possible that I can
22 point out certain things of it?

23 THE COURT: Certainly.

24 THE WITNESS: Okay, very good. Your Honor, if you
25 -- on exhibit H, which he has the actual exhibits that I

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 just gave him a copy of, I would like for you to have a
2 copy while we go through the ---

3 THE COURT: --- well, I have a copy of the
4 transcript of the record of your guilty plea.

5 MR. WALLER: Your Honor, it's ---

6 THE COURT: --- we have your exhibits ---

7 THE WITNESS: --- okay, page, page, page 18 ---

8 THE COURT: --- hold on ---

9 THE WITNESS: --- okay, I'm sorry, okay ---

10 THE COURT: --- hold on, Mr. Grimes ---

11 THE WITNESS: --- I'm sorry.

12 THE COURT: You were talking about page 18 of the
13 transcript?

14 THE WITNESS: Yes. Page 18 of the transcript,
15 yes, ma'am.

16 THE COURT: Okay.

17 THE WITNESS: Page 18, I'll allow you an opportunity
18 to get there.

19 THE COURT: I'm there.

20 THE WITNESS: Okay, page 18 of the plea transcript,
21 Your Honor, is exact words from defense counsel. He said
22 I don't say that obviously to minimize it or mitigate it.
23 Defense counsel failed to mitigate the facts of this
24 case, Your Honor, and have clearly denied me, the
25 applicant, the right to effective assistance of counsel

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 guaranteed by the Sixth and Fourth Amendment. Had the
2 true facts been presented to the court as they are here
3 today, these could have been viable defenses during
4 trial.

5 Also, Your Honor, on page 8 of the plea transcript,
6 page 8 the Solicitor said specifically any negotiations
7 he said only reduction in charge. But if you look at the
8 sentencing sheet, it is marked, clearly marked, without
9 negotiations or recommendations ---

10 THE COURT: --- that's to the charge that you pled
11 to, though.

12 THE WITNESS: Yes, right, correct.

13 THE COURT: That was without a recommendation.

14 THE WITNESS: Right.

15 THE COURT: So, the understanding of the court was
16 that they allowed you to plead to the ABHAN rather than
17 the Attempted Murder and that was clearly stated on the
18 record. There was no negotiation or recommendation
19 regarding what you could have received on the ABHAN?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: All right.

22 THE WITNESS: Okay, also I want to point out that
23 counsel's failure to object to Solicitor's recommendation
24 was in violation of the plea agreement. I would also
25 like to use Smith v State 2014 case as part of my

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 application if it pleases the court?

2 THE COURT: All right, sir. Anything further
3 you'd like to add, Mr. Grimes?

4 THE WITNESS: Okay. Last but not least, Your
5 Honor on page 13 of the plea transcript, page 12, let's
6 start with page 12 please. There's two times during the
7 plea hearing, on page 12, that the victim stated that I
8 get the maximum sentence. Counsel never objected to that
9 and there's one time during the plea hearing on page 13
10 that the daughter stated that I get the maximum sentence.
11 There's not one time where defense counsel objected to me
12 getting the maximum sentence.

13 THE COURT: I understand your concern, Mr. Grimes.
14 Anything further?

15 THE WITNESS: That's it, Your Honor.

16 Q. [Mr. Waller] Mr. Grimes, I actually have a couple of
17 follow up questions because we've discussed this several
18 times. Did you feel that you were charged incorrectly or
19 with the incorrect crime originally?

20 A. Correct, yes, correct.

21 Q. Okay. What ---

22 A. --- and that's included in my motion of -- motion
23 that you have there.

24 Q. Yes, sir. What did you feel that you should have
25 been charged with and why?

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Direct Examination by Mr. Waller
May 27, 2014

1 A. Okay. Based on the statutory laws, let's go to our
2 facts. This incident involving me and my girlfriend was
3 an incident of Criminal Domestic Violence of High and
4 Aggravated Nature as defined by statutory law.

5 South Carolina Code Annotated 16-25 defines Criminal
6 Domestic Violence of a High and Aggravated Nature as
7 follows: the person is guilty when one of the following
8 occurs: the person admits to Assault and Battery, use of
9 a deadly weapon and serious bodily injury to the victim.

10 THE COURT: Mr. Grimes, I'm aware of what the law
11 requires for Criminal Domestic Violence of a High and
12 Aggravated Nature.

13 THE WITNESS: Sure. That very well could have been
14 a viable defense, right sure. Thank you.

15 MR. WALLER: I have nothing further, Your Honor.

16 THE COURT: All right. Ms. Harrington?
17 Harrigan; I'm sorry.

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Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Cross-Examination by Ms. Harrigan
May 27, 2014

1 CROSS-EXAMINATION
2 BY MS. HARRIGAN
3 Q. Mr. Grimes, was Mr. Wise your first appointed
4 attorney?
5 A. Yes, correct.
6 Q. And he represented you the entire time?
7 A. Correct.
8 Q. And your testimony is you met with him four to five
9 times?
10 A. I'm sorry?
11 Q. Your testimony was that you met with him four to
12 five times?
13 A. Approximately four to five times throughout six
14 months.
15 Q. And you testified when your attorney was asking
16 questions that you did review your discovery with Mr.
17 Wise, correct?
18 A. No, I did not say that.
19 Q. You didn't review discovery with him?
20 A. No, he asked me did we talk. That's what he asked
21 me, he asked me did we talk.
22 Q. You testified that you reviewed the evidence in this
23 case with your attorney.
24 A. We talked specifically about the nature of the
25 charge.

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Cross-Examination by Ms. Harrigan
May 27, 2014

1 Q. You didn't review any of the evidence with him?

2 A. We went over it briefly; we did went over it
3 briefly.

4 Q. So you did go over the evidence. Did you go over
5 the statements from the victim, your girlfriend?

6 A. Did we go over the statements? The statements
7 didn't come out until after the plea hearing.

8 Q. Okay. They never gave statements to law enforcement
9 ahead of time? Her or her daughter never gave a
10 statement to law enforcement?

11 A. No, I do have them -- they are in the incident
12 report. He never went over any of that, he never went
13 over that. He did no investigation.

14 Q. Do you recall giving a statement to law enforcement
15 admitting that you shot her five times while she was in
16 the shower?

17 A. Yes, I did, I'm not denying that.

18 Q. So, you're not denying you're guilty, you're just
19 saying you're guilty of Criminal Domestic Violence of a
20 High and Aggravated Nature, not Attempted Murder?

21 A. And also I'm saying that ---

22 Q. --- if you could answer the -- is that yes? You do
23 agree that you are guilty of shooting her five times?

24 A. Yeah.

25 Q. While she was in the shower?

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Cross-Examination by Ms. Harrigan
May 27, 2014

1 A. Yeah, I'm not denying that. I mean, we're not on
2 trial here today, but I'm not denying that.

3 Q. So, your contention is that you should have received
4 a 10 year sentence and that you were charged incorrectly?

5 A. What I'm saying is that the State shouldn't have
6 breached the agreement. They agreed that they was going
7 to give me a 10 year cap on sentencing; that's what I'm
8 saying. And had I known that they were going to breach
9 the agreement, I would have insisted on going to trial.

10 Q. Do you recall signing your sentencing sheet when you
11 were pleading guilty?

12 A. I'm sorry?

13 Q. Do you recall signing a sentencing sheet?

14 A. Yes, I signed it before anything was typed on it, I
15 did.

16 MS. HARRIGAN: May I approach, Your Honor?

17 THE COURT: You may.

18 Q. [Ms. Harrigan] I'm handing you your sentencing sheet
19 which is part of the Clerk's records that's ---

20 A. --- sure, absolutely ---

21 Q. --- before this court today.

22 [Whereupon, the witness is shown document]

23 Q. So, your testimony is that when you signed -- that's
24 your signature right there [indicates], correct?

25 A. Sure, uh huh.

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Cross-Examination by Ms. Harrigan
May 27, 2014

1 Q. That it wasn't marked without negotiation or
2 recommendation when you signed it?

3 A. When I signed the sentencing sheet, he told me to
4 sign the sentencing sheet before we went out to the
5 courtroom. And so I did what my attorney told me to do;
6 I signed it.

7 Q. But do you see right there [indicates] where the X
8 is marked on the box for without negotiations or
9 recommendations?

10 A. I see it now, yes.

11 Q. Okay. Was it marked when you signed it?

12 A. Yes it was.

13 Q. Okay. So you knew when you were signing this that
14 there was no negotiation or recommendation from the
15 State?

16 A. He did not discuss that with me.

17 Q. And again, your attorney went over this with you
18 during your guilty plea proceeding the Solicitor told the
19 court there was no negotiation or recommendation and you
20 didn't correct the State or ask your attorney to correct
21 the State, correct?

22 A. So as an officer of court, would that be his job as
23 being an officer of the court?

24 Q. I'm asking the questions ---

25 THE COURT: --- Mr. Grimes, you have to answer the

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Cross-Examination by Ms. Harrigan
May 27, 2014

1 question and then you can explain it if you need to
2 explain it ---

3 THE WITNESS: --- sure ---

4 THE COURT: --- however, you're not allowed to ask
5 questions ---

6 THE WITNESS: --- okay ---

7 Q. [Ms. Harrigan] --- you didn't ask your attorney;
8 hey I thought I had a 10 year agreement or tell him to
9 stop the plea at that time?

10 A. No, not during the court hearing, no.

11 Q. Okay. And your testimony today is that you never
12 discussed defenses with Mr. Wise?

13 A. Never, not one time.

14 Q. Never discussed self-defense with Mr. Wise?

15 A. Not one time. We never discussed any defenses, any
16 defenses.

17 Q. Did you have any defenses?

18 A. Sure I do.

19 Q. What are they?

20 A. What I'm presenting today.

21 Q. Today you're -- the testimony you've given is that
22 you're entitled to a 10 year sentence because the State
23 breached a plea agreement and you were charged
24 incorrectly. What defenses do you have to the underlying
25 charges; self defense or an alibi, anything like that?

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Cross-Examination by Ms. Harrigan
May 27, 2014

1 A. No, no, no not to the charge, no.

2 Q. Because you admit you shot her five times while she
3 was in the shower?

4 A. That's correct.

5 Q. And you were originally charged with Attempted
6 Murder and indicted by the Grand Jury for Attempted
7 Murder, correct?

8 A. I can't deny that, that's correct.

9 Q. And the State allowed you to plea to the lesser
10 included offense of Assault and Battery of a High and
11 Aggravated Nature, correct?

12 A. With a 10 year cap.

13 Q. But they allowed you to plead to Assault and Battery
14 of a High and Aggravated Nature, correct?

15 A. Correct.

16 Q. Did your attorney, Mr. Wise, explain to you that
17 that significantly reduced your sentence exposure?

18 A. We did talk about that, real briefly, the only thing
19 he said was that if you plead to the ABHAN the max will
20 be 20 years, pleading to the Attempted Murder will be 30
21 years.

22 And so we went into another discussion and said that
23 we were going to cap it off at 10 years and that was the
24 agreement that we made.

25 Q. When you say agreement you made, was it that your

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Cross-Examination by Ms. Harrigan
May 27, 2014

1 attorney was going to try to get a 10 year cap?

2 A. He said, this is specifically what he said, Mark
3 Wise said we are going to go in here, we're going to
4 plead to the ABHAN with a 10 year cap on sentencing.
5 That's the only reason why I pled guilty.

6 Q. So you thought he'd reached an agreement with the
7 Assistant Solicitor that you wouldn't get more than 10
8 years?

9 A. Absolutely, that's the way he brought it to me.

10 Q. But you acknowledge that you signed this sentencing
11 sheet saying that there's no negotiation or
12 recommendation?

13 A. I did sign that sentencing sheet, I can't deny that.

14 Q. And you know how to read and write, correct?

15 A. Sure.

16 Q. Okay. Why did you sign it when it was marked no
17 negotiation or recommendation?

18 A. He told me to sign it. We went into this little
19 room, I was handcuffed, shackled down, he said Mr.
20 Grimes, here's your sentencing sheet, sign it. You sign
21 right here. After I signed the sentencing sheet we went
22 straight into the courtroom.

23 Q. Do you remember telling the court during your guilty
24 plea that you were satisfied with Mr. Wise and his
25 representation of you?

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Cross-Examination by Ms. Harrigan
May 27, 2014

- 1 A. Sure, I did say that. That's on court of record.
- 2 Q. Do you recall apologizing to the victim and her
3 family?
- 4 A. I do.
- 5 MS. HARRIGAN: Moment's indulgence, Your Honor.
- 6 THE COURT: Yes, ma'am.
- 7 [Whereupon, Ms. Harrigan reviews documents]
- 8 Q. [Ms. Harrigan] You testified before about a motion
9 for reconsideration that you sent to Mr. Wise, correct?
- 10 A. Correct.
- 11 Q. When did you send that to Mr. Wise?
- 12 A. It was somewhere around between March or April;
13 somewhere in that area.
- 14 Q. Of what year?
- 15 A. 2012.
- 16 Q. 2012. Do you recall ---
- 17 A. --- I'm sorry 2013; it's dated on your form there.
- 18 Q. Do you recall sending anything to my office, to the
19 Attorney General's office?
- 20 A. Sure, I sent you a copy of it as well.
- 21 Q. Okay.
- 22 A. You have a copy of it.
- 23 Q. Did you make two originals?
- 24 A. Did I make two originals?
- 25 Q. Did you make two original copies? Did you sign two

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Cross-Examination by Ms. Harrigan
May 27, 2014

1 original copies of the amendment to -- motion to

2 reconsider your sentence?

3 A. I remember signing it, I mean, right. I did sign
4 before I sent it to you ---

5 Q. --- so you signed two? ---

6 A. --- yes, I did.

7 Q. Okay. But to the best of your recollection you
8 also sent that to Mr. Wise around the same date?

9 A. No, no, no.

10 Q. When did you send it to Mr. Wise?

11 A. Wise should've got a copy of that before I even --
12 before during that same time from when I was at Kirkland
13 R and E, I sent him a copy.

14 I hadn't heard anything -- I didn't get -- I kept
15 calling the Clerk of Court for a copy, stamped, clocked,
16 and dated. Didn't get nothing; didn't get nothing back.

17 Q. So your testimony is you sent a copy to his office
18 and to the Attorney General's Office, to me?

19 A. Here's what I did. First, I sent him a copy. I
20 sent also a copy to the Clerk of Court. I never got a
21 copy back stamped, clocked, and dated back to my return.
22 And then the copy that you have is what I sent you after
23 me not receiving any information back.

24 Q. And he did file an appeal on your behalf, correct?

25 A. He did.

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Cross-Examination by Ms. Harrigan
May 27, 2014

1 MS. HARRIGAN: No further questions, Your Honor.
2 THE COURT: Any further redirect?
3 MR. WALLER: Just very briefly, Your Honor.
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Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Redirect Examination by Mr. Waller
May 27, 2014

1 REDIRECT EXAMINATION

2 BY MR. WALLER:

3 Q. Mr. Grimes, when you signed the sentencing sheet and
4 it was clearly checked without negotiations or
5 recommendations, what did you think they were -- what
6 charge did you think they were talking about?

7 A. The negotiation was that -- what I thought was that
8 that meant the negotiation on the charge that I was
9 pleading to, which was the ABHAN.

10 Q. I'm sorry, can you state that one more time? I'm
11 not sure I understood exactly what you were saying.

12 A. What I signed was my understanding was that I was
13 signing a negotiated plea on the Assault and Battery of a
14 High and Aggravated Nature charge. That was my
15 understanding.

16 Q. Okay. So you were not aware which charge the box
17 that was checked without negotiations were?

18 A. Right, correct.

19 Q. Okay.

20 A. I mean, I didn't specifically you know he just said
21 sign here before I knew it we was in the courtroom.

22 Q. Okay. And before that day, before the second that
23 you pled guilty and were sentenced, did you have any
24 problems with Mr. Wise at all before that?

25 A. Say that again now.

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Redirect Examination by Mr. Waller
May 27, 2014

1 Q. Were you satisfied with Mr. Wise until the plea
2 agreement that you were supposed to be pleading to was
3 not honored. Were you ---

4 A. --- I wasn't never satisfied with Mark Wise.

5 Q. Okay. What did Mr. Wise not do that he should have
6 done?

7 A. Well, if he would have investigated this case from
8 the very beginning, he would have saw that this was a
9 Criminal Domestic Violence of High and Aggravated Nature.
10 He did no investigation.

11 The very few times he saw me was maybe when we did
12 -- when I did get an opportunity to go from the county
13 jail to the courthouse and visit him, it was like maybe
14 five minutes. Two of the times I went down I didn't even
15 see him; he didn't have time to see me.

16 Q. Okay. What investigation did you ask him to do that
17 he did not?

18 A. Well, I mean investigating the facts of the case.

19 Q. If you could, elaborate for the court a little bit
20 some specifics that you told him about that he should
21 have investigated.

22 A. The fact that we were living together, which we was
23 a household member according to the statutory law. He
24 did no investigation.

25 Q. Okay. And your case was indicted, is that correct?

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Redirect Examination by Mr. Waller
May 27, 2014

- 1 A. It was indicted.
- 2 Q. Okay. So, you -- did you feel that he should have
3 challenged that indictment?
- 4 A. Absolutely. Absolutely.
- 5 Q. Did you ask him to?
- 6 A. No, because at the time I didn't know. I mean this
7 is my first time ever being in any trouble, I felt like
8 the attorney should do -- was going to do his job.
- 9 Q. Okay. Did you ever question his knowledge of the
10 law?
- 11 A. In the back of my mind I did, but I mean I felt like
12 he was the attorney, he was an officer of the court.
- 13 Q. Okay. So you ---
- 14 A. --- and I took his word and trusted what he was
15 going to do.
- 16 Q. You trusted and relied on his judgment?
- 17 A. Right, absolutely.
- 18 Q. Okay.
- 19 MR. WALLER: No further questions, Your Honor.
- 20 THE COURT: You may step down, Mr. Grimes, thank
21 you.
- 22 THE WITNESS: Thank you.
- 23 [Whereupon, the witness is excused and exits the
24 stand]
- 25 THE COURT: You may call your next witness.

Jeffrey Grimes v State of S.C.
Jeffrey Grimes-Redirect Examination by Mr. Waller
May 27, 2014

1 MR. WALLER: Your Honor, I would call Mark Wise.

2 THE COURT: Mr. Wise.

3 [Whereupon, Mr. Wise comes forward]

4 CLERK OF COURT: Raise your right hand and state
5 your full name for the record.

6 THE WITNESS: Mark Wise.

7 [Whereupon the witness is duly sworn by the Clerk of
8 Court]

9 THE COURT: Your witness.

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Jeffrey Grimes v State of S.C.
Mark Wise-Direct Examination by Mr. Waller
May 27, 2014

1 MARK WISE,
2 Having been first duly sworn,
3 Was examined and testified as follows:
4 DIRECT EXAMINATION
5 BY MR. WALLER:
6 Q. Mr. Wise, how are you this morning?
7 A. I am well, thank you.
8 Q. Mr. Wise when -- have you had a chance to review
9 your file of this case and your notes?
10 A. Yes.
11 Q. Okay. And you obviously remember representing Mr.
12 Grimes?
13 A. I do.
14 Q. When you were first appointed to represent Mr.
15 Grimes, I guess that's technically an appointment,
16 correct?
17 A. Yes.
18 Q. Okay. What was your first interactions with him?
19 If you remember, what was the first thing y'all
20 discussed?
21 A. We discussed typically the -- with Mr. Grimes I
22 talked about his background, talked about the process of
23 having a pending General Sessions case and the facts of
24 the case.
25 Q. Okay. Did you discuss with him the potential

Jeffrey Grimes v State of S.C.
Mark Wise-Direct Examination by Mr. Waller
May 27, 2014

1 penalties of the Attempted Murder he was charged with?

2 A. Yes.

3 Q. Did you discuss with him the elements of Attempted
4 Murder?

5 A. Yes.

6 Q. Did you discuss with him any potential defenses that
7 he might have and did he in fact have any defenses?

8 A. The initial discussion about defenses related to a
9 self defense. Apparently Mr. Grimes and his girlfriend
10 had been having some problems and he had raised the issue
11 about there being weapons around the house.

12 And the shooting happened in the bathroom and he
13 indicated that there was a knife on the counter in the
14 bathroom and that he was concerned that she might try to
15 get that knife and use it against him.

16 Q. Okay. Did you do any follow up investigation
17 regarding that concern of his?

18 A. We discussed the fact that he could have a trial.
19 He diagramed the bathroom, he showed me where the knife
20 was on the counter, he showed me where the shower is and
21 where she was and where he stood.

22 Q. Okay. How far along in trial preparation or had
23 y'all already began the actual preparation for trial?

24 A. Mr. Grimes never wanted trial in this case.

25 Q. Okay. He indicated that to you?

Jeffrey Grimes v State of S.C.
Mark Wise-Direct Examination by Mr. Waller
May 27, 2014

1 A. Yes. One of the things -- we talked about different
2 things that he could plead guilty to and that we could
3 have a trial and that we could raise some of the same
4 issues that he mentioned about whether or not it was a
5 CDVHAN as a lesser included at trial, but he was never
6 interested in having a trial in this case.

7 Q. Okay. That was going to be my next question. What
8 discussions did y'all have about the domestic violence
9 aspect of this case and the charges?

10 A. We talked about the fact that it would be something
11 that if we went to trial we would ask the judge to
12 consider charging.

13 Q. Okay. What if any did y'all discuss about --
14 obviously alcohol played a big factor in this case? Did
15 y'all discuss that and how it could and could not be
16 used?

17 A. I don't remember if we did or didn't. I'm not sure
18 about that.

19 Q. When you and Mr. Grimes were discussing the other
20 potential charges, what were -- what were those
21 discussions?

22 A. He ---

23 Q. --- what ---

24 A. --- I'm sorry.

25 Q. What did y'all talk about? What were your options?

Jeffrey Grimes v State of S.C.
Mark Wise-Direct Examination by Mr. Waller
May 27, 2014

1 Did you have any options?

2 A. We discussed the aspect of a CDVHAN and also an
3 Assault and Battery first. And I raised those issues
4 with Mr. Bell, the Solicitor, who had this case, but he
5 was not inclined to reduce it any further than the ABHAN.

6 Q. Okay. Within the ABHAN, were there any discussions
7 as to an actual number -- where does the number 10 come
8 from?

9 A. Probably, he wanted the number -- he wanted a 10
10 year sentence. But, Mr. Bell was never inclined to agree
11 to any specific sentence on the Assault and Battery of a
12 High and Aggravated Nature.

13 Q. Okay. So Mr. Bell's position was that it would be
14 straight up or trial, essentially?

15 A. Exactly.

16 Q. Did you discuss -- what did you and Mr. Grimes talk
17 about, where did the ten years come into play with him
18 relying on that?

19 A. I don't know where the number came from, but I think
20 we had a discussion about whether or not I could get him
21 a 10 year sentence.

22 But, that does not -- I don't have that note that we
23 -- that he raised that, but I remember that discussion
24 about trying to get a negotiated sentence or a cap on
25 this charge.

Jeffrey Grimes v State of S.C.
Mark Wise-Direct Examination by Mr. Waller
May 27, 2014

1 Q. Okay. Did you think this was something that you
2 could do?

3 A. I tried.

4 Q. Did you feel confident about it before you were
5 turned down?

6 A. If he -- I would do what my clients ask me to do.
7 If they want me to go and ask for 10 years, I'll go and
8 ask for 10 years.

9 Q. Right, my question I guess is would you have ever
10 indicated to Mr. Grimes that 10 years was going to
11 happen?

12 A. No.

13 Q. Okay.

14 MR. WALLER: May I have the court's indulgence for
15 one second?

16 [Whereupon, Mr. Waller confers with Mr. Grimes]

17 Q. [Mr. Waller] Mr. Wise, when y'all were discussing
18 the potential charges and 10 years is the maximum charge
19 or the maximum penalty for the main two other charges
20 y'all were attempting to get, the CDVHAN and also the
21 Assault and Battery First.

22 Was there ever -- did you make any comments that Mr.
23 Grimes would have relied on that that 10 year number that
24 y'all were shooting for two different charges that
25 carried 10 years, that that was the number y'all were

Jeffrey Grimes v State of S.C.
Mark Wise-Direct Examination by Mr. Waller
May 27, 2014

1 focusing on and that's what he could expect?

2 A. No. I would never have told him that that's what
3 he could expect.

4 Q. Okay.

5 MR. WALLER: I have no further questions, Your
6 Honor.

7 MS. HARRIGAN: Very briefly, Your Honor.

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Jeffrey Grimes v State of S.C.
Mark Wise-Cross-Examination by Ms. Harrigan
May 27, 2014

1 CROSS-EXAMINATION

2 BY MS. HARRIGAN:

3 Q. Mr. Wise, were you present when Mr. Grimes filled
4 out or signed the sentencing sheet?

5 A. I was.

6 Q. Was the without negotiation or recommendation
7 already marked on that?

8 A. Yes.

9 Q. Was the charge of Assault and Battery of a High and
10 Aggravated Nature already marked on that?

11 A. It was.

12 Q. And did he understand that he was pleading guilty to
13 Assault and Battery of a High and Aggravated Nature?

14 A. Yes.

15 Q. Did he understand it was without any negotiation or
16 recommendation from the State?

17 A. That's correct.

18 Q. He could receive any sentence up to the full 20
19 years?

20 A. [No response]

21 Q. And again, you told him that you would try to get a
22 10 year sentence and the State Assistant Solicitor,
23 Harrison Bell, would not reduce any further or make a
24 promise of a 10 year sentence?

25 A. That's correct.

Jeffrey Grimes v State of S.C.
Mark Wise-Cross-Examination by Ms. Harrigan
May 27, 2014

1 Q. And you clearly communicated that to Mr. Grimes?

2 A. Yes.

3 MS. HARRIGAN: Moment's indulgence.

4 [Whereupon, Ms. Harrigan reviews documents]

5 Q. [Ms. Harrigan] Do you recall whether or not there
6 were any witness statements in this case?

7 A. I imagine in the discovery there would have been the
8 incident reports that would have detailed what the
9 complaining witness had indicated happened.

10 Q. Do you recall if there was any other witness besides
11 the victim, perhaps a family member of hers?

12 A. Her daughter was -- I don't know if she was present,
13 she responded to the scene because she helped her, but as
14 I said that I don't recall that that was a part of the
15 police reports.

16 Q. Did Mr. Grimes make a statement implicating himself
17 to law enforcement?

18 A. He did.

19 Q. He admitted to shooting her five times while she was
20 in the shower, correct?

21 A. I'd have to look. He admitted to shooting her, I'd
22 have to look to see if he said it was five times.

23 Q. In regards to the initial discussion about self
24 defense, why would self defense not have been a viable
25 defense at trial?

Jeffrey Grimes v State of S.C.
Mark Wise-Cross-Examination by Ms. Harrigan
May 27, 2014

1 A. I didn't say it wouldn't have been viable. We
2 talked about it, but Mr. Grimes' position had
3 consistently been that he did not want a trial in this
4 matter.

5 Q. Was the knife between him and the victim? Did the
6 victim have easy access to the knife while she was in the
7 shower?

8 A. The knife would have been -- if you want to
9 visualize the bathroom, the counter would have been
10 straight ahead where the court reporter is sitting. The
11 -- where the knife would have been. The shower would
12 have been to the right where the Judge's bench is.

13 The door would have been where I'm sitting. Mr.
14 Grimes indicated to me that he was roughly right inside
15 the doorway, the counter in front of him. The
16 complaining witness in the shower to the right.

17 Q. And she was shot while she was in the shower,
18 correct?

19 A. I don't know if she was in the shower or getting out
20 of the shower.

21 MS. HARRIGAN: No further questions, Your Honor.

22 THE COURT: You may step down, thank you.

23 THE WITNESS: Thank you.

24 [Whereupon, the witness exits the stand]

25 THE COURT: You may call your next witness.

Jeffrey Grimes v State of S.C.
Mark Wise-Cross-Examination by Ms. Harrigan
May 27, 2014

1 MR. WALLER: No further witnesses, Your Honor.

2 THE COURT: Thank you.

3 MS. HARRIGAN: The State has no witnesses, but a
4 brief argument in closing.

5 THE COURT: All right. I'll be happy to hear from
6 you.

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Jeffrey Grimes v State of S.C.
Closing Arguments-by Mr. Waller
May 27, 2014

1 CLOSING ARGUMENT

2 BY MR. WALLER:

3 Your Honor, the applicant would move that you grant
4 his application for PCR based on counsel's
5 ineffectiveness to move to withdraw the guilty plea after
6 the agreed upon plea agreement was not honored.

7 [Whereupon, Mr. Waller provides documents to the
8 court]

9 Your Honor, I think the -- Mr. Grimes has clearly
10 shown that both there was evidence of the agreement, that
11 agreement was detrimentally relied on by him and that he
12 trusted his attorney to uphold that. Your Honor, they
13 can show -- evidence can be shown of that detrimental
14 reliance by the fact of him pleading guilty. If you're --
15 that's the ultimate act of relying on this agreement was
16 accepting plea.

17 Your Honor, if you'll take a look at both of those
18 cases there are instances where there was an agreed upon
19 plea agreement that changed at the time of the plea. In
20 both cases the court said that it just doesn't fly. Your
21 Honor, the cite I have and it's a very recent case, but
22 it's an Appellate Case 2010-164866 and it was from
23 February 5, 2014. Based on that case, the applicable
24 case law there and the evidence presented today, the
25 applicant would move that you grant his PCR application.

Jeffrey Grimes v State of S.C.
Closing Arguments-by Ms. Harrigan
May 27, 2014

1 CLOSING ARGUMENT

2 BY MS. HARRIGAN:

3 Briefly in response, the State would submit that
4 there's no shred of credible evidence that there was a 10
5 year plea agreement on the record during his guilty plea.
6 The sentencing sheet and the testimony of Mr. Wise all
7 sharply refute applicant's new contentions that there was
8 a 10 year plea agreement.

9 The State would submit that he's not satisfied his
10 burden pursuant to Strickland v Washington and ask that
11 this application be dismissed.

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Jeffrey Grimes v State of S.C.
Ruling by the Court
May 27, 2014

1 THE COURT: Mr. Grimes, I've reviewed the record
2 along with the transcript of the record and considered
3 all the testimony. The imposition of the sentence was
4 certainly within Judge King's discretion as properly
5 before him.

6 Regards to any evidence of the plea agreement to 10
7 years, there is no evidence to that effect. The fact
8 that the solicitor makes a decision as to what to charge
9 you with, that's within the solicitor's discretion. The
10 fact that your attorney was unable to convince a
11 solicitor to offer you 10 years is not a matter that
12 would make it an ineffective assistance of counsel.
13 Clearly you admitted to shooting her.

14 Based upon your testimony, I find that the
15 imposition was correct and with the Judge's discretion it
16 does not under -- allow you for relief under the
17 statutory grounds for post conviction relief.

18 And also the court finds that you do not, have not
19 met -- satisfied the burden of proof under the Strickland
20 v Washington standard of proof as required for PCR and
21 your PCR is respectfully denied.

22 Counsel if you would please prepare the proposed
23 order.

24 MS. HARRIGAN: Certainly, Your Honor, thank you.

25 *****END OF TRANSCRIPT OF RECORD*****

Jeffrey Grimes v State of S.C.
Certificate of the Court Reporter
May 27, 2014

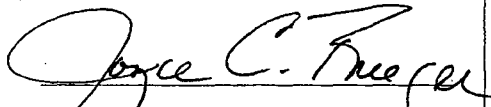
C E R T I F I C A T E

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I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of Common Pleas for Orangeburg County, South
Carolina on the 27th day of May, 2014.

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

November 22, 2014



Joyce C. Rueger, CVA-M
Court Reporter

STATE OF SOUTH CAROLINA)
 COUNTY OF ORANGEBURG)
 Jeffrey N. Grimes, #353213,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIRST JUDICIAL CIRCUIT

Case No. 2013-CP-38-00432

ORDER OF DISMISSAL

FILED
 CLERK OF COURT
 2014 AUG 22 PM 2:35

This matter comes before the Court by way of an application for post-conviction relief filed March 25, 2013. The State made its Return on September 5, 2013, requesting an evidentiary hearing be held. An evidentiary hearing into the matter was convened on May 27, 2014, at the Dorchester County Courthouse. Applicant was present at the hearing and was represented by counsel, Jonathan Waller, 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 warranting 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 Orangeburg County Clerk of Court. Applicant was true bill indicted during the June 2012 term of the Orangeburg County Grand Jury for Attempted Murder (2012-GS-38-01259). Mark Wise,

ATTEST: TRUE COPY
Wingya B. Clark
 CLERK OF COURT
 ORANGEBURG COUNTY, SC

RECEIVED
 9/4/14

Esquire, represented Applicant. On November 15, 2012, Applicant appeared before the Honorable Howard P. King, where he waived presentment to the grand jury and pled guilty to Assault and Battery of a High and Aggravated Nature. Judge King sentenced Applicant to confinement for eighteen years.

A timely Notice of Appeal was filed with the South Carolina Court of Appeals. On January 13, 2013, the Court of Appeals dismissed Applicant's appeal for failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv), SCACR. The Remittitur was issued on February 5, 2013.

In his application for post-conviction relief, Applicant alleged that he was being held in custody unlawfully based on an allegation of ineffective assistance of counsel, with the specific claims that Counsel failed to enforce a plea deal for ten years imprisonment and that counsel failed to secure a plea offer for Criminal Domestic Violence of a High and Aggravated Nature or Assault and Battery – First Degree.

SUMMARY OF TESTIMONY PRESENTED AT EVIDENTIARY HEARING

At the evidentiary hearing, Applicant testified on his own behalf and presented testimony from plea counsel, Mark Wise, Esquire (hereinafter "Counsel"). This Court also had before it Applicant's guilty plea transcript, the records from the Orangeburg County Clerk of Court regarding the subject convictions, Applicant's appellate records, and Applicant's records from the South Carolina Department of Corrections.

Applicant testified first on his own behalf. He testified that he was originally indicted for Attempted Murder, but pled guilty to the lesser included offense of Assault and Battery of a High

and Aggravated Nature. He testified that Counsel was appointed to represent him and that he met with Counsel "four to five times." He testified that Counsel explained all the elements of the charge and the potential sentences to him. He testified that Counsel reviewed all discovery materials with him, including his statement to law enforcement, and the statements of the victim and her daughter. Applicant testified that he is guilty and he did shoot the victim, his girlfriend, five times while she was in the shower. He testified that he thought he should have been charged with Criminal Domestic Violence of a High and Aggravated Nature, not Attempted Murder. He testified that Counsel reviewed the statutes with him and explained why he was charged with Attempted Murder based on the facts of the case.

He testified that he asked Counsel to secure him a favorable plea deal for ten years imprisonment to a lesser included offense. He testified that he thought he was pleading guilty to Assault and Battery of a High and Aggravated Nature for a negotiated ten year sentence. He acknowledged that he signed the sentencing sheet with the appropriate box checked for "Without Negotiations or Recommendations" and that he told the plea court that he knew his plea was without negotiations or recommendations. He elaborated that he thought Counsel would clarify that there was a negotiation for a ten year sentence and he was surprised when he received an eighteen year sentence.

Following Applicant's testimony, Applicant called Counsel to testify. Counsel testified that he was appointed to represent Applicant as an Assistant Public Defender for Orangeburg County. He testified that he met with Applicant numerous times, during which he explained the charges Applicant was facing, potential sentences, the General Session process, Applicant's

background, and the facts of the case. He testified that he initially discussed self-defense with Applicant, but quickly realized that this was not a viable defense because the victim was in the shower, unarmed, and could not reach any weapons. He testified that Applicant never wanted to proceed to trial and told him this several times. He testified that he discussed the possible charges of Criminal Domestic Violence of a High and Aggravated Nature and Assault and Battery – First Degree with Applicant at length and reviewed the statutes as well. He testified that Applicant was appropriately charged and indicted based on the facts, but was attempting to negotiate with the State for a lesser included offense. He testified that he was able to secure a plea offer for the lesser included offense of Assault and Battery of a High and Aggravated Nature, which significantly reduced his sentence exposure. He testified that he tried to get the State to agree to Criminal Domestic Violence of a High and Aggravated Nature or Assault and Battery – First Degree, but that the State refused to reduce the charges any further. He testified that the plea offer was without any negotiation or recommendation as to sentence length, which he explained to Applicant. He testified that Applicant understood that he could receive up to a twenty year sentence. He adamantly denied that he ever told Applicant that ten years was a likely sentence.

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 should be

afforded great weight; this Court also finds 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).

Ineffective Assistance of Counsel

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, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."

Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. 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, 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. This Court finds that Counsel's credible testimony reveals that he met with Applicant numerous times, explained all elements and possible sentences of the offense to Applicant, reviewed all possible lesser included offenses and sentence with Applicant, and negotiated the most favorable plea offer possible at Applicant's request. This Court is not persuaded by Applicant's assertions that there was a negotiated offer for a ten year sentence, as this is sharply refuted by the guilty plea transcript, sentencing sheet, and testimony from Counsel. This Court finds that Counsel's performance was reasonable according to professional standards and, therefore, did not perform deficiently in regards to this allegation. Furthermore, this Court finds that Applicant cannot establish any resulting prejudice, as there is no reasonable probability that he would have insisted on going to trial absent Counsel's advice. Applicant testified that he was guilty and wanted to plead guilty. Furthermore, Applicant was sentence within the appropriate statutory range. Therefore, this Court finds that this allegation must be denied and dismissed with prejudice.

CONCLUSION

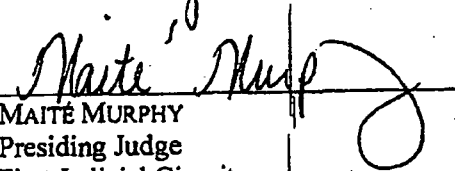
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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), SCRCP, 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.

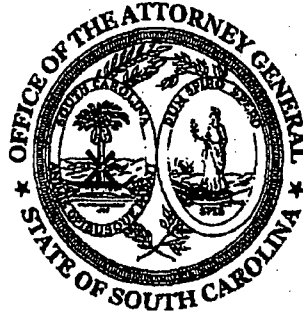
IT IS THEREFORE ORDERED:

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 this 18 day of August, 2014.


 MAITE MURPHY
 Presiding Judge
 First Judicial Circuit

St. Mary, South Carolina.



ALAN WILSON
ATTORNEY GENERAL

August 21, 2014

2014 AUG 22 PM 3:35
CW

The Honorable Winnifa Brown-Clark
Clerk of Court, Orangeburg County
Post Office Box 9000
Orangeburg, South Carolina 29115-9000

Re: Jeffrey N. Grimes, #353213 v. State of South Carolina
2013-CP-38-00432

Dear Ms. Brown-Clark:

Enclosed please find the signed original **Order of Dismissal** in the above captioned case for filing in your office. Please return a clocked copy to me once you have filed this document. If you have any questions or concerns, please contact me at (803) 734-3737 or MHarrigan@scag.gov.

Sincerely,
Megan E. Harrigan
Megan E. Harrigan
Assistant Attorney General

MEH/sbm
Enclosure

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG
IN THE COURT OF COMMON PLEAS

JEFFREY N. GRIMES, #353213

Applicant,

v.

STATE OF SOUTH CAROLINA,

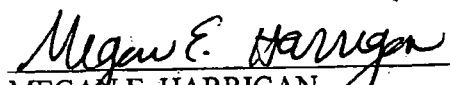
Respondent.

CERTIFICATE OF SERVICE

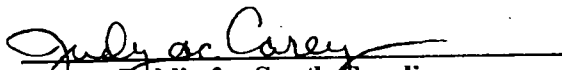
The undersigned hereby certifies that a true copy of the **Order of Dismissal** has been served upon the applicant by mailing one (1) copy in the United States mail, postage prepaid, addressed to:

**Jonathan D. Waller, Esquire
The Law Office of Jonathan Waller, LLC
1720 Main Street, Suite 104
Columbia, SC 29201**

This 3rd day of September, 2014.


MEGAN E. HARRIGAN
ATTORNEY FOR RESPONDENT

SWORN to before me this 3rd day of September, 2014.


Notary Public for South Carolina.
My Commission Expires: 5/14/2024

WITNESSES

Rashad Moore

DOCKET NO. 2012GS38-1259

The State of South Carolina

County of ORANGEBURG

After being fully advised as to my legal rights, I hereby waive presentation to the Grand Jury.

Defendant

Orangeburg County Sheriff

COURT OF GENERAL SESSIONS

September 10, 2012 TERM

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

M196127

Arrested: June 3, 2012

THE STATE
vs.

Jeffrey Niko Grimes

Defendant

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY
TRUE BILL

C. H. Moore

SEP 12 2012
Prepared by Grand Jury

Date:

VERDICT

Indictment for
ATTEMPTED MURDER

ATTEST: TRUE COPY

Winnie B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

FILED FOR RECORD
MINERAL CLARK
CLERK OF COURT
ORANGEBURG, SC

2012 SEP 12 AM 11:13

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2012GS38-1259

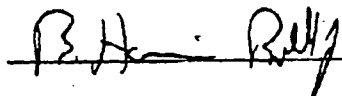
At a Court of General Sessions, convened on September 10, 2012 the Grand Jurors of Orangeburg County present upon their oath:

ATTEMPTED MURDER

That in Orangeburg County, South Carolina, on or about June 2, 2012, the Defendant, Jeffrey Niko Grimes, did with intent to kill, attempt to kill Shirley Love, with malice aforethought, either express or implied, by means of shooting the victim, this offense in violation of Section 16-3-29 of the South Carolina Code of Laws, is amended.

ORANGEBURG COUNTY
CLERK OF COURT
W. J. B. Cobb
ALBERT TRONE COBB

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


Harrison Bell, Solicitor

≤ 20 years

STATE OF SOUTH CAROLINA)
 COUNTY OF Orangeburg)
 STATE VS.)
Jeffrey Niko Grimes)
 AKA:)
 Race: B Sex: M Age: 38)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: [REDACTED])
Orangeburg, SC 29115)
 DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS38-1259
 A/W#: M196127
 Date of Offense: 6/2/2012
 S.C. Code § 16-3-29
 CDR Code #: 3410

SENTENCE SHEET

CDL: Yes No CMV: Yes No Hazmat: Yes No

In disposition of the said indictment comes now the Defendant who was: CONVICTED OF or PLEADS

TO: Assault / Assault and Battery of a High and Aggravated Nature

in violation of § 16-3-600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
B. Harrison Bell, Harrison SC Bar# 7863
Jeffrey N. Grimes Jeffrey Niko Grimes Attorney for Defendant SC Bar# Maui Wasi

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 18 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: _____

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 Dept. 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 PTUP _____

Attest: Winnif B. Clark Clerk of Court

Payment Terms: _____ set by SCDPPPS

Client: ORANGEBURG COUNTY, SC

4-1-206 (Assessments 107.5 %)	\$	
4-1-211(A)(1)(Conv. Surcharge)	\$100	\$ 100.00
4-1-211(A)(2) (DUI Surcharge)	\$100	\$
3-5-2995 (DUI Assessment)	\$12	\$
3-1-286 (DUI Breath Test)	\$25	\$
iso 47.9 (Public Def/Prob)	\$500	\$
1.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
.7, 1B TP (Drug Court Surcharge)	\$150	\$
-21-114 (BUI Breath Test Fee)	\$60	\$
-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
iso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
§3-450(C) (Conditional Discharge)	\$350	\$
County (if paid in installments)	\$	\$ 3.90
		\$ 133.90

V. Clean Clerk of Court/ Deputy Clerk

Reporter: Bonnie Kelly

_____ 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: No contact with victim

Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE: Howard P. King

Judge Code: 2107

Sentence Date: 100-15, 2012