

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Charleston County
R. Markley Dennis, Jr., Circuit Court Judge

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S.C. Supreme Court

ADRIAN BEATON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-002024

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
2010-GS-10-05325-05328

STATE OF SOUTH CAROLINA)
)
Plaintiff)
)
V.)
)
ADRIAN BEATON,)
Defendant.)

TRANSCRIPT OF RECORD
CHANGE OF PLEA

January 26, 2012
Charleston, South Carolina

B E F O R E :

THE HONORABLE THOMAS HUGHSTON, JUDGE

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

Ms. Jennifer Shealy, Assistant Solicitor
Representing The State

Mr. Ashley Pennington, Public Defender
Representing The Defendant

Anne Bouley Meyer, RPR
Circuit Court Reporter

1 THE COURT: Adrian Keith Beaton, is that your
2 name?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. Mr. Beaton, I have here
5 in my hand two indictments, actually four indictments,
6 excuse me. Four indictments, four separate charges.

7 The first one I'm looking at, well actually all
8 of these relate to March 11, 2010. The first charge is
9 that you did on that date commit what is called
10 burglary in the first degree. Specifically, they claim
11 you entered the dwelling of someone located at 1511 Ben
12 Sawyer Boulevard in Mount Pleasant, without consent and
13 with the intent to commit a crime once you got in
14 there. It's called burglary first degree.

15 Do you understand that charge?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: What is the possible penalty for
18 that?

19 MR. PENNINGTON: Fifteen to life, Your Honor.
20 Fifteen years to life.

21 THE COURT: Minimum of 15 years, can go up to
22 life in prison if you plead guilty or if you are found
23 guilty after a trial on that charge.

24 Do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Next, kidnapping.
2 Kidnapping Jose Domingo Contreras, C-O-N-T-R-E-R-A-S,
3 on that date. Violation section 16-3-910 of the South
4 Carolina Code of Laws.

5 what is the possible penalty for that?

6 MR. PENNINGTON: It is up to 30 years, Your
7 Honor. Although there is a legal question before you
8 in that the statute says that unless -- it's up -- not
9 exceeding 30 years unless sentenced for murder as
10 provided in section 16-3-20.

11 Arguably, there are two different victims of the
12 murder and the kidnapping. So the solicitor's position
13 is that she is not sure that applies. But clearly we
14 do have -- there is an indictment for murder. You will
15 be sentencing for murder.

16 MS. SHEALY: I think that statute, Your Honor,
17 would contemplate if the murder victim were also
18 kidnapped.

19 Here we have a separate individual that was
20 kidnapped from the murder victim.

21 THE COURT: I'm going to go with the 30. So the
22 possible penalty on that is 30 years in the
23 penitentiary. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Next, assault and

1 battery with intent to kill. This relates to you
2 again, March 11, 2010. And the victim of that is
3 someone by the name of Laticia, L-A-T-I-C-I-A, Herrera,
4 H-E-R-R-E-R-A. It says you shot her in the chest.

5 Assault and battery with intent to kill. What
6 is the penalty for that?

7 MS. SHEALY: Zero to 20.

8 THE COURT: Up to 20 years on that. Do you
9 understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. And then the last one is
12 murder. The State claims that you did shoot and kill
13 murder Oscar Hernandez, last name G-I-R-O-N. Violation
14 section 16-3-10 of the South Carolina Code of Laws.

15 And the possible penalty for that is 30 years to
16 life?

17 MS. SHEALY: Correct.

18 MR. PENNINGTON: That's is correct, Your Honor.

19 THE COURT: Do you understand that, Mr. Beaton?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right.

22 MR. PENNINGTON: Your Honor, for the record I
23 should state that the kidnapping statute has also been
24 amended and requires the Court to make finding when we
25 don't have a sex-related kidnapping. Otherwise, when

1 he gets to the Department of Corrections he will be
2 labeled as a sex offender.

3 The default position is that you're a sex
4 offender. So that I would ask the Court, and I think
5 the State will stipulate, that this is not a
6 sex-related crime, and that registry would not be
7 appropriate.

8 MS. SHEALY: That's correct, Your Honor.

9 THE COURT: Is there any particular place I need
10 to sign on here or say that on here?

11 MR. PENNINGTON: It's not on there, Your Honor.
12 I believe you have to just pencil in --

13 THE COURT: Write it in?

14 MR. PENNINGTON: Yes, sir. That it would be not
15 sex-related, no registry. No sex registry.

16 THE COURT: All right. I have written after the
17 end of the sentence language, not sex-related crime,
18 not required to register.

19 MR. PENNINGTON: Thank you, Your Honor.

20 THE COURT: All right. Now, Mr. Beaton back to
21 you. Do you understand all these charges and the
22 possible penalties?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You don't have to plead guilty to
25 any of these charges. You've signed up indicating you

1 wish to plead guilty, but you don't have to. You have
2 an absolute right under the constitution of this State
3 and of the United States of America to have a jury
4 trial on each of these charges.

5 Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You don't have to prove your
8 innocence, the State has to prove you guilty beyond a
9 reasonable doubt. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: If you want a jury trial, you and
12 your attorney would help select a jury of 12 people.
13 They would take an oath to decide your case based only
14 on the testimony and evidence presented against you
15 here in court.

16 Do you understand that?

17 THE DEFENDANT: Yes, sir

18 THE COURT: After having helped select the jury,
19 you and your attorney would participate fully in the
20 trial, cross-examine the State's witnesses, ask them
21 questions to make sure they were telling the truth.

22 You could call witnesses and you could testify
23 if you wanted to, although you don't have to. Nobody
24 can make you testify against yourself.

25 Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And as I said, the burden of proof
3 is on the State to prove you are guilty beyond a
4 reasonable doubt to the satisfaction of all 12 jurors.
5 If the State doesn't do that, then they are required
6 under the law to find you not guilty.

7 Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Would you like to have a jury trial
10 on any or all of these charges?

11 THE DEFENDANT: No, sir.

12 THE COURT: How do you wish to plead?

13 THE DEFENDANT: I wish to plead guilty.

14 THE COURT: Are you really guilty?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Has anybody promised you anything or
17 threatened you in any way to get you to plead guilty?

18 THE DEFENDANT: No, sir.

19 THE COURT: Are you pleading guilty then on your
20 own free will?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Ask you again, would you like to
23 have a jury trial on any or all of these charges?

24 THE DEFENDANT: No, sir.

25 THE COURT: Ask you again, are you really guilty

1 of the charges?

2 THE DEFENDANT: Yes, sir

3 THE COURT: Based on your appearance before me,
4 then, and answers to my questions, I do find your plea
5 to be freely, voluntarily, and certainly thoughtfully
6 and intelligently entered.

7 Solicitor, what would you like to tell me about
8 all this?

9 MS. SHEALY: Thank you, Your Honor. I would
10 like to put on the record that I do have Lydia Lester
11 here. She is a court certified interpreter. She is
12 sitting in the jury box along with one of the victims,
13 Jose Contreras, interpreting for me.

14 Also present other than Mr. Contreras is Adam
15 Willis the detective on the case from Mount Pleasant.
16 And Sgt. Justin Hembree also from Mount Pleasant.

17 Your Honor, as you indicated a moment ago this
18 occurred on March 11, 2010 at the Marsh Grass
19 Condominiums which are located at [REDACTED]
20 Boulevard. If you are familiar with where Mama Brown's
21 is, that is sort of the landmark there.

22 THE COURT: Actually, the building is there, she
23 is not there anymore.

24 MS. SHEALY: That's right, it's gone. But the
25 condominiums are right across that side street from

1 where Mama Brown's used to be.

2 THE COURT: Okay. I know where that is.

3 MS. SHEALY: On that day, Jose Contreras was
4 asleep in his apartment when two of his friends, Oscar
5 Hernandez Iron and Laticia Herrera, came by to pick him
6 up because they needed his assistance in that he spoke
7 better English than the two of them did.

8 He was going to go with them to a cell phone
9 company and get them a new cell phone. I will tell
10 you, however, that these three knew each other from a
11 basketball league in North Charleston where they played
12 basketball together.

13 And Mr. Iron was involved in selling cocaine and
14 had pretty recently to the time of this incident gotten
15 Jose Contreras involved in that.

16 When the two were robbed At Mr. Contreras'
17 apartment he was actually asleep in the living room
18 area. And they were able to see him asleep on the
19 couch. He told them that he had not even showered yet,
20 could they leave and come back in a few minutes and let
21 him get showered so he could go with them.

22 Surveillance from the area in Mount Pleasant
23 where the Piggly Wiggly and the Goodwill are right at
24 the end of Coleman, the beginning of Ben Sawyer,
25 revealed that Mr. Iron and Ms. Herrera in fact went to

1 the Piggly Wiggly, went to the Goodwill Store and we
2 have some receipts that reflect their purchases.

3 They were trying to spend some time to be able
4 to go back and pick up Mr. Contreras. Mr. Contreras
5 instead of jumping in the shower was still so sleepy
6 that he went back into his bedroom within the apartment
7 and fell back asleep.

8 while all of that was going on, this defendant,
9 Adrian Beaton, entered the apartment of Jose Contreras
10 through the second story kitchen window. There is
11 videotape from a neighbor that reflects that the other
12 two males who were involved in this incident were
13 giving him a lift up so that he could climb through the
14 window and enter Mr. Contreras' apartment.

15 Mr. Contreras is awakened by being jostled by
16 two of the individuals that had entered his apartment.
17 They began screaming at him, using profanity and
18 asking, where are the drugs, where is the money.

19 This process continued and continued and they
20 became increasingly frustrated. One of the individuals
21 bound Mr. Contreras by wrapping a phone cord around his
22 hands in the front, and by wrapping his legs with a
23 phone card charger.

24 He was put face-down on the bed, and there is
25 all kinds of craziness going on. There is a lot of

1 yelling, turning over mattresses, emptying drawers,
2 just absolutely ransacking the apartment with continued
3 demands about where's the money, where is the drugs,
4 where are your car keys.

5 Mr. Contreras was not cooperative with them.
6 There was a language barrier of sorts. But also he did
7 not want to assist them in any way.

8 One of the individuals got on his back and was
9 holding him down during all of this. When that person
10 became somewhat weary, Mr. Beaton got involved and
11 bludgeoned Mr. Contreras in the head with the butt of
12 the gun. And also put the gun in the back of his neck
13 threatening him. He was also tasered while he was on
14 the bed to keep him subdued.

15 The gentlemen continued to be irritated,
16 continued to look for the drugs and money. The entire
17 apartment, as I indicated, had been completely
18 ransacked.

19 Well, Mr. Iron and Ms. Herrera then returned to
20 the apartment complex. When they opened the door, Ms.
21 Herrera has explained to me that immediately you could
22 see the apartment was not in the same condition it had
23 been in when they had been over there previously that
24 morning.

25 Her instinct was to leave. Mr. Iron, however,

1 was concerned about Mr. Contreras. So he then left the
2 living room area to turn down the hall to where the
3 bedrooms were. When he did that, Mr. Beaton, who was
4 wearing a long-sleeved white T-shirt, shot him.

5 He shot him in the chest and he shot him in the
6 leg. Mr. Iron fell. Ms. Herrera was turning to try to
7 get out of the apartment and flee when she was shot in
8 the chest by Mr. Beaton.

9 As she fled the apartment, she was trying to run
10 so quickly she dropped her pocketbook, she came out of
11 her shoes, and she ran hysterically into the parking
12 lot area of the apartment complex and approached a
13 woman begging for her to please call 911.

14 The three males fled.

15 The police come immediately and speak with both
16 Mr. Contreras and Ms. Herrera. The last thing, though,
17 that Ms. Herrera says that she saw was that when she
18 was running she turned back once and saw Mr. Beaton
19 outside the apartment pointing the gun as if he were
20 going to shoot again.

21 When the police saw the seriousness obviously of
22 everything that had happened, they had to contact the
23 local schools in the area. There are several
24 elementary schools and a middle school right near that
25 area, and those schools had to be put on lock-down.

1 Parents were called because of the fear and the danger
2 perceived by the three men fleeing with a weapon.

3 Mr. Iron was dead. Ms. Herrera wa taken to the
4 hospital and she received surgery to attend to her
5 wounds.

6 Ms. Herrera was unable to identify the
7 defendant. She did indicate, however, that the person
8 who was the shooter wore a white long-sleeved T-shirt,
9 and that the other two males did not wear a white
10 long-sleeved T-shirt.

11 In fact, the other two males one had a mask on,
12 and both of them had gloves on.

13 Judge, I'd like to commend the Mount Pleasant
14 Police Department for a very thorough investigation of
15 this case. Adam Willis and his other detectives did a
16 fantastic job.

17 Initially, they had absolutely no idea who did
18 it. They recognized that there was a silver magnum
19 involved. They pursued every possible lead they could
20 for who drove a silver magnum. There were many
21 man-hours invested in trying to pursue the car that the
22 three fled in.

23 THE COURT: How did they know that part? I
24 didn't catch that.

25 MS. SHEALY: There is surveillance tape, but

1 there is also witnesses who described a silver magnum
2 fleeing the scene.

3 what they also did was, I mean they really went
4 out of their way and they took surveillance tapes from
5 all over that area of Mount Pleasant trying to see in
6 which direction the vehicle went in an effort to try to
7 find these guys.

8 In addition to that, they got the phone records
9 of Mr. Contreras trying to figure out whether or not
10 there was any connection between who entered his
11 apartment and who he knew. And they explored all leads
12 possible in an attempt to do that.

13 When crime scene went into Mr. Contreras'
14 apartment, they did a very good job of collecting
15 evidence. Some of the evidence they also swabbed for
16 possible DNA.

17 One of those items was the charger that was used
18 to wrap around Mr. Contreras' ankles. They got a hit
19 for Adrian Beaton. That's what the broke case.

20 THE COURT: DNA?

21 MS. SHEALY: DNA.

22 Mr. Beaton was interviewed by the police. He
23 initially gave a false alibi. Then he gave the names
24 of James Gerald Pinckney and Dante Green as being the
25 other two assailants in the apartment that day.

1 Beaton also indicated that Terrell Montgomery
2 was involved but not present. While he admitted that
3 he -- ultimately admitted that he was present, he
4 denied that he was the shooter but did admit that he
5 had the long-sleeved white T-shirt on.

6 Law enforcement then began an aggressive pursuit
7 to identify and arrest Dante Green. Detective Willis
8 spent a lot of time trying to explore who this
9 individual may be, which involved variations of his
10 name, et cetera, to no avail.

11 I will tell you, Judge, that recently Mr. Beaton
12 has now told us that the name Dante Green was
13 fictitious.

14 Regarding James Gerald Pinckney, as you can
15 imagine, the officers investigated him thoroughly and
16 made an arrest. Terrell Montgomery was arrested.

17 Just a couple of week ago Mr. Beaton had a
18 written document filed indicating that Mr. Pinckney was
19 not involved. And that he, Mr. Beaton, had lied when
20 he indicated that he was.

21 The State and Mount Pleasant are now tasked in
22 determining whether Mr. Beaton was being truthful at
23 the time he said Pinckney was involved, or whether he
24 is being truthful now when he says Mr. Pinckney was not
25 involved. Mr. Beaton has not led us to the other

1 person, if in fact it is not Pinckney.

2 Judge, we had tried earlier to get Ms. Herrera
3 on the phone. She had planned on participating. But
4 when we called, I don't know if it was a language
5 problem or whatever, she was not at her home.

6 But she lost her husband of seven years that
7 night. She, from what we have learned, was an
8 excellent basketball player. She worked in a local
9 hotel cleaning rooms.

10 She has a work visa, but because of her injuries
11 from the shooting she was no longer able to do the type
12 of work she did here, so she has returned to her
13 family. One time since her surgery her lungs filled up
14 with blood and she had to go get that attended to.

15 But what has caused her the greatest difficulty
16 is her arm after the surgery had not -- she cannot lift
17 anything heavy at all, and has problems manipulating
18 that arm.

19 Mr. Contreras has also shared with me that he
20 has had a lot of difficulties since this incident. One
21 good thing that has happened to him because of it is he
22 is completely staying away from drugs, selling them,
23 using them.

24 He is present today, Judge, as are Detective
25 Willis and Sgt. Hembree. I'm going to check and see if

1 any of them would like to address the Court.

2 THE COURT: Why don't tell me your name, first
3 of all, the interpreter first of all.

4 THE INTERPRETER: Your Honor, the interpreter is
5 Lydia Lester.

6 THE COURT: Okay, raise your right hand.

7 (Whereupon, the Interpreter is given the
8 interpreter oath by the Court.)

9 THE COURT: You want to tell me what he just
10 said?

11 THE INTERPRETER: Mr. Contreras indicated that
12 the -- whatever decision that you make is what he will
13 be okay with.

14 THE COURT: Thank you very much.

15 THE INTERPRETER: And what has happened has
16 affected my life. Personally it's affected my life.

17 THE COURT: Well, I'm sure of that. Ask him if
18 there is any factual correction or addition or
19 anything. He has been listening, you have been
20 interpreting for him I could tell.

21 Ask him if there is anything that what the
22 solicitor just said, the Prosecutor just said that he
23 would like to comment on, change, add to, whatever.

24 THE INTERPRETER: No.

25 THE COURT: All right. And then the detective

1 is back here somewhere.

2 Your name?

3 MR. WILLIS: Adam Willis.

4 THE COURT: Anything you want to say?

5 MR. WILLIS: No, Your Honor. I think she summed
6 it up.

7 THE COURT: All right. Thank you very much.

8 MS. SHEALY: Your Honor, Mr. Beaton does have
9 two prior burglaries. Thankfully that night Mr.
10 Contreras was not killed and Ms. Herrera was not
11 killed.

12 I would like to assert, though, Judge, unlike
13 some cases where there may be some blurring, in this
14 case there is a very separate burglary, a separate
15 kidnapping, a separate assault and battery with intent
16 to kill, and a murder.

17 Thank you, Judge.

18 THE COURT: I agree with you.

19 All right. We will switch now to the other
20 side.

21 MR. PENNINGTON: If it please the Court, Your
22 Honor. This is a heartbreaking case, a tragic case, a
23 sad case, an aggravated case. There is no denying
24 that.

25 And there are certain mitigating factors,

1 though, that I think are very important and I'd ask the
2 Court to consider.

3 What you are going to see and learn -- that's
4 his mom.

5 THE COURT: You will have a chance to speak if
6 you want to. So anybody that wants to speak can so
7 let's wait until the proper time.

8 MS. SHEALY: I think she is not feeling well.

9 THE COURT: Okay.

10 All right, go ahead.

11 MR. PENNINGTON: That was Ms. Beverly Beaton,
12 Your Honor, his mother. I hope she will be able to
13 return but I have spoken to her at length.

14 Your Honor, this is a case where there are
15 several mitigating factors. One is that it's crystal
16 clear to me from my investigation that Adrian was not
17 the planner or architect of this crime. Nor was he
18 brought in to be a part of what was going to be a
19 classic home invasion in the sense that they -- he
20 anticipated the presence of persons.

21 The second major theme is you're going to see
22 that he was young and then groomed at a very young age
23 by an older man, who he has not been willing to name
24 for fear of danger to himself and his family, who was
25 the architect of this and who manipulated him because

1 of his suggestibility, his learning problems, and put
2 him in this very dangerous position that resulted in
3 this impulsive, horrible crime.

4 Finally, Adrian has and is today taking his own
5 personal responsibility as the shooter, as the person
6 that took the life. And has cooperated with the State
7 up to the point that it did not pose a danger to his
8 mother who is known to this older man.

9 I'll come back and lay out the facts that
10 support those themes in mitigation, Your Honor.

11 My client was 20 when I met him. I would say
12 that he was a young 20. He has always struck me as
13 more of a child, a kid, a teenager than as a mature
14 individual. I have had to work with him and actually
15 prod him to ask questions and participate because he is
16 not savvy in the way of being picky, defensive,
17 demanding, or with me evasive.

18 He was raised by Ms. Beaton who is a single
19 parent who works as a custodian. He has older
20 siblings. His father, Keith Glover, was never a
21 factor, never a presence in his life, no contact.

22 Mr. Beaton, Adrian, went to Fort Dorchester.
23 But early on in his life he, by the fourth or fifth
24 grade, was in special ed classes because of ADHD. And
25 when he was 9 or 10 in the neighborhood, he was

1 involved in a fistfight. And an older man came up
2 after he won the fight, Adrian won the fight, and said
3 I like what I saw, and gave him money. And said, I'd
4 like to talk to you, and befriended him, took him under
5 his wing, acted as a mentor and a father.

6 And groomed him not to be a healthy,
7 contributing member of the community, but trained him
8 to break into houses during the day. Hence you have,
9 in his early life, two convictions -- one in '06, one
10 in '08 -- for entering a house in the day.

11 But I point out that these were not armed, and
12 these were not involving people being present. On one
13 he got probation, on the second he got a youthful
14 offender sentence.

15 who greeted him when he came out of prison about
16 four months before this incident but the same man, Old
17 School, that was the nickname this man goes by.

18 Adrian was easy prey. Adrian was broke, had no
19 resources, and never knew a thing about Mr. Giron, the
20 victim, who the intelligence and the hard work of Mount
21 Pleasant revealed was a kilo cocaine dope dealer.

22 They have evidence that he was moving
23 substantial weight here in the low country. And that
24 he somehow became connected to Mr. Contreras.

25 Through the investigation that I have received

1 from the solicitor and the Mount Pleasant police it
2 shows that Mr. Contreras was involved in a very active
3 drug trade, both at his workplace and at his apartment.

4 And there is strong reason to think that the
5 architect of this has direct contact with Mr. Contreras
6 that led the architect to believe that there would be
7 substantial drugs and money found in the apartment.

8 It turns out that this thing was handled so
9 chaotically that a substantial amount of cash was left
10 behind. It was found by the Mount Pleasant both on Mr.
11 Contreras himself, and in the other bedroom of this
12 apartment.

13 Why do I contend, Your Honor, that my client
14 wasn't the architect and was brought in at the last
15 minute? Well, unlike the two codefendants who were
16 prepared, my client got a call that morning and said,
17 we just need you to slip into a window.

18 Standard scenario, no one is going to be at
19 home. And you can verify that by going around and
20 knocking on the door to make sure that there is no one
21 present in the apartment.

22 And sure enough, the surveillance video of the
23 neighbor that the police found verifies that Adrian is
24 the one, who prior to the entry in through the window,
25 goes around to the front entrance, goes into the

1 apartment complex, just as he contends, to knock on the
2 door.

3 There was no response. You can see that Adrian,
4 he is now two years older. When I saw him he was
5 skinnier, he is very agile, and these two men boosted
6 him into a kitchen window on the second floor.

7 Now, the kitchen window does not enter into a
8 bedroom area, it enters into then a front room, the
9 living room, and the front door.

10 Adrian let in the other two through the front
11 door. Adrian had no mask. Again, he was not expecting
12 to run into anyone. He did not initially enter the
13 bedroom. And apparently Mr. Contreras, who had been
14 partying hard the night before, who had been drinking
15 heavily according to what the State has disclosed to
16 me, was still sleeping. And this was at noon, middle
17 of the day, on the 11th.

18 My client had no gun, no weapon when he entered.
19 But when Mr. Contreras, the victim, was resisting the
20 attempts by the other man to hold him down, the Old
21 School handed him a pistol, a silver .38, and said, go
22 help him.

23 And he did at that point impulsively, stupidly,
24 go in, strike the man, hold him down. And at that
25 point, as fate would have it, Mr. Iron came back to the

1 apartment.

2 Mr. Contreras had left the key under the mat so
3 Mr. Iron was able to come in and out of that apartment,
4 entered the apartment, came back down the hall. And my
5 client panicked, and in the confusion impulsively shot
6 both of these people.

7 I dwell on the fact that my client was the one
8 with no gloves which clearly shows that this was not
9 something that he was planning to be a part of. He
10 then was arrested based on the DNA.

11 He had a 12-hour interview with the Mount
12 Pleasant Police Department. And initially he did say,
13 I wasn't there.

14 When they confronted him with the obvious truth
15 of the DNA, he then began to talk about what he did in
16 part. He did misrepresent the two people that were
17 with him out of fear because it has been clear to him
18 from day one that the man who groomed him grooms other
19 people and has himself witnessed him inflict violence
20 on those that betray him, turn on him, or even disagree
21 with him.

22 Your Honor, I guess where we stand here today is
23 one where it is a terrible case, but one in which I
24 have tried to help Adrian see a new way of living. Up
25 to now he has had just about every unfortunate bad

1 break that you could have from poverty, to educational
2 disadvantages, to the lack of a parental figure, to the
3 entry of an evil man who set him on a path to this
4 ultimate conclusion.

5 My client is and has met with the State and has
6 told them everything that he can say up to the point
7 where he would begin to disclose information that he
8 believes would endanger his mother and his family.

9 It doesn't change the horror of the crime but I
10 -- this Court has heard other similar cases, other
11 aggravated murder cases. Back in the day when murder
12 was a 20 to life proposition, the legislature felt that
13 that was the appropriate range. Now, they have upped
14 it to 30 to life, Your Honor.

15 I ask Your Honor to give my client credit for
16 the time that he has served in jail since March 31st
17 of --

18 THE COURT: He is entitled to that. Since March
19 31 of what year?

20 MR. PENNINGTON: 2010.

21 THE COURT: Go ahead.

22 MR. PENNINGTON: And, Your Honor, I have urged
23 Adrian to man up, to take responsibility and to hope,
24 to have hope that he could orient himself in the
25 penitentiary in a way that would free him from this

1 past and set him on the right road. And he has pledged
2 to me that he intends to do that.

3 I would ask Your Honor to craft a sentence in
4 the 30 to 35 year range. That is decades of time that
5 he would have to do, but would give him that glimmer of
6 hope and opportunity to redeem himself which I believe
7 he intends and wants to do.

8 And I believe that he can address that perhaps
9 better than I.

10 THE COURT: Anything you'd like to say, Mr.
11 Beaton?

12 THE DEFENDANT: Yes, sir. First, I would like
13 to apologize to the victims because I was wrong and I
14 accept full responsibility for my wrongdoing.

15 I would like to apology to my family for putting
16 them through this terrible pain of me getting in
17 trouble and them having to come down here. And I'd
18 like to apologize to the Court for being here, causing
19 trouble in the street. That's it.

20 THE COURT: All right. Well, my heart certainly
21 goes out to everyone who has been touched in such bad
22 ways by the events that we have heard about.

23 I hope that in addition to your changes that
24 your lawyer has talked about, that you will also have a
25 change of heart in regard to who else was involved in

1 this.

2 Because whoever else that was certainly does not
3 deserve to be walking the streets free. Do you
4 understand what I am saying?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: I hope that you will have a change
7 of heart in regard to that change of mind because now
8 is the time to put an end to that. And you are the
9 only one that has the ability to do that, Mr. Beaton.

10 All right. The sentence on the first one I'm
11 looking at, which is the burglary conviction, sentence
12 is that you be confined to the South Carolina
13 Department of Corrections for a period of 30 years.
14 All these sentences are concurrent, and you get credit
15 for your jail time since March 31, 2010 on each.

16 Sentence on the assault and battery with intent
17 to kill, 20 years. Sentence on the kidnapping is 30
18 years. Sentence on the murder is 35 years.

19 Good luck to you.

20 MR. PENNINGTON: Thank you, Your Honor.

21 MS. SHEALY: Thank you, Your Honor.

22 (Whereupon, the proceedings in the matter before
23 the Court were adjourned.)

24 * * * * *

25

C E R T I F I C A T E

I, the undersigned, ANNE BOULEY MEYER,
Official Court Reporter for the Ninth Judicial
Circuit of the State of South Carolina, do hereby
certify that the foregoing is a true, accurate, and
PARTIAL transcript of record, and of all the
proceedings had and evidence introduced in the above
captioned case, relative to appeal, in the Circuit
Court for South Carolina, on the indicated date.

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



Anne Bouley Meyer, RPR
Circuit Court Reporter

JKS20100401955

DOCKET NO. 2010GS1005325

WITNESSES

ADAM WILLIS

Mt. Pleasant Police Department

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

2010P02958

COURT OF GENERAL SESSIONS

August Term 2010

ARREST WARRANT NUMBER

K667198

DATE OF ARREST

April 9, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury:

Date: AUG 09, 2010

VERDICT:

THE STATE

vs.

ADRIAN KEITH BEATON

DOB: [REDACTED]

B/M

Indictment for

Burglary, 1st Degree

FILED

8/18/2010 8:41:53 AM

JULIE J. ARMSTRONG

CLERK OF COURT

Foreperson of Petit Jury

Date:

INDICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

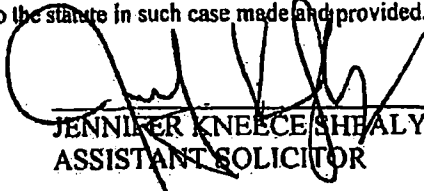
INDICTMENT

At a Court of General Sessions, convened on August 2, 2010 the Grand Jurors of Charleston County present upon their oath:

Burglary, 1st Degree

That in Charleston County, South Carolina, on or about March 11, 2010, the Defendant ADRIAN KEITH BEATON, did enter the dwelling of Jose Domingo Contreras, located at [REDACTED] Mt. Pleasant, South Carolina, without consent and with the intent to commit a crime therein. That, in addition, the defendant was armed with a deadly weapon; in violation of Section 16-11-311(A)(1) of the South Carolina Code of Laws (1976) as amended.

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


JENNIFER KNEECE SHEALY
ASSISTANT SOLICITOR

JKS20100401955

WITNESSES

ADAM WILLIS

Mt. Pleasant Police Department

AGENCY CASE NUMBER

2010P02958

ARREST WARRANT NUMBER

K667199

DATE OF ARREST

April 9, 2010

ACTION OF GRAND JURY

TRUE BILLForeperson of Grand Jury
Date: AUG 03 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2010GS1005326

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

August Term 2010

THE STATE

vs.

ADRIAN KEITH BEATON

DOB: [REDACTED]

B/M

Indictment for

Kidnapping

FILED

8/18/2010 8:41:53 AM

JULIE J. ARMSTRONG

CLERK OF COURT

10-1899 (62)

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

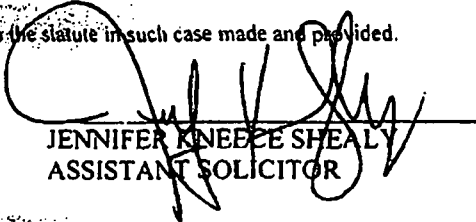
INDICTMENT

At a Court of General Sessions, convened on August 2, 2010 the Grand Jurors of Charleston County present upon their oath:

Kidnapping

That in Charleston County, South Carolina, on or about March 11, 2010, the Defendant, ADRIAN KEITH BEATON, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Jose Domingo Contreras, without authority of law; all in violation of Section 16-3-910 of the South Carolina Code of Laws (1976) as amended.

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


JENNIFER KNEESE SHEALY
ASSISTANT SOLICITOR

JKS20100401955

WITNESSES

ADAM WILLIS

Mt. Pleasant Police Department

AGENCY CASE NUMBER

2010P02958

ARREST WARRANT NUMBER

K667200

DATE OF ARREST

April 9, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

AUG 03 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2010GS1005327

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

August Term 2010

THE STATE

vs.

ADRIAN KEITH BEATON

DOB [REDACTED]

B/M

Indictment for

Assault and Battery with Intent to Kill

FILED

8/18/2010 8:41:53 AM

JULIE J. ARMSTRONG

CLERK OF COURT

10-1899(03)

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

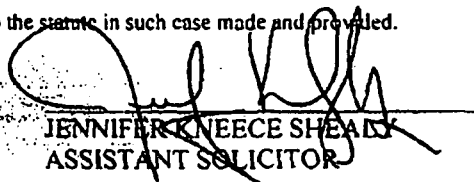
INDICTMENT

At a Court of General Sessions, convened on August 2, 2010 the Grand Jurors of Charleston County present upon their oath:

Assault and Battery with Intent to Kill

That in Charleston County, South Carolina, on or about March 11, 2010, the Defendant, ADRIAN KEITH BEATON, with malice aforethought, did commit an unlawful act of a violent nature upon the victim, Laticia Herrera, to wit: the Defendant did shoot the victim in the chest; all in violation of the Common Law of South Carolina and Section 16-03-620 of the South Carolina Code of Laws (1976) as amended.

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


JENNIFER KNEECE SHEALY
ASSISTANT SOLICITOR

JKS20100401955

WITNESSES

ADAM WILLIS
Mt. Pleasant Police Department

AGENCY CASE NUMBER

2010P02958

ARREST WARRANT NUMBER

K611646

DATE OF ARREST

March 31, 2010

ACTION OF GRAND JURY

TRUE BILL

Randolph Beaton
Foreperson of Grand Jury
Date: AUG 03 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2010GS1005328

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

August Term 2010

THE STATE

10-1710(01)

vs.

ADRIAN KEITH BEATON
DOB: [REDACTED]
B/M

Indictment for

Murder

FILED

8/18/2010 8:41:53 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on August 2, 2010 the Grand Jurors of Charleston County present upon their oath:

Murder

That in Charleston County on or about March 11, 2010, with malice aforethought, ADRIAN KEITH BEATON, alone or while acting with another or others, did kill and murder Oscar Hernandez-Giron by means of shooting him, and that Oscar Hernandez-Giron did die in Charleston County as a proximate result thereof on March 11, 2010; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976) as amended.

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

JENNIFER KNEECE SHEALY
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
 STATE VS.
ADRIAN KEITH BEATON

AKA: [REDACTED]
 Race: BLACK Sex: [REDACTED] Age: 22
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED] VE
 City/State/Zip: NORTH CHARLES, SC 294200000
 DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Burglary, 1st degree (15-7,34)

INDICTMENT/CASE#: 2010GS1005325

A/WH: K667198

Date of Offense: 3/11/2010

S.C. Code §: 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

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

The charge is: ☒ As Indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: [Signature] 79.9 [Signature] [Signature] 4409
 Kneese Sherry, Jennifer SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 30 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 Department of Corrections. STARTED MARCH 31, 2010.

☐ 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 _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

* Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 56-5-2942(A) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: A. Hager

SCCA/217 (03/2011)

Presiding Judge T.L. Hightower

Judge Code: 2008

Sentence Date: 1/26/12

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.

ADRIAN KEITH BEATON

AKA:

Race: BLACK Sex: [REDACTED] Age: 22DOB: [REDACTED] SS#: [REDACTED]

Address:

Zip: NORTH CHARLES, SC 294200000

DL#:

CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping 30

IN THE COURT GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS1005326A/W#: K667199Date of Offense: 3/11/2010S.C. Code §: 16-03-0910CDR Code #: 0095

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 7919 Adrian Beaton [Signature] 4409
Kneece Sherry, Jennifer SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 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. NOT SEX RELATED CRIME - NOT REQUIRED TO REGISTER☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. STARTED MARCH 31, 2010. T.L.H.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Only Court Surcharge)	\$150	\$
§ 14-1-213 (Only Court Surcharge)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 48.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 173.90

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter: A. Boyd

SCCA 217 (03/2011)

Presiding Judge

Judge Code: 2008Sentence Date: 1/26/12

STATE OF SOUTH CAROLINA

IN THE COURT GENERAL SESSIONS

COUNTY OF Charleston
 STATE VS.
ADRIAN KEITH BEATON

INDICTMENT/CASE#: 2010GS1005327A/W#: K667200Date of Offense: 3/11/2010S.C. Code §: 16-03-0620CDR Code #: 0014

AKA:

Race: BLACK Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: 8102 MDL#: [REDACTED] SID#: 294200000

SC01739255

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
 TO: ABWIK/Assault and Battery with Intent to Kill - Retired 06/22/2010☐ CONVICTED OF or ☒ PLEADS

SENTENCE SHEET

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.

ATTEST:

Kneese Shealy, Sheriff

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

 WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 20 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 Department of Corrections. STARTED MARCH 31, 2010
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>00.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$300	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% in County (if paid in installments)	\$	\$ <u>3.40</u>
TOTAL	\$	\$ <u>33.40</u>

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter: A. Meyer

SCCA217 (03/2011)

Presiding Judge

Judge Code: 2008Sentence Date: 1/26/12

STATE OF SOUTH CAROLINA

IN THE COURT GENERAL SESSIONS

COUNTY OF Charleston
 STATE VS.
ADRIAN KEITH BEATON

AKA: _____
 Race: BLACK Sex: M Age: 22
 DOB: _____
 Address: _____
 City: _____
 CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Murder 2011

INDICTMENT/CASE#: 2010GS1005328A/W#: K611646Date of Offense: 3/11/2010S.C. Code §: 16-03-0010, 0020CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: 7919 Adrian Beaton D. A. [Signature] 4409
 Kneese, Shelly, Jennifer SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 35 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 Department of Corrections. STARTED MARCH 31, 2010.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/ Deputy Clerk

Cour. Reporter: A. [Signature]

SCCA/217 (03/2011)

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Presiding Judge

Judge Code: 20089

Sentence Date: 1/26/12

FORM 5

STATE OF SOUTH CAROLINA)

County of Charleston)Adrian Beaton #327914)

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

v.)

State of South Carolina)

2012-CP-10-7668
IN THE COURT OF COMMON PLEASFILED
NOV 26 AM 11:42
JULIE ANN BISHONG
CLERK OF COURT

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lieber Corr. Inst. P.O. Box, Ridgville S.C. 29927
2. Name and location of Court which imposed sentence Charleston County Court
House, 81 Meeting Street Charleston S.C. 29401 General Sessions Court
3. Name(s) of co-defendant(s) (if any) Terrell Magoniary James Pinkney
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2010-GS-100-5325 Burg 1st

- (b) 2010-GS-100-5326-Kidnapping
- (c) 2010-GS-100-5327-ABWIK 2010-GS-100-5328-Murder
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) January 26, 2012 35 years for murder 30 years for Kidnapping
- (b) 30 years for Burglary and 20 years for ABWIK all run
- (c) Concurrent with the 35 years for murder
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty I that was Breasted and Pleaded
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
N/A
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. NO
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. NO
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. NO
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. NO
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) My Counsel told me after pleading that I couldn't appeal

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel
- (b) Because My plea was not knowingly voluntarily,
- (c) intelligently, willingly or lawfully plea
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) A Amendment will follow this PCR package
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. No
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. No
- ii. _____
- iii. _____

iv. _____

(c) the disposition thereof:

i. None

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. None

ii. _____

iii. _____

iv. _____

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

i. None

ii. _____

iii. _____

iv. _____

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?

None

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

(a) which grounds have been presented:

i. None

ii. _____

iii. _____

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

i. None

ii. _____

iii. _____

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) These issues has been fully adjudicated
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
- (b) your trial, if any? Not trial at plea
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Ashley Pennington
Public Defender Office Blt24.
- ii. O.T Wallace County Blt24
101 West Meeting Street 5th Floor
- iii. Charleston J.C. 29414
- (b) the proceedings at which each such attorney represented you:
- i. Unlawfully plead agreement
- ii. _____
- iii. _____

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

Sentence of Conviction on plea Vacated

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

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Charleston)

VERIFICATION

I, Adrian Breaker, 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.

Adrian Breaker

SWORN to and subscribed before me this 20th
day of February, 2012.
25 November
Ludreen Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

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

I, Adrian Beaton, 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.

Adrian Beaton

Applicant

SWORN or affirmed to and subscribed before me this
30th day of October, 2012.

Ludman Bryant
Notary Public

My Commission Expires: May 26, 2020

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	
	)	2012-CP-10-7668
	)	
Adrian Beaton, #327914	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed November 26, 2012; would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the August 2010 term of the Charleston County Grand Jury for burglary-first degree (2010-GS-10-5325), kidnapping (2010-GS-10-5326), assault and battery with intent to kill (2010-GS-10-5327), and murder (2010-GS-10-5328). The Applicant was represented by Ashley Pennington, Esquire.

On January 26, 2012, the Applicant pled guilty as indicted. Applicant was sentenced by the Honorable T.L. Hughston Jr. to confinement for a period of 30 years for burglary and kidnapping, 35 years for murder, and 20 years for assault and battery with intent to kill. The sentences are to be served concurrently. The Applicant did not appeal his convictions or sentences.

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

II.

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its

"reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

The Applicant also alleges that he did not plead guilty freely and voluntarily. The Respondent submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The Respondent submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the

truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The Respondent submits the Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to this claim, the Respondent submits that the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such. Accordingly, this allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

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

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

ASHLEIGH R. WILSON
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

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

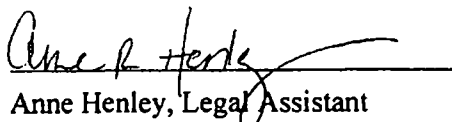
April 16, 2013.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	
	)	2012-CP-10-7668
	)	
ADRIAN BEATON, #327914	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
Respondent.	)	
_____	)	

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

Joseph Francis Hand Jr, Esquire
 106 W. 7th N. Street
 Charleston, SC 29483

DATED this 16th day of April, 2013


 Anne Henley, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
Adrian Beaton,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 12-GS-10-7668
	)	
State of South Carolina,	)	
	)	
Defendant	)	

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on April 15, 2014, before The Honorable R. Markley Dennis in Courtroom 4D of the Charleston County, 100 Broad Street, Charleston, South Carolina; attended by counsel as follows:

APPEARANCES:

J. Michael Bosnak, Esq.
Appearing for Applicant

Ashleigh T. Wilson, Esq.
Appearing for State of South Carolina

ALSO ATTENDING:

Adrian Beaton
Applicant

Deborah Garrison
Circuit Court Reporter – 9th Judicial Circuit
P O Box 901
Johns Island, South Carolina 29457
dgarrison@sccourts.org

Adrian Beaton v State of South Carolina
Case No. 12-GS-10-7668
Post-conviction Relief Hearing of April 15, 2014
Before The Honorable R. Markley Dennis, Jr.

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Before The Honorable R. Markley Dennis, Jr.

3

1

2

THE COURT: All right. You're

3

Adrian Beaton?

4

MR. BEATON: Yes, sir.

5

THE COURT: All right. Mr.

6

Beaton, this is your application for post-

7

conviction relief. You've talked with your

8

lawyer about what the possible outcomes can

9

be and it's your desire to go forward with

10

this today?

11

MR. BEATON: No, sir. I would ask

12

for a continuance, sir.

13

THE COURT: Why?

14

MR. BEATON: Because I have not had

15

the proper material here today to proceed on

16

this case.

17

THE COURT: Well, you're not

18

representing yourself. So, Mr. Bosnak, are

19

you ready to go?

20

MR. BONSAK: Yes, Your Honor.

21

THE COURT: Very well. Your

22

motion to continue is denied. All right.

23

You ready to go? Thank you, sir. All right.

24

You may call your first witness.

25

MR. BONSAK: I call Mr. Beaton to

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Post-conviction Relief Hearing of April 15, 2014
Before The Honorable R. Markley Dennis, Jr.

4

1 the stand.

2 (WITNESS TAKES STAND)

3 ADRIAN BEATON, having been duly sworn to
4 tell the truth, and nothing but the truth,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BOSNAK:

8 Q. Good morning, Mr. Beaton.

9 A. Good morning.

10 Q. Mr. Beaton, will you tell us your
11 age at this time?

12 A. Twenty-four (24).

13 Q. Okay. And I'm going to take you
14 back to August 2010. Tell us what happened
15 August of 2010?

16 A. August 2010, I can't tell you.

17 Q. Okay. Were you arrested in August
18 2010?

19 A. No.

20 Q. Okay. When were you arrested?

21 A. I was arrested March the 31st, 2010.

22 Q. Okay. And what were you arrested
23 for?

24 A. I was arrested for murder, kid-
25 napping, burglary first and assault and

Adrian Beaton v State of South Carolina
Case No. 12-GS-10-7668 - Testimony of Adrian Beaton
Post-conviction Relief Hearing of April 15, 2014
Before The Honorable R. Markley Dennis, Jr.

5

1 battery with intent to kill.

2 Q. Okay. And where was this alleged to
3 have happened?

4 A. Mount Pleasant.

5 Q. Okay. And who were you represented
6 by?

7 A. Ashley Pennington.

8 Q. Okay. Now, did you have a chance to
9 go over all the material concerning your case
10 with Mr. Pennington?

11 A. No.

12 Q. What did you not have a chance to
13 review?

14 A. This is 2014 and I still don't know
15 because I don't have the proper materials. I
16 need the -- I don't have a full copy of my
17 what my Brady Motion was. I don't have any
18 guilty plea changes. These are things that I
19 don't have that I need so that I could answer
20 your question, sir.

21 Q. Okay. So you don't have any of
22 those things?

23 A. No.

24 Q. Okay. Now, you did get the ---

25 THE COURT: Mr. Bosnak, let me ask

1 you, do you have the transcript?

2 MR. BONSAK: Yes, sir.

3 THE COURT: Okay. Thank you.

4 MR. BONSAK: Yes, sir.

5 THE COURT: Okay. I just wanted
6 to be sure you had it?

7 MR. BONSAK: Yeah. I've got it.

8 THE COURT: Okay.

9 DIRECT EXAMINATION CONTINUED

0 BY MR. BOSNAK:

1 Q. Did you get to read the police
2 report?

3 A. No.

4 Q. Didn't read the police report?

5 A. No.

6 Q. There was allegedly a video, a
7 surveillance video that identified you. Did
8 you ever get a chance to look at the video?

9 A. No.

0 Q. You didn't read anything about the
1 people that were accusing you of doing this?

2 A. No.

3 Q. Were you ever in a photo lineup?

4 A. Not to my knowledge, no.

5 Q. Mr. Pennington talked to you. How

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Post-conviction Relief Hearing of April 15, 2014
Before The Honorable R. Markley Dennis, Jr.

7

1 did he tell you that you were identified as
2 one of the people involved in this?

3 A. He told me I had pulled a gun. He
4 told me that they had a video, but I didn't
5 never see any.

6 Q. So you never saw anything for the
7 photo lineup?

8 A. No.

9 Q. Ever see anything of the video?

10 A. No.

11 Q. And you were aware that there was
12 some DNA evidence?

13 A. Yes.

14 Q. And allegedly the DNA evidence was
15 yours; correct?

16 A. Right.

17 Q. Did you ever see any of that?

18 A. No.

19 Q. Any results of the DNA evidence?

20 A. Yeah, I seen the results.

21 Q. Oh, you did?

22 A. Yeah, after I got locked up, I asked
23 Mr. Pennington to send me, you know.

24 Q. The DNA evidence?

25 A. Yes.

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Before The Honorable R. Markley Dennis, Jr.

8

1 Q. Did Mr. Pennington ever have --
2 well, first of all, who did the DNA evidence?
3 Do you know which -- was it a law enforcement
4 agency that tested?

5 A. No.

6 Q. Was it -- you don't know?

7 A. I don't know.

8 Q. Do you know if Mr. Pennington ever
9 had an independent group of people test your
10 DNA evidence?

11 A. No.

12 Q. You don't know or ---

13 A. I don't know.

14 Q. Okay. You don't know. Also, there
15 was some discussion about a person called Old
16 School.

17 A. Right.

18 Q. That had threatened you?

19 A. Me.

20 Q. Threatened your family?

21 A. Right.

22 Q. That you had known for a while?

23 A. Right.

24 Q. That had gotten you involved in
25 other burglaries?

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Case No. 12-GS-10-7668 - Testimony of Adrian Beaton
Post-conviction Relief Hearing of April 15, 2014
Before The Honorable R. Markley Dennis, Jr.

9

1 A. Right.

2 Q. Of course, these other burglaries
3 were certainly nonviolent; correct?

4 A. Right.

5 Q. And that this person, "Old School",
6 that you were afraid of, is the person that
7 set this up?

8 A. Right.

9 Q. Did you know, did you allegedly even
10 know those people over in Mount Pleasant?

11 A. No.

12 Q. Okay. And were you ever evaluated
13 by a doctor?

14 A. No.

15 Q. Okay. It's my understanding also
16 that you have problems with Attention Deficit
17 Disorder, things like that?

18 A. Right.

19 Q. And so Mr. Pennington never had you
20 evaluated?

21 A. No.

22 Q. And was it known to everybody that
23 you were afraid of some other people?

24 A. Yes.

25 Q. So much afraid that you would be

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1 willing --

2 MR. BONSAK: Excuse me. I'm going
3 to withdraw that question.

4 THE COURT: Okay.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. BOSNAK:

7 Q. There was allegedly three people
8 involved in this murder and kidnapping and
9 burglary; correct?

10 A. Correct.

11 Q. Of course, you've pled guilty to
12 them?

13 A. Right.

14 Q. How did the other people that were
15 alleged involved, what about them?

16 MS. WILSON: Objection, Your Honor.
17 Relevance.

18 THE COURT: I'll allow the
19 question. Overruled.

20 DIRECT EXAMINATION CONTINUED

21 BY MR. BOSNAK:

22 Q. What about the other people
23 involved?

24 A. They not here. They home.

25 Q. But I mean, do anybody know anything

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Post-conviction Relief Hearing of April 15, 2014
Before The Honorable R. Markley Dennis, Jr.

11

1 about them?

2 A. No.

3 Q. Did you tell the police something
4 about them?

5 A. No.

6 Q. Were you scared?

7 A. Yes.

8 Q. Okay. So you felt like you had to
9 plead guilty because of fear of these other
10 people?

11 A. Yes.

12 Q. Did you tell Mr. Pennington that?

13 A. Yes.

14 Q. Okay. And what did Mr. Pennington
15 say about that?

16 A. Mr. Pennington said that let's go
17 ahead and plead. That this would be the best
18 thing for me to do because my situation,
19 dealing with the solicitor, he'd heard that
20 she had a hip surgery still wanted to go
21 through with the trial. If she go through
22 the trial, then they going to push for the
23 death penalty.

24 Q. So you were informed that you could
25 possibly get the death penalty?

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Before The Honorable R. Markley Dennis, Jr.

1 A. Yes.

2 Q. Or you could possibly get life
3 without parole?

4 A. Right.

5 Q. Instead, you went before Judge
6 Hughston?

7 A. Uh-huh.

8 Q. And the maximum you were given was
9 what?

10 A. Thirty-five (35).

11 Q. So you're doing thirty-five years at
12 this time?

13 A. Right.

14 Q. Okay.

15 MR. BONSAK: Thank you, Your Honor,
16 no further questions.

17 THE COURT: All right. Cross-
18 examine?

19 MS. WILSON: May it please the
20 Court, Your Honor.

21 THE COURT: Yes.

22 MS. WILSON: Ashleigh Wilson for
23 the State of South Carolina.

24 CROSS-EXAMINATION

25 BY MS. WILSON:

Adrian Beaton v State of South Carolina

13

Case No. 12-GS-10-7668 - Testimony of Adrian Beaton
Post-conviction Relief Hearing of April 15, 2014 - Cross Examination
Before The Honorable R. Markley Dennis, Jr.

1 Q. Good morning, Mr. Beaton?

2 A. Good morning.

3 Q. Do you recall how many times you met
4 with Mr. Pennington before you pled guilty?

5 A. No, ma'am.

6 Q. Did you meet with him? You talked
7 to him frequently?

8 A. Yes.

9 Q. And do you recall reviewing your
10 evidence with Mr. Pennington?

11 A. No.

12 Q. And did he talk to you about
13 possible defenses that y'all could present?

14 A. No, ma'am.

15 Q. Well, what did you talk about when
16 you spoke with Mr. Pennington?

17 A. Well, at the time, I was trying to
18 establish a defense for my case. Mr.
19 Pennington didn't thoroughly investigate it
20 because I told him that I wanted to go back
21 to my statement, because I had an alibi. And
22 he didn't even track down my alibi witness,
23 who at the time, Demetria Brown; he didn't do
24 none of that.

25 Q. And before -- while you were

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1 reviewing things with Mr. Pennington in your
2 case, did he talk to you about any plea
3 offers from the State?

4 A. Yes. He told me about -- there was
5 plea offers from them at the time. He told
6 me that I was going to get thirty years.
7 Instead, I got thirty-five years.

8 Q. Was it your decision to plead
9 guilty?

10 A. No.

11 Q. Do you recall telling the plea judge
12 that you wanted to plead guilty?

13 A. Yes.

14 Q. Do you recall telling the plea judge
15 that you were actually guilty?

16 A. No.

17 Q. Do you recall waiving your
18 Constitutional rights at the guilty plea
19 proceeding?

20 A. No, ma'am.

21 Q. Do you recall the Court telling you
22 that, telling you about your right to a jury
23 trial?

24 A. No, ma'am.

25 Q. Did you give a statement in this

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1 case?

2 A. Yes.

3 Q. Do you recall telling the Court that
4 you weren't threatened to plead guilty?

5 A. No.

6 MS. WILSON: Thank you.

7 THE COURT: Redirect?

8 MR. BONSAK: Nothing, Your Honor.

9 THE COURT: Thank you. You may
10 come down Mr. Beaton.

11 (WITNESS STEPS DOWN)

12 THE COURT: You may call your next
13 witness.

14 MR. BONSAK: Your Honor, that's all
15 the witnesses we have at this time.

16 THE COURT: Very well. Does the
17 State have any witnesses?

18 MS. WILSON: Yes, Your Honor. The
19 State would call Ashley Pennington.

20 THE COURT: All right.

21 (WITNESS TAKES STAND)

22 ASHLEY PENNINGTON, having been duly sworn
23 to tell the truth, and nothing but the truth,
24 testified as follows:

25 DIRECT EXAMINATION

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1 BY MS. WILSON:

2 Q. Good morning, Mr. Pennington?

3 A. Good morning.

4 Q. How long have you been practicing
5 law?

6 A. I've been practicing for thirty-
7 three years.

8 Q. And could you give us like a brief,
9 I guess, synopsis of your career over the
10 years?

11 A. I have been a State Public Defender
12 in South Carolina. I've been a Federal
13 Public Defender in Chicago. I have been the
14 Deputy Public Defender here in Charleston.
15 I've been the Director of this office for
16 eleven years. I've been in private practice
17 doing criminal defense and nonprofit work.
18 And then I've been the chief public defender
19 for the last six years.

20 Q. Safe to say the majority of your
21 experience has been in criminal law?

22 A. Pretty much all of it. Some
23 domestic, but mostly criminal.

24 Q. Okay. And do you recall when you
25 were appointed to represent Mr. Beaton?

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1 A. It would have been shortly after his
2 arrest.

3 Q. And do you recall how many times you
4 met with him prior to him pleading guilty and
5 what your interactions were like with him?

6 A. I represented him from the time of
7 his arrest until the time of his plea. I
8 don't recall what elapsed time that
9 represents. But I would see him at least
10 monthly. And we would have had more intense
11 conversations in the beginning where we were
12 actually having interactions with law
13 enforcement in the beginning, then, a great
14 deal more toward the time that we were in
15 final negotiations and a proffer to the
16 solicitor's office and then an ultimate
17 guilty plea.

18 Q. And can you tell us about the
19 process in Mr. Beaton's interaction with law
20 enforcement with regard to the proffer?

21 A. Okay. Well, there were two periods.
22 Initially, Mr. Beaton made a statement to law
23 enforcement admitting involvement and was
24 essentially being asked to identify from a
25 photo lineup co-suspects, people that they

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1 were looking for to essentially tie in with
2 his case. That was the first phase and that
3 was in the early days of the case. We
4 actually met at the detention center.

5 And then in the old detention center
6 there was an alcove where law enforcement
7 would come in and he was presented with photo
8 lineups to select co-defendants. They had
9 trouble making any identifications. He did
10 not positively identify people.

11 Then there was a long break of probably
12 over a year. And then as the Solicitor
13 Shealy got ready to try the case, I had
14 conversations with Adrian and that lead to us
15 entering into a proffer arrangement where we
16 sat down in the solicitor's office with the
17 chief investigators in Mount Pleasant for an
18 extended interview, giving details about
19 specifics and describing the circumstances
20 and how Adrian came to be caught up in this
21 mess.

22 Q. And in this case did you file Brady
23 or Rule 5 motions?

24 A. Yes, we did. That was early on in
25 the case. There was Rule 5 with a Brady

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1 request built in.

2 Q. Okay. And did you review the
3 material that you received with MR. Beaton?

4 A. Yes. You can see on the card there
5 -- I had two banker's boxes full of documents
6 that we'd acquired. And over period of time,
7 I would take large volumes of paper out to
8 him. Mr. Beaton was not comfortable having
9 those things in his cell. He would give them
10 back to me so I was the steward of those
11 documents. I kept those documents and then
12 maintained them in a banker's box.

13 And at the end of the case, the question
14 was what to do with them. There was
15 communications between Mr. Beaton and I while
16 he was in the Department of Corrections. We
17 ultimately delivered that banker's box to the
18 Department of Corrections in March a year
19 ago.

20 Q. And can you kind of explain briefly
21 the type of materials you received in
22 discovery?

23 A. Mount Pleasant did a very, very
24 thorough investigation. And at first we
25 received the, what would be standard Rule 5

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1 type materials, where it was criminal
2 history, interviews, statements, the
3 defendant's statements, the defendant record,
4 those kind of things. And then we got a
5 fancy tool that they used where you could
6 actually electronically go through the whole
7 file. Now, obviously I couldn't turn that
8 over to Mr. Beaton, but we extracted
9 components of that and I made it available to
10 him so that we could access that. I didn't
11 bring it with me here today. So that's
12 essentially the sum total. There were disks
13 that had photographs and those kinds of
14 things. And so we would go through those
15 materials as well.

16 Q. Did your -- oh, go ahead. I'm
17 sorry.

18 A. That's it.

19 Q. Did you ever receive a video in this
20 case?

21 A. You know, I can't remember. I'm
22 searching my memory. I do know that there
23 were videos of like, for example, the gas
24 stations. In the beginning, they had real
25 trouble finding what was a Dodge Magnum

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1 vehicle that was associated with this. They
2 had surveillance cameras that showed that
3 vehicle and they looked. And they were
4 trying to track all of these Dodge Magnums.
5 I remember those videos.

6 As far as a video of what happened in the
7 apartment, there is none.

8 And so -- and I want to say toward the
9 end -- I may be mistaken. I wouldn't rely
10 too heavily on this -- but I vaguely remember
11 that they produced a video that may have
12 shown what appeared to be Adrian outside the
13 apartment complex. But that was not to me
14 the make-or-break piece of evidence in the
15 case.

16 Q. Do you recall if you discussed with
17 Mr. Beaton the elements of the charges he was
18 facing and what the State had to prove?

19 A. Several times.

20 Q. Did you talk to him about potential
21 defenses for those charges?

22 A. Yes, on many occasions. From the
23 beginning all the way through the case.

24 Q. And did you talk to him about his
25 version of the facts?

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1 A. Yes, I have. On many occasions.

2 Q. Did you also discuss with him any
3 possible defenses you could present if he
4 proceeded to trial?

5 A. Yes. We talked about all kinds of,
6 all the various aspects of the case and his
7 involvement. And also the issue of the DNA
8 and the shirt that was involved and things
9 that were pointing more in his direction.

10 Q. And did you think that you had a
11 defense you could present on Mr. Beaton's
12 behalf if you proceeded to trial?

13 A. No. given the statement he'd given,
14 we were in a very difficult position. And
15 not only did I not see a defense, but Mr.
16 Beaton elected to proffer to the State and
17 essentially admit his role and involvement
18 prior to the guilty plea in an attempt to put
19 it in the right perspective and earn the
20 ability to get the chance to plead before
21 Judge Hughston.

22 We pled before Judge Hughston and he was
23 able, we were able to get a thirty-five year
24 sentence from Judge Hughston based on his
25 age, some of his intellectual deficiencies,

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1 his ADD kind of problems. The fact that he
2 had, in our view, been manipulated by older
3 seasoned men who had recruited him and put
4 him in the position to shimmy into the
5 vocation. So that created a more sympathetic
6 picture. But it was not a defense. It was
7 more mitigation.

8 Q. And you mentioned Mr. Beaton's ADHD
9 and this sympathetic nature, I guess, that
10 his background -- did you think that he
11 needed to be evaluated or did you feel there
12 were any competency issues?

13 A. I found no competency issues. I did
14 suspect that Adrian did not read well. And I
15 think that was perhaps one of the reasons why
16 it was not something that he wanted to hold
17 onto the file and go through it. So I tried
18 to take extra care to explain verbally to him
19 what was going on, sort of the various
20 factors, the good, the pros and bad -- the
21 cons -- of the case, the strengths and
22 weaknesses of our defense.

23 Q. And could you briefly characterize
24 the State's evidence against Mr. Beaton?

25 A. Well, I have to say this. It's been

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1 enough time that my brain is foggy about some
2 of the details. But the vague outlines that
3 I remember clearly from looking at the
4 transcript of this guilty plea, the arrest
5 was made on DNA. It was a DNA hit that came
6 off the ligatures, which were the bindings
7 that were placed around the victim, Mr.
8 Contreras. He was not killed. It was a tie,
9 a man's necktie. And strangely enough, they
10 were able to get trace DNA from that that was
11 a hit onto Mr. Beaton. And that's what led
12 him to be brought in and be interviewed, in
13 which he made a acknowledgements that he was
14 involved.

15 There were also -- there were -- one of
16 the key questions was during his interview
17 with law enforcement was a description he
18 gave of the codefendants in the case. He
19 described them as essentially wearing dark,
20 dark clothing. And he described himself as
21 wearing a white tee shirt. That hurt us down
22 the road. The facts of the case were that
23 this was a break-in where, I think it
24 appeared that there was a person asleep who
25 woke up and was confronted. He was a

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1 Spanish-speaking drug dealer. And later in
2 the course of the holding him and sort of
3 rifling through the place, two other
4 individuals came in, a man and a woman. And
5 as the man came in, he was fatally shot. And
6 the woman turned and was also shot. She
7 survived. And she described an assailant,
8 the shooter, as wearing a white tee shirt.
9 So this was a problem for us because sort of
10 by the way that he had framed the case, it
11 not only had his hands on the ligatures of
12 the person who survived but also, he's
13 wearing the white tee shirt.

14 Q. What kind of investigation did you
15 need to do in this case and what kind of
16 investigation did you ultimately decide to
17 do?

18 A. Mostly, it was time spent sifting
19 through the discovery and talking with
20 Adrian. The description of events changed
21 during the course of our representation
22 dramatically. And so we were hoping, as part
23 of the defense, that we would be able to make
24 a compelling showing that it was really the
25 codefendants that were the chief perpetrators

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1 and be able to cooperate and earn some sort
2 of benefit, because there had been an
3 admission early on in involvement. There was
4 DNA. And then when that didn't materialize,
5 we were kind of between a rock and a hard
6 place. So we still provided cooperation. We
7 still provided specifics and details to a
8 degree. Mr. Beaton was terrified of the man
9 he called Old School, who was the real
10 architect of this crime. And we did not
11 provide his identity to law enforcement for
12 fear that there could be retribution.

13 Q. Now, do you recall when you entered
14 into plea negotiations on Mr. Beaton's
15 behalf?

16 A. Do I remember when?

17 Q. Uh-huh? Was it ongoing on just ---

18 A. It was very much ongoing. I mean,
19 when Solicitor Jennifer Shealy was working on
20 the case we would be in touch and talk. I
21 was concerned that the case could go capital.
22 Then when it did not go capital thankfully, I
23 was concerned that this was one where we were
24 going to end up looking at potential life
25 without parole outcome. So it was going to

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1 be tricky because all the evidence pointed at
2 Adrian and they were having real trouble
3 identifying any other reliable codefendants.
4 Fortunately, as fate would have it, the State
5 and law enforcement in Mt. Pleasant were
6 intensely interested -- I think that they
7 believed that Adrienne had been a tool of
8 some other folks. And they were very
9 intensely interested in seeing who those
10 other people were.

11 I don't know that they were able to build
12 a very quality case against the others. I
13 don't know the specifics but they have been
14 prosecuted but I think from a lesser charges
15 or unrelated charges.

16 Q. And ultimately, what was the offer
17 that the State made to Mr. Beaton?

18 A. Well, I know that part of our
19 concern was the plea in front of Judge
20 Hughston. And I think it was a straight-up
21 guilty plea but with acknowledgements of his
22 cooperation. And based on my experience,
23 that was enough. We felt that that was going
24 to provide the best outcome.

25 Also, there was a stipulation that the

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1 kidnapping involved was not sex-related so
2 that there would not be a requirement of
3 registry.

4 Q. And did you felt you got to talk to
5 Mr. Beaton enough to about this plea offer or
6 just the option of pleading guilty?

7 A. I personally did, particularly as we
8 moved through the final days of meeting with
9 the State and then preparing for the guilty
10 plea and talking over at the detention center
11 and hearing a -- there didn't seem to be any
12 hesitancy or confusion on the part of Adrian
13 about what was going on or what we were
14 preparing to do or what we hoped for. My
15 experience in aggravated murders were that
16 contrite defendants could potentially hope
17 for a thirty-five year term from Judge
18 Hughston at that time. And I felt that that
19 was as good as we were likely to be able to
20 do in front of any court. And so that was
21 the goal.

22 Q. And do you recall what exactly you
23 requested from Judge Hughston with regard to
24 the sentencing range?

25 A. I don't remember specifically. I

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1 probably had asked for leniency. I doubt
2 that I said thirty-five, but maybe I did.
3 I could have. I haven't reviewed the
4 transcript on that.

5 Q. Did you talk to Mr. Beaton about his
6 Constitutional rights before he pled guilty?

7 A. Yes.

8 Q. And you said he never indicated he
9 didn't understand any part of the proceeding?

10 A. That's correct. He had questions
11 always. I mean, he asked good questions.
12 But, uh, -- he is not, in my view, someone
13 who is as litigious or as insightful as some
14 other clients. As I described it, I think he
15 has some learning issues. I don't know how
16 well he reads. And so I don't want to
17 represent to you or to the Court that he was
18 all over the discovery. But I had no
19 question that he understood what was going
20 on, the implications of what was going on.
21 And was intimately involved in the facts and
22 certain evaluation of the case in a way that
23 gave me confidence that he understood my
24 role, his role, what was at stake and his
25 rights to either have a trial or to enter

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1 this guilty plea.

2 Q. This decision, do you think
3 ultimately was to plead guilty, Mr. Beaton's?

4 A. It was Mr. Beaton's. And we also
5 involved his family. We had consultations
6 with his family and discussed with them.
7 They knew what was coming and they supported
8 it.

9 Q. Did you ever consider getting any
10 type of independent evaluation of any of the
11 State's DNA evidence?

12 A. I don't recall, no. I don't
13 remember that at all. I could have consulted
14 with an expert but I don't remember sending
15 for -- so I think the answer is simply, no.
16 I don't remember doing that.

17 Q. And do you recall during the guilty
18 plea in mitigation telling the Court what --
19 about the Defendant involving the case. And,
20 you know, how you felt his involvement was.
21 Did you present that to Judge Hughston?

22 A. Yes, in great detail.

23 Q. Thank you, Mr. Pennington.

24 A. Yes, ma'am.

25 THE COURT: You may cross-examine,

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1 Mr. Bosnak.

2 MR. BONSAK: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. BOSNAK:

5 Q. Mr. Pennington, let's review a
6 little bit of this. Except for the state-
7 ments being made, let's go a little bit to
8 the police report, what allegedly happened,
9 okay?

10 A. Okay.

11 Q. The first part of this is that this
12 one gentleman, Contreras, is that how you
13 pronounce it?

14 A. Mr. Contreras.

15 Q. Contreras.

16 A. Contreras.

17 Q. Mr. Contreras has a condominium over
18 in Mount Pleasant?

19 A. Or an apartment.

20 Q. Yes. And he undoubtedly is making a
21 living selling drugs?

22 A. And working in a restaurant. But,
23 yes, he was involved in selling drugs.

24 Q. Involved in selling drugs. And a
25 friend of his, Mr. Irons ---

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1 A. I'm sorry?

2 Q. Mr. Irons, the person that was
3 killed?

4 A. I think it's Giron or G-I-R-O-N.

5 Q. Oh, I thought it was I-R-O-N. Okay.

6 A. I think it begins with a G.

7 Q. G. Okay.

8 A. Maybe it's -- I don't know. You may
9 be correct. Giron is the deceased.

10 Q. The deceased?

11 A. Yes.

12 Q. He and a female, a Ms. Lester, came
13 over to see Contreras; correct?

14 A. That's correct.

15 Q. And they claim that they came over
16 there to help, to get him to help them buy a
17 cellphone?

18 A. I think that's right. I think
19 that's what they said in the plea.

20 Q. Because they couldn't speak good
21 English?

22 A. Right.

23 Q. Okay. And Mr. Contreras is
24 undoubtedly, he's passed out on the couch on
25 the living room; would that be correct?

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1 A. I thought he was in the bedroom. In
2 the bedroom.

3 Q. Okay. I can refresh your memory.

4 A. Sure, if you'd like.

5 MR. BONSAK: Excuse me just a
6 minute, Your Honor.

7 THE COURT: Sure.

8 CROSS-EXAMINATION CONTINUED

9 BY MR. BOSNAK:

10 Q. Mr. Pennington, I'm going to just
11 let you refresh your recollection on page
12 number nine of the transcript. If you want
13 to see the whole thing, I'll be glad to give
14 it to you -- (tendering).

15 A. Thank you.

16 Q. Down at the bottom?

17 A. I don't see where you're pointing to
18 here.

19 Q. Said he was asleep. He was asleep
20 in the living room on the couch.

21 A. Yes. This would have been from
22 Solicitor Shealy's proffer at the time of the
23 guilty plea.

24 Q. Correct.

25 A. "He was asleep in the living room

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1 area."

2 Q. Correct.

3 A. I did not recall. I apologize.

4 Q. Okay. Asleep in the living room and
5 there's even another thing in there that he
6 could have been sleeping off -- because it
7 was 12:00 o'clock in the afternoon. Could
8 have been sleeping off a drug or drunken type
9 of wild evening?

10 A. That was my impression, yes.

11 Q. Okay. And the two people came in
12 and he told them to go away, that he needed
13 to take a shower?

14 A. Right.

15 Q. And they left. And now they
16 couldn't buy a cellphone on their own, but
17 according to Assistant Solicitor Shealy, they
18 went over to Piggly Wiggly and somewhere else
19 and bought some things?

20 A. Right.

21 Q. Okay. And during this period of
22 time, allegedly Mr. Beaton and two other
23 people broke into this apartment or condo?

24 A. Right.

25 Q. Okay. And there was a surveillance

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1 video?

2 A. I'm taking it -- I vaguely remember
3 toward the end seeing pictures and so I think
4 you're right about that.

5 Q. Okay. Surveillance videos.

6 A. Video security cameras.

7 Q. Okay. Did you look at those?

8 A. Yes. I think I remember seeing
9 photographs outside. I think they came late
10 in the process, but, yes.

11 Q. Well, with your years of experience,
12 you've seen a whole lot of videos?

13 A. I have.

14 Q. Were these surveillance videos very
15 good? I mean, some of them you can't even --
16 I mean, you see the figures of people, but
17 it's hard to recognize, you know, who the
18 people really are.

19 A. When you're asking about
20 surveillance, you're talking about the
21 apartment complex where the burglary
22 occurred?

23 Q. Yes, sir. Yes, sir?

24 A. You know, my memory is just not that
25 good. I'm sorry, Mr. Bosnak. I just don't

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1 remember too many of the details. I
2 remember, like you say, profiles. That's the
3 best I can remember. I don't remember that
4 being a critical factor for us one way or the
5 other.

6 Q. Okay. That's what I was trying to
7 get at?

8 A. Yes.

9 Q. And the surveillance video was not a
10 critical factor in proving that Mr. Beaton
11 was there; would that be correct?

12 A. As best as I can recall.

13 Q. Okay. Now, the alleged victim, Mr.
14 Contreras, did he give a description of the
15 people that were trying to rob him and beat
16 him?

17 A. I don't recall clearly.

18 Q. Okay. So he might not have given a
19 description?

20 A. I just don't recall.

21 Q. Okay. But clearly from the police
22 report he would have had a better opportunity
23 to give or would have been able to give a
24 better description of the assailants than
25 anybody else in the house; correct?

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1 A. He would have had more time. I
2 think that the description was is that he was
3 -- his eyes were covered by something, that
4 he like had a bag or a pillow case over his
5 head during the course of him being
6 restrained. And so I think that limited his
7 ability to see, if I'm not mistaken. So,
8 again, I'm going purely on memory from a good
9 while ago. My impression is is that the ID
10 came from the female.

11 Q. Okay.

12 A. I'm talking about the white tee
13 shirt.

14 Q. Right. We'll get to that in just
15 one minute.

16 A. Okay.

17 Q. So we don't have a credible
18 eyewitness identification from the person
19 that was actually being robbed; isn't that
20 correct?

21 A. That is true. Absolutely right.
22 Correct.

23 Q. All right. Now, the other gentleman
24 that was murdered, the deceased, we don't
25 have anything from him at all because he was

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1 killed?

2 A. That's correct.

3 Q. Supposedly, the other two people
4 came back in the apartment and saw that the
5 apartment had been ransacked?

6 A. Yes.

7 Q. And the deceased, noticing that his
8 friend wasn't in the living room, walked back
9 up -- according to the police report, walked
10 back through the hall to see what was going
11 on?

12 A. Right.

13 Q. And he was shot and killed; correct?

14 A. That's the way it appeared, yes.

15 Q. Appeared. And that's what the
16 police report said; correct?

17 A. Yes, correct.

18 Q. Okay. So we can't get a statement
19 from him?

20 A. Right. Right.

21 Q. And the young lady, Miss Lester, she
22 was fearful?

23 A. Right.

24 Q. She knew something was going on?

25 A. Right.

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1 Q. And she really didn't want to go in.
2 She wanted to, she wanted to leave?

3 A. You're talking about Ms. Herrera. I
4 think it's ---

5 Q. Is it Ms. Herrera.

6 A. --- Ms. Herrera.

7 Q. Okay.

8 A. And I think she was in the apartment
9 and she then left after ---

10 Q. You're right. It's Ms. Herrera.
11 Ms. Lester was the translator?

12 A. Right.

13 Q. Okay. She wanted to get out of
14 there. She knew something was going on?

15 A. Right.

16 Q. And she heard two shots but she
17 didn't leave -- which were gunshots and she
18 didn't leave; correct?

19 A. I don't recall that specifically.
20 You want to refresh me?

21 Q. Well, I mean, she didn't ever leave
22 the apartment. She was shot inside the
23 apartment?

24 A. That's my understanding, yes.

25 Q. Or the condominium, she was shot.

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1 A. But then she ran out and she was out
2 on the street.

3 Q. I understand that. We'll get to
4 that in a minute.

5 A. Okay.

6 Q. But according to the report, she
7 felt very uneasy and didn't want to go in
8 because she felt like something was going on.
9 The other person went back to see what was
10 going on. He was killed. He was shot twice;
11 correct?

12 A. I can't remember clearly, but that
13 sounds correct.

14 Q. Okay. He's shot twice. But instead
15 of her leaving, going back out the door, she
16 stayed; right? Because she had to stay to
17 get shot in the apartment; correct?

18 A. As I understand -- I'm not trying to
19 be difficult. My understanding is is that
20 they entered together and he, the male,
21 approached the bedroom. She was not in the
22 bedroom area. Mr. Giron, the decedent, was
23 shot in the hallway leading to the bedroom.
24 And Ms. Herrera, I believe, was shot in more
25 of the living area ---

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1 Q. Right.

2 A. --- and then retreated to the
3 hallway and outside the building.

4 Q. Okay. Now, back up. The door,
5 which led into the living room area, you come
6 in.

7 A. Right.

8 Q. The door to the apartment or
9 condominium, which lead into the living room
10 area ---

11 A. Right.

12 Q. --- would have come into the bedroom
13 or the hall?

14 A. Correct.

15 Q. Okay. So that's where she was?

16 A. Right. Right.

17 Q. She was in somewhat close proximity
18 to where the door, to get in and out of the
19 condo?

20 A. Yes.

21 Q. Okay. And she certainly didn't go
22 down the hallway to the bedroom with the
23 deceased?

24 A. My impression is, is that there was
25 a living room area and a hall that sort of

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1 opened up. And then there was a door to the
2 bedroom.

3 Q. Correct?

4 A. So she did not enter the bedroom.
5 She would have been able to see Mr. Giron
6 when he was shot.

7 Q. Did she testify that she saw him get
8 shot?

9 A. I think so.

10 Q. Okay. And she didn't leave. Seeing
11 somebody pull a gun and shoot somebody twice,
12 she didn't try to run out then?

13 A. I thought she did. That was my
14 impression.

15 Q. Well, she was shot inside the condo?

16 A. Right. As she was attempting to
17 flee, what I thought.

18 Q. Okay. But she was shot in the
19 chest?

20 A. Right.

21 Q. Okay. If you're trying to flee, how
22 are you shot in the chest? Seem like you
23 would be shot in the back?

24 A. You know, I wasn't there. My
25 impression is, is that they were -- I don't

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1 even remember where the gunshots were. I
2 just have the impression that they were both
3 shot in the apartment.

4 Q. Well, that's my whole point. Here
5 we have somebody that's sees somebody get
6 shot. And they don't want to be there
7 anyway, and then they're shot in the chest.
8 It would -- and here again, this is
9 speculation. But all of this is speculation
10 because nobody was there, except the person
11 that did the shooting and the robbers and
12 stuff?

13 A. Right.

14 Q. It seems like you see somebody get
15 shot, you would turn and be trying to get out
16 the door as quick as you can because ---

17 THE COURT: Mr. Bosnak, let's move
18 on. I don't know what that's got to do with
19 this hearing.

20 MR. BONSAK: Okay. Thank you.

21 CROSS-EXAMINATION

22 BY MR. BOSNAK:

23 Q. She was shot in the chest. And then
24 at that time, she got out of the door; right?

25 A. Right.

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1 Q. Now, she did give a statement about
2 the identification; didn't she?

3 A. I believe so, yes.

4 Q. And that was the main thing that
5 kind of got Mr. Beaton, is she said somebody
6 had a white shirt on?

7 A. That combined with the DNA. It was
8 the DNA that actually brought Mr. Beaton's
9 name up and lead to him being targeted by law
10 enforcement as a suspect.

11 Q. Okay. I'll get to the DNA in just a
12 minute. That'll be the next thing I get to?

13 A. Okay.

14 Q. But she brought up that somebody had
15 a white shirt on. Did she give a detailed
16 description of what the person looked like in
17 the white shirt?

18 A. She gave a description, but I can't
19 remember the details.

20 Q. Okay. So she went outside and then
21 she called for help, 9-1-1?

22 A. Correct.

23 Q. And nobody else could give any type
24 of description of the three people that were
25 in the apartment that were involved in this?

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1 A. I don't believe so.

2 Q. Okay. Now, according to the police
3 report, Mount Pleasant didn't have a clue who
4 did this; did they?

5 A. Only that the Dodge Magnum, and then
6 they must have had the video as well, but it
7 took a long time for that to surface to me in
8 discovery.

9 Q. But as we talked before, the video
10 wasn't a whole lot of help?

11 A. Correct.

12 Q. Okay. So they were looking for this
13 silver Dodge Magnum. Did Mr. Beaton own a
14 silver Dodge Magnum?

15 A. No.

16 Q. Okay. So it certainly wouldn't have
17 anything to do with him?

18 A. No.

19 Q. Now, they found some DNA. Well, a
20 lot of people had access to that condo;
21 didn't they?

22 A. I don't know. I mean, it was a
23 residential apartment so I suppose people
24 came in and out, yes.

25 Q. Well, they claim they sold some

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1 drugs out of that apartment?

2 A. Right.

3 Q. And also we know there were at least
4 six people in the apartment?

5 A. Right.

6 Q. What other DNA was found?

7 A. I don't know. I mean, I have a
8 report in the file if you want me to refer to
9 it, but there is a -- what they did was is
10 that they focus on certain specific pieces of
11 evidence and tried to pull off DNA and they
12 got a hit with Mr. Beaton. That's all I
13 know. I don't know if they found other
14 folks. I think they may have found some of
15 the residents' DNA, but I just don't recall
16 clearly.

17 Q. Okay. So out of fingerprints and
18 everything like that, they did find some DNA.
19 What type would it be? Was it hair, fiber,
20 what was it; do you remember?

21 A. As I understand it was like trace
22 DNA off of hands.

23 Q. Something off his hands?

24 A. Correct.

25 Q. Okay. And did they find anybody

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1 else ---

2 A. When I say "hands," though let me
3 say I don't think DNA is ever specific to a
4 body part. But because it was related to
5 what was done to tie Mr. Contreras, I think
6 it was viewed as being circumstantially
7 pointing as being from his hands.

8 Q. Okay. Now, did they find anybody
9 else's DNA on this cord or whatever was used
10 to tie Mr. Contreras?

11 A. I don't remember.

12 Q. Okay.

13 A. I mean, I'd have to look at the
14 report.

15 Q. So the only evidence they had was
16 DNA evidence. They don't have any eyewitness
17 testimony. They don't have anything like
18 that, and can give description of who it is.
19 And from that -- now, they talk about this
20 white shirt a lot. Did you ever find a long-
21 sleeve white tee shirt in Beaton's custody?

22 A. No. In fact, the police looked for
23 it. I don't think that they were able to
24 ever zero in on any particular garment that
25 came from his home.

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1 Q. Okay. So never found any garment at
2 his home or anything like that?

3 A. Correct. That's as far as I
4 remember, yes.

5 Q. Okay. What happened? And from the
6 DNA, that's how they got Mr. Beaton?

7 A. The DNA led to his interview, his
8 arrest and interview and then he made state-
9 ments.

10 Q. He made statements. Did he confess?

11 A. Essentially, yes.

12 Q. He essentially confessed in the
13 interviews?

14 A. Yes.

15 Q. Now, we talked a little bit about
16 Old School.

17 A. Yes.

18 Q. Right?

19 A. Right.

20 Q. And that Mr. Beaton's was extremely
21 afraid of this person?

22 A. Right.

23 Q. And you even -- you even put in your
24 plea that this Old School had been grooming
25 him since he was a young man?

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1 A. Correct.

2 Q. Had been grooming him to be a
3 criminal or grooming him for what?

4 A. To be a burglar.

5 Q. To be a burglar, be part of a
6 criminal enterprise?

7 A. Right.

8 Q. Do what he told him to do. This guy
9 undoubtedly was involved in it?

10 A. He gave a very, very specific
11 description of how they met, how they knew
12 each other, what this man's activities were,
13 that he visited his home, he knew his
14 businesses, and he used Adrian as essentially
15 a risk taker. He would be the guy that would
16 go and do things that Mr. Old School would
17 kind of select. And this was one of those
18 events.

19 Q. Did you not feel like you should
20 have had him evaluated to really -- by a
21 psychiatrist or someone in that field to find
22 out, you know, how afraid he was, whether he
23 was covering up for this man, that he might
24 have not actually did it but he knew he had
25 to take the rap for him. Did you ever think

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1 about doing that?

2 A. No, that thought never crossed my
3 mind. Initially, we didn't have the name Old
4 School. He gave other names. And one of
5 those names he had to recant and say that
6 that was just made up when we made our final
7 proffer. Old School became, was revealed to
8 us, to me in the month preceding the plea.
9 And we made a decision that we would then
10 turn that over to the government for their
11 investigation.

12 But in no way did I think that there was
13 a question about either competency or
14 criminal responsibility. I didn't see a
15 legal basis to make that kind of claim.

16 As far as one about mitigation, whether
17 or not he could have been suggestible or
18 easier to manipulate, that certainly was our
19 theory of the case, and you're correct.

20 I did not get a psychologist, a
21 psychiatrist to do an evaluation to establish
22 that he had deficiencies that would have made
23 him more likely to be manipulated.

24 Q. Okay. Now, the things that I'm
25 discussing with you about the DNA evidence

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1 and about these people and that type of
2 stuff, did you talk to Mr. Beaton about all
3 of this?

4 A. About all the evidence?

5 Q. Yeah. About the DNA evidence and
6 the video and things that they did have and
7 the things they didn't have?

8 A. I did, over and over.

9 Q. Did you talk with him about the
10 possibility of going to trial?

11 A. Yes.

12 Q. And let him know the only thing they
13 would have would be DNA evidence?

14 A. No, I didn't say that. I said they
15 had the DNA and they had the surviving
16 witness, they had his statements.

17 Q. Okay. And what were you more afraid
18 of, other than the DNA evidence; the
19 statements?

20 A. The statements and then the
21 surviving witness who I was not -- she was
22 not willing to talk to me but the specifics
23 that I got from the solicitor from her
24 statements seemed to -- when dovetailed,
25 Adrian's statement making him the only guy

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1 with a white tee shirt, that was part of this
2 crew that was doing this, and her -- she's
3 very stuck on the idea that the shooter was
4 the guy with the white tee shirt. It kind of
5 made it a problem.

6 Q. Okay. So you discussed those things
7 with him and told him, if you went to trial,
8 that's what you'd have to overcome?

9 A. Correct.

10 Q. And when we're in trial we have
11 defendants that we're talking with. We had
12 to talk to them about what we've got to
13 overcome to win the case; correct?

14 A. Correct.

15 Q. And those were the things you did
16 discuss with him?

17 A. Yes, sir.

18 Q. And what was his reply about those
19 things when you talked to him? He said,
20 well, I want to go forward anyway or what was
21 his decision?

22 A. He was not interested in going to
23 trial. My impression was is that early on he
24 was not interested in going to trial. And
25 then when we got down to the end, we batted

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1 it back and forth. There was a time where I
2 think he was uncertain, very uncertain as to
3 what to do. We had extensive meetings,
4 extensive conversations about pros and cons
5 of trial versus plea. I didn't think that --
6 he never said, 'I want to go to trial.' Or,
7 'We're going to go to trial in this case. And
8 so forget the plea. I'm not interested.'

9 In fact, he went so far as to say, let's
10 sit down with the State and have this proffer
11 that I've got, offer.

12 Q. So you knew fairly early on that
13 this was going to be a mitigation case;
14 that's correct?

15 A. Correct, yes.

16 Q. And just one last question. And I
17 don't know if you know this. I'm going to
18 ask your opinion. Mr. Beaton had to be
19 extremely afraid, did he not?

20 A. Well, when are you talking about?

21 Q. Well through the whole process. If
22 he cuts a deal with the prosecutor, tells you
23 to go to the prosecutor. 'Look, if you can
24 get me twenty years, I'll give everybody else
25 up. And I'll testify against them', which we

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1 do all the time in these cases?

2 A. Uh-huh.

3 Q. He wouldn't do that would he because
4 he was afraid that there would be retribution
5 against his family; correct?

6 A. You're correct in that final proffer
7 he was unwilling to give identities. He
8 didn't want to testify as to the codefendants
9 if he didn't have to.

10 And the State weighed its options and
11 decided that they would just not insist on
12 his future cooperation; which I was very
13 relieved and happy about, and I think he was
14 too. And so we were able to get the judge we
15 wanted and plead in front of that judge.

16 Q. But he's not going to get much of a
17 deal if he's not willing to give up the names
18 and identities and be willing to testify in
19 open court about the other people; correct?

20 A. Correct.

21 Q. Okay. Thank you, Mr. Pennington?

22 A. Yes, sir.

23 THE COURT: Redirect.

24 MS. WILSON: Briefly, Your Honor.

25 REDIRECT EXAMINATION

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1 BY MS. WILSON:

2 Q. Mr. Pennington, you talked some
3 about the video evidence against Mr. Beaton.
4 That was taken at the apartment complex. Do
5 you think that was the State's key evidence
6 against Mr. Beaton?

7 A. I don't think that the video was
8 key, but being asked about it repeatedly, I
9 want to say that my memory is soft on that.
10 I would say that we -- I think that there
11 appeared to be, like a profile of somebody
12 with a white tee shirt going in, or something
13 like that. But my memory is so cloudy it's
14 had to say under oath that I really have any
15 clear recollection of that. It was not the
16 key deciding piece of the case. For us it
17 was the DNA and the statements and the white
18 tee shirt and identification by Ms. Herrera.

19 Q. And it's your testimony that indeed
20 Mr. Beaton's testimony is what put him on the
21 scene of the crime; is that correct?

22 A. His original statement to Mount
23 Pleasant Police, yes. And then there was a
24 subsequent proffer.

25 Q. Was there ever any evidence that the

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1 victims may have had anything to do with the
2 robbery and murder?

3 A. The surviving two victims?

4 Q. Yes?

5 A. No. That was never suggested or
6 hinted.

7 Q. And do you think that the court took
8 into consideration the mitigation that you
9 presented on Mr. Beaton's behalf in
10 sentencing?

11 A. Absolutely. That was essentially
12 the strategy that we'd had adopted was -- is
13 to -- it was going to be difficult. We
14 couldn't get the State reduce the charge for
15 murder. So the question was you're looking
16 at thirty to life, plus the other charges.
17 So we weighed all of our pros and cons and
18 selected the option of pleading in front of
19 Judge Hughston.

20 Q. Thank you, Mr. Pennington.

21 A. Yes, ma'am.

22 THE COURT: Recross?

23 MR. BONSAK: Nothing else, Your
24 Honor.

25 THE COURT: Thank you. You may

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1 come down, Mr. Pennington.

2 WITNESS: Thank you, Your Honor.

3 (WITNESS STEPS DOWN)

4 THE COURT: Any additional
5 witnesses?

6 MS. WILSON: Nothing from the
7 State, Your Honor.

8 THE COURT: Any reply testimony?

9 MR. BONSAK: Nothing, Your Honor.

10 THE COURT: Very well. I'll be
11 happy to hear from you in closing.

12 MR. BONSAK: Your Honor, may it
13 please the Court. I believe that Mr. Beaton
14 should have been tested, taken somewhere to
15 really find out if he was truly setup to do
16 this. He's a young man. He's under a lot of
17 pressure from looking at life to possibly the
18 death penalty. On the other hand, his family
19 -- or in his mind, his family -- whether it
20 was or wasn't, in his mind he believes that
21 his family could possibly be killed if he
22 tried to cut a deal to help himself if he was
23 actually involved in this. I think the DNA
24 evidence should have had an independent,
25 somebody independent to look at it and to

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1 check it and to find out what else was
2 there. And if there was a possible
3 explanation for Mr. Beaton's DNA to be in
4 that apartment. On that, Your Honor, I would
5 say that would be inefficient assistance of
6 counsel.

7 THE COURT: Okay.

8 MR. BONSAK: All right.

9 MS. WILSON: May it please the
10 Court, Your Honor. We just ask that you deny
11 this application for post-conviction relief.
12 And with regard to the issue of having Mr.
13 Beaton evaluated, Mr. Beaton has failed to
14 provide any evidence to day that if he had
15 been evaluated, he would have been
16 incompetent or lacking any criminal
17 responsibility.

18 Also, Your Honor, we've heard a lot
19 of Mr. Pennington's observations and of
20 interaction with his client. And he
21 testifies today that he didn't feel Mr.
22 Beaton had any competency issues and that he
23 could assist, even with his limited
24 education, in his defense.

25 With regard to the DNA testing, Your

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1 Honor, Mr. Beaton gave a statement that
2 put him on the scene. And with regard to
3 just the voluntary nature of this plea
4 altogether, he was advised by the court of
5 his Constitutional Rights. Particularly he
6 told the court that he wasn't promised
7 anything to plead guilty.

8 He told the court that his guilty
9 plea was entered freely and voluntarily. He
10 spoke in open court that he was indeed
11 guilty. And he also told the court that he
12 understood the plea and agreed with the facts
13 presented by the State. And we just ask that
14 you deny this application.

15 THE COURT: Okay. All right.
16 Anything in reply?

17 MR. BONSAK: Nothing, Your Honor.

18 THE COURT: Considering all the
19 circumstances presented and reviewing the
20 transcript of the guilty plea, I find that
21 the applicant has failed to establish either
22 of the prongs. But assuming for the sake of
23 discussion that the first prong is it was
24 ineffective not to have counseling or to have
25 had him evaluated to determine, the problem

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1 that we have with that approach is that it
2 negates the attempt to try to get the best
3 sentence he could for Mr. Beaton. Clearly,
4 he was in a position where there was
5 circumstantial evidence. The DNA is
6 certainly one you can explain, but you still
7 have to explain how that DNA got to that
8 point. And the only way you can explain that
9 right now would be -- unless you had some
10 witnesses to put him in there. But then you
11 had his statement. And the question is well,
12 should you entertain the proffer if you can
13 get the best deal. We know that's -- we, as
14 lawyers, know that's the best approach you
15 could possibly take when the situation is as
16 bad as this one is. The crimes that he had,
17 I don't think it was undue fear. I think it
18 was very responsible of Mr. Pennington to
19 talk to him about the severity of the crimes.
20 Very easily could have been, if the State had
21 elected to proceed on a death penalty. But
22 clearly, this is a case -- and I think an
23 attorney's looking at it, what can I do to
24 keep my client from going to jail for the
25 rest of his life. That's what the lawyer was

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1 tasked with because that's what he was
2 looking at. He goes to trial. I think
3 probably -- I don't know what the sentence
4 would have been, didn't hear it. But when
5 you hear those circumstances and the horrific
6 nature of the murder itself and the burglary,
7 I think there's a reasonable probability he
8 would have received life imprisonment. So he
9 gets a chance. And then coupled with that --
10 this is under oath and again he takes a
11 different position today, but he Court is
12 somewhat suspect of that because he's
13 obviously had significant bias in testifying
14 the way he testified today. Maybe he had the
15 same. He was trying to get the best sentence
16 he could get. But he says to Judge Hughston,
17 when Judge Hughston on Page 26 of the
18 transcript, starting at Line 10, Judge
19 Hughston:

20 "Anything you'd like to say, Mr.
21 Beaton?"

22 He doesn't have to say a word. But
23 he says, (reading):

24 "Yes, sir. First, I would like to
25 apologize to the victims because I was wrong

Adrian Beaton v State of South Carolina
Case No. 12-GS-10-7668 - PCR Hearing of April 15, 2014
Ruling
Before The Honorable R. Markley Dennis, Jr.

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1 and I accept full responsibility for my
2 wrongdoing."

3 And that's clearly acknowledgement
4 that he's guilty of this crime. So I find
5 the application fails in its merits and ask
6 the State to prepare an appropriate order.
7 Thank you.

8 MS. WILSON: Thank you, Your Honor.

9 THE COURT: Within thirty days,
10 please?

11 MS. WILSON: Yes, sir.

12 (TRANSCRIPT CONCLUDED)
13
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Adrian Beaton v State of South Carolina
Case No. 12-GS-10-7668 - PCR Hearing of April 15, 2014
Certificate of Court Reporter
Before The Honorable R. Markley Dennis, Jr.

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF CHARLESTON)

I, the undersigned Deborah Garrison, Circuit Court Reporter for the 9th Judicial Circuit, hereby certify that the foregoing is a complete and accurate transcript of the hearing held in the within action heard on November 4, 2013 before The Honorable R. Markley Dennis, Jr.;

I further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Deborah Garrison

Deborah Garrison

Charleston, South Carolina
January 10, 2014

State of South Carolina
County of Charleston

Adrian Bouton #327914
Applicant

V.S.

State of South Carolina
Respondent

In Court of Common Pleas

2012-CP-10-

Motion to Amend or Alter
Judgement

FILED
2014 APR 29 PM 1:03
JULIE A. STRONG
CLERK OF COURT

Applicant moves to Amend PER Application Pursuant to South Carolina Civil Procedure Rule 15, Rule 52(c) and Rule 59(c).

Applicant went to court on April 15 2014 in front of the Honorable Judge Dennis upon request for an evidentiary hearing at which time applicant was not prepared to carry on with the procedure because applicant was not in the possession of his Guilty Plea transcript of the Jan. 26, 2012 Guilty Plea hearing, which applicant received on April 17 2014.

Therefore applicant hereby file this motion upon the court to have the judgement amended.

Statement of Facts

Issue(s) to be included in the Supplemental Amendment. Applicant just received Guilty Plea transcript for Guilty Plea hearing held on Jan 26 2012.

Applicants Guilty Plea was not knowingly, voluntarily or intelligently made because applicant was under the influence of psychotropic medication at the time of Guilty Plea hearing. Applicant trial counsel was ineffective for not requesting trial court to ask me if I was under the influence of any drugs, alcohol or medication at the time of my Guilty Plea hearing. Applicant was prejudiced because medication he was on would not allow him to make a intelligent decision.

(1)

Arguments

Issue 1

Trial Court erred in Failing to Question Applicant on the record if he was under the influence of any drugs, alcohol or medication at the time Applicant entered his Plead of Guilt. requires a automatic reversal of Applicants Conviction and Sentence. Applicant did not knowingly, Voluntarily or intelligently entered his Guilty Plea due to trial Court error.

The trial Court records speak silent of this trial Courts error which requires a automatic reversal State vs Orr 409, S.C. S. Ed. 2d 23 (1901). Applicants 1st amendment Right has been Violated under Applicant United State Constitutional right. Also Pursuant to South Carolina Article 1 Section 3 of Applicants South Carolina Constitutional rights has been violated as well.

It is the Courts requirement to Question Applicant on the record if he was under the influence of any drugs, alcohol or medication during the Guilty Plea hearing. Any Plead of Guilt cannot be knowingly, Voluntarily or intelligently held without the Judges requirement on the record. Boykin vs Alabama 395, U.S. 238, 89 S. Ct 1709, 23 L. Ed. 2d 274 (1969).

Hill vs Lockhart 474, U.S. 52 (1985).

Therefore Applicants Guilty Plea is not knowingly, Voluntarily or intelligently entered. Applicant is Prejudice because trial Court Failed to Question Applicant on the record if he was under the influence of any drugs, alcohol, or medication. If trial Court would have ask this question Applicant would have inform trial Court that he was under the influence of Psychotropic medication that he took from other Prisoner's because he was stressed out and unable to cope with stress applicant was under due to his case.

Therefore by trial Courts error in Failing to Question applicant on the record to know if he was under the influence of any drugs, alcohol, or medication renders applicant plea invalid. Also there is a reasonable probability that the outcome would have been different because if trial Court asked this question trial Court would have been aware that applicant was under the influence of psychotropic medication at the time of hearing that could not allow applicant to make a intelligent decision.

Trial Court error in Failing to Construct a knowing or voluntary or intelligent waiver of the recorded requires a automatic reversal of the applicants conviction and sentence because the record speak. Silent State vs Orr 409, S.C. S. Ed. 2d 23 (1991)

Issue 2

Trial Counsel was ineffective by Failing to request upon the court to Question applicant on the recorded was applicant under the influence of any drugs alcohol, or medication at the time of the hearing when trial Counsel was aware of applicants mental health issues, by trial Counsel's Failure to request the trial Court to Question applicant on the recorded was applicant under the influence of any drugs, alcohol or medication violate applicants 6th and 14th amendment rights of applicants United State Constitution rights and under applicants South Carolina Article 1 Section 3 of applicants South Carolina Constitutional rights as well. Strickland vs Washington 466 U.S. 668 104, S.Ct. 2052, 80, L. Ed. 2d 674 (1984) Lexis 79, Hill vs Lockhart 474 U.S. 52 (1985), and if trial Counsel was not aware trial Counsel is ineffective for not doing a thorough investigation that could help Counsel make strategic decision on defenses for applicants defense at trial Smith vs Wessins 123, S.Ct. 2527 (2003), Williams vs Fuller 120 S.Ct. 1995 (2000)

Therefore Applicant has been prejudiced because trial counsel fell below standards and didn't object or interpose when trial court fail to question applicant on the record was applicant under the influence of any drugs, alcohol or medication, and there is a reasonable probability that the outcome would have been different because trial court would have been aware that applicant was under the influence of psychotropic medication that could not allow applicant to make an intelligent decision.

All records reflect these allegations presented by applicant. See Guilty Plea transcript pages. Page 5, 20-25. Page 6, 1-25. Page 7, 1-25 and Page 8, 1-6. Applicant presents these transcript pages of the record to be included as Exhibit (A).

Proof to substantiate that applicant just received a copy of his guilty plea transcript will be a photo-copy of the received envelope in which the transcript came in and will be applicant's Exhibit (B), showing why applicant moves to amend applicant's PCR application pursuant to Rule 15, Rule 52 and Rule 59(c) of South Carolina Civil Procedure. This court has not made a decision on applicant's PCR application so applicant is entitled to amend his PCR application and any denial will be constituted as gross miscarriage of justice. Butler vs State S. Ed. 2d 87, (1990)

Under Rule 71.1(F) and pursuant to S.C. Code Ann. 17-2780 applicant request upon the court to give a specific finding of fact and conclusion of the law related to each issue now amended.

Conclusion

Applicant's conviction and sentence must be reverse

Respectfully Submitted
By: Adria Beaton

Adria Beaton #327914
Lieber Corr. Inst
P.O. Box 805
Ridgely S.C 29128

Date: April 25, 2014

(S)

Certificate of Service

I, Aunon Beaton #927914 of Lieber Corp. Inst Certify that on April 25th of 2014 I served a copy of this Motion of Amend. to the Clerk of Court Office of 100 Broad Street Charleston S.C 29401 by the use of the United States Mail, Postage Paid, or in the Mail-Room of the undersigned address and institution as follows:

Julie Armstrong
Clerk of Court
Charleston S.C 29401

Respectfully Submitted
By: Aunon Beaton

Date: April 25, 2014

BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

2014 APR 29 PM 1:03

FILED

Julie Armstrong
 Clerk of Court
 Charleston County
 100 Broad Street
 Charleston S.C. 29401

MAY 7 2014

RE: 2012-CP-10-7668

Dear Ms. Armstrong,
 Please Close and Filed this Motion to Amend or Alter
 Judgement that is hereby being Filed upon you.

Respectfully Submitted
 By: Katie Boutin
 Adrian Boutin #327914
 Liber Corr. Inst
 P.O. Box 205
 Ridgewood S.C. 29472

Date May 7 2014

CC: Ashleigh Wilson
 Assistant Attorney General
 P.O. Box 11540
 Columbia S.C. 29211
 Records

State of South Carolina
County of Charleston

Adrian Beaton #327914
Applicant

vs.

State of South Carolina
Respondant

In the Court of Common Pleas

CASE # 2012 CP-10-7668

Motion to Amend or Alter
Judgement

Applicant moves to amend PCR Application pursuant to South Carolina Civil Procedure Rules 15(a), 52(a) and 59(c).

Applicant went to court on April 15 2014 in front of the honorable Judge Dennis upon request of an evidentiary hearing at which time applicant was not prepared to carry on with procedure because he was not in possession of his Guilty Plea transcript which applicant didn't receive until April 17 2014.

Therefore Applicant hereby file this motion upon the court to have the judgement amended and altered.

Statement of Facts

Issues to be included in supplemental amendment. Applicant just received Guilty Plea transcript for Guilty Plea hearing held on Jan 26 2012.

Applicants Guilty Plea was not knowingly, voluntarily or intelligently made and Applicants trial counsel was ineffective for not correcting the trial court error

Arguments

Issue 1.

Trial Court erred in Failing to Question Applicant on the record if he was under the influence of any drugs, Alcohol or medication at the time Applicant entered his Plead of Guilt & requires an automatic reversal of Applicants Conviction and Sentence. Applicant didn't knowingly, voluntarily or intelligently entered his Guilty Plea due to trial Courts error.

The trial records speak silent of this Courts error - which requires automatic reversal.
State vs Orr 403 S.C.S.E. 2d 23 (1991)

Applicant United States 14th amendment Right has been violated also pursuant to South Carolina Article I & 3 of Applicants S.C Const. has been violated as well.

It is the Courts requirement to Question Applicant on the record if he was under the influence of any drugs, alcohol or medication during the Guilty Plea hearing. Any Plead of Guilt cannot be knowingly, voluntarily or intelligently held without the Judge requirement on the record. Boykin vs Alabama 395 U.S. 238 89, S.Ct 1709 23 L.Ed. 2d 274 (1969)

Therefore Applicant Guilty Plea is not knowingly voluntarily or intelligently entered. Applicant is prejudiced, because trial Court Failed to Question Applicant on the record, if he was under the influence of any drugs, alcohol or medication.

IF trial court would have asked this question to applicant, applicant would have informed trial court that he was under the influence of psychotropic medication, that he took from other prisoner's because he was stressed out and unable to cope with the stress he was under due to his case.

Therefore by trial courts error in failing to question the applicant on the record to know if he was under the influence of any drugs, alcohol or medication renders applicant's plea invalid. Also there is a reasonable probability that the outcome would have been different because if the trial court asked this question trial court would have been aware applicant was under the influence of psychotropic medication at the time of hearing that could not allow him to make a intelligent decision.

Trial court erred in failing to construct a knowingly, voluntarily or intelligent waiver of the record which requires an automatic reversal of applicants conviction and sentence because the record speaks silent. State vs Orr, 403 S.C.S.E.2d 23 (1991). State vs Arthur, 374 S.E.2d 291 (1982).

Issue #2

Trial counsel was ineffective by failing to request upon the trial court to question the applicant on the record was he under the influence of any drugs, alcohol or medication at the guilty plea hearing, which trial counsel was aware of applicants mental health issues.

By Trial Counsel Failure to request the Trial Court to question Applicant on the record was he under influence of any drugs, alcohol or medication, violated Applicants 6th and 14th Amendment Rights of Applicants United State Const. Rights, and Applicants South Carolina Const. Right Article 1 § 3. Strickland vs Washington 466 U.S. 668 - 104 S.Ct 2052 80 L.Ed.2d 674 (1984) Hill vs Lockhart 474 U.S. 30 (1985)

If Trial Counsel wasn't aware of Applicants mental health issues, Trial Counsel was ineffective for not doing a thorough investigation that could have help Trial Counsel make a strategic decision on a defense for the Applicant defense at trial. Smith vs Wiggins 123 S.Ct 2527 (2003) Williams vs Faylor 120 S.Ct 1495 (2000)

Therefore Applicant was prejudiced, because Trial Counsel fell below standards and didn't object or intervene when Trial Court failed to question Applicant on the record, was he under the influence of any drugs, alcohol or medications, which could have hindered his plea. So there is a probability that the outcome would have been different, because Trial Court would have been aware that Applicant was on psychotropic medication that would not allow Applicant to make an intelligent decision.

All Records reflect these allegations presented by Applicant. See Guilty Plea transcript pages 5 (20-25), 6 (1-25), 7 (1-25) and 8 (1-6). Applicant presents these transcript pages of the record to be included as Exhibit (A).

PROOF to substantiate that Applicant just relieved a copy of his guilty plea transcript will be a photo-copy of the relieved envelope in which the transcript came in and this will be submitted into the records of applicants Exhibit(B) showing and proving applicants reasons for filing this motion to Amend Judgement: pursuant to Rules 15(c) 54(b) and 59(c) of the South Carolina Civil Procedures. Applicant has the right to amend his PLE Application because the Court has not made a decision on applicants PLE Application - so applicant is entitled to amend his PLE Application and any denial will be constituted as gross miscarriage of Justice Butler vs State S.E. 2d 87 (1990)

Under Rule 71.1(f) and pursuant to S.C Code Ann 17-2780 Applicant request upon the Court to give a SPECIFIC FINDING OF FACTS AND CONCLUSION OF LAW related to each issue now amended

CONCLUSION

Applicants Conviction and Sentence must be reverse because of the record speak silent of the trial Courts error - State vs Orr 403 S.C S.E. 2d 23 (1991)

1 he gets to the Department of Corrections he will be
2 labeled as a sex offender.

3 The default position is that you're a sex
4 offender. So that I would ask the court, and I think
5 the state will stipulate, that this is not a
6 sex-related crime, and that registry would not be
7 appropriate.

8 MS. SHEALY: That's correct, Your Honor.

9 THE COURT: Is there any particular place I need
10 to sign on here or say that on here?

11 MR. PENNINGTON: It's not on there, Your Honor.
12 I believe you have to just pencil in --

13 THE COURT: Write it in?

14 MR. PENNINGTON: Yes, sir. That it would be not
15 sex-related, no registry. No sex registry.

16 THE COURT: All right. I have written after the
17 end of the sentence language, not sex-related crime,
18 not required to register.

19 MR. PENNINGTON: Thank you, Your Honor.

20 THE COURT: All right. Now, Mr. Beaton back to
21 you. Do you understand all these charges and the
22 possible penalties?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You don't have to plead guilty to
25 any of these charges. You've signed up indicating you

1 wish to plead guilty, but you don't have to. You have
2 an absolute right under the constitution of this state
3 and of the United States of America to have a jury
4 trial on each of these charges.

5 Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You don't have to prove your
8 innocence, the state has to prove you guilty beyond a
9 reasonable doubt. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: If you want a jury trial, you and
12 your attorney would help select a jury of 12 people.
13 They would take an oath to decide your case based only
14 on the testimony and evidence presented against you
15 here in court.

16 Do you understand that?

17 THE DEFENDANT: Yes, sir

18 THE COURT: After having helped select the jury,
19 you and your attorney would participate fully in the
20 trial, cross-examine the state's witnesses, ask them
21 questions to make sure they were telling the truth.

22 You could call witnesses and you could testify
23 if you wanted to, although you don't have to. Nobody
24 can make you testify against yourself.

25 Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And as I said, the burden of proof
3 is on the State to prove you are guilty beyond a
4 reasonable doubt to the satisfaction of all 12 jurors.
5 If the State doesn't do that, then they are required
6 under the law to find you not guilty.

7 Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Would you like to have a jury trial
10 on any or all of these charges?

11 THE DEFENDANT: No, sir.

12 THE COURT: How do you wish to plead?

13 THE DEFENDANT: I wish to plead guilty.

14 THE COURT: Are you really guilty?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Has anybody promised you anything or
17 threatened you in any way to get you to plead guilty?

18 THE DEFENDANT: No, sir.

19 THE COURT: Are you pleading guilty then on your
20 own free will?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Ask you again, would you like to
23 have a jury trial on any or all of these charges?

24 THE DEFENDANT: No, sir.

25 THE COURT: Ask you again, are you really guilty

1 of the charges?

2 THE DEFENDANT: Yes, sir

3 THE COURT: Based on your appearance before me,
4 then, and answers to my questions, I do find your plea
5 to be freely, voluntarily, and certainly thoughtfully
6 and intelligently entered.

7 Solicitor, what would you like to tell me about
8 all this?

9 MS. SHEALY: Thank you, Your Honor. I would
10 like to put on the record that I do have Lydia Lester
11 here. She is a court certified interpreter. She is
12 sitting in the jury box along with one of the victims,
13 Jose Contreras, interpreting for me.

14 Also present other than Mr. Contreras is Adam
15 Willis the detective on the case from Mount Pleasant.
16 And Sgt. Justin Hembree also from Mount Pleasant.

17 Your Honor, as you indicated a moment ago this
18 occurred on March 11, 2010 at the Marsh Grass
19 Condominiums which are located at [REDACTED]
20 Boulevard. If you are familiar with where Mama Brown's
21 is, that is sort of the landmark there.

22 THE COURT: Actually, the building is there, she
23 is not there anymore.

24 MS. SHEALY: That's right, it's gone. But the
25 condominiums are right across that side street from

The Law Office of
J. Michael Bosnak
P.O. Box 63291
N. Charleston, S.C. 29419

RECEIVED
APR 17 2014
MAIL ROOM
LIEBER C.I.

Adrian Beaton
Inmate # 327914

MA
112

To Court
4/14/14

Aulie Armstrong
Clark of Court
Charleston County
100 Broad Street
Charleston S.C.
29401

April 25 2014

RE: 2012-CP-10-7668

Dear Aulie Armstrong,
Please Find and Close Applicant's Motion to Amend or Alter
Judgement that is hereby being served upon you. Also note
that Applicant will be sending Exhibit (B) following this
motion to be submitted into records.

Respectfully Submitted
By: Allen Benton

Enclosure

CC: Ashleigh Wilson
Assistant Attorney General
P.O. Box 11549 Columbia
S.C. 29211

CC
AT
AG
SOL
BS

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Adrian Beaton, #327914,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

2012-CP-10-7668

ORDER OF DISMISSAL

FILED
2014 AUG - 1 PM 2:12
JULIE J. ARYSTONG
CLERK OF COURT

Presiding Judge:
Applicant's Attorney:
Respondent's Attorney:
Trial Counsel:
Date of Hearing:
Court Reporter:

The Honorable R. Markley Dennis
J. Michael Bosnak, Esquire
Ashleigh R. Wilson, Esquire
D. Ashley Pennington, Esquire
April 15, 2014
Deborah Garrison

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed November 26, 2012. The Respondent made its Return on April 16, 2013. An evidentiary hearing into the matter was convened on April 15, 2014 at the Charleston County Courthouse. The Applicant was present at the hearing and represented by J. Michael Bosnak, Esquire. Ashleigh R. Wilson, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. The Applicant's plea counsel, D. Ashley Pennington, Esquire, was present and also testified at the hearing. This Court had before it the guilty plea transcript, the records of the Charleston County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the PCR application, and Respondent's Return thereto.

rmok

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Charleston County. The Applicant was indicted at the August 2010 of the Charleston County Grand Jury for burglary- first degree (2010-GS-10-5325), kidnapping (2010-GS-10-5326), assault and battery with intent to kill (ABWIK) (2010-GS-10-5327), and murder (2010-GS-10-5328). D. Ashley Pennington, Esquire, represented the Applicant. The Applicant pled guilty on January 26, 2012. The Honorable Thomas L. Hughston sentenced the Applicant to confinement for twenty (20) years for ABWIK and for thirty-five (35) years for all the remaining charges. The sentences were to run concurrently. The Applicant did not appeal his convictions and sentences.

ALLEGATIONS

The Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.

At the evidentiary hearing, the Applicant proceeded solely on the grounds of ineffective assistance of counsel and involuntary guilty plea.

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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

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Summary of Testimony

At the start of the evidentiary hearing, the Applicant made a *pro se* motion for continuance. Counsel for the Applicant indicated to the Court that he was prepared to proceed and the Court denied the Applicant's motion for continuance.

The Applicant was present and testified he was arrested in March 2010 for murder, kidnapping, armed robbery, and assault and battery with intent to kill. He testified he was represented by Ashley Pennington. The Applicant testified he met with counsel frequently. The Applicant testified he never reviewed his discovery materials with counsel and never received a copy of his discovery materials. He testified he was told by counsel that the State had a video and photo line-up of him.

The Applicant testified he was aware that there was DNA evidence that the State claims was his. He testified he saw the DNA results after he was locked up. He testified counsel never had the DNA evidence in his case independently evaluated. The Applicant also testified he has problems with ADHD and was never mentally evaluated. He testified he did not recall discussing possible defenses with counsel.

The Applicant testified he was afraid during his guilty plea and felt he had to plead guilty out of fear of others. He testified counsel told him a guilty plea was best and that he could be sentenced to death or life.

D. Ashley Pennington, Esquire, was also present and testified at the hearing that he was appointed to represent the Applicant shortly after his arrest. He testified he has been a public defender practicing criminal law for the last thirty-three (33) years. Counsel testified he met with the Applicant monthly and had more intense conversations with the Applicant in the beginning of his representation and during final plea negotiations with the State.

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Counsel testified he filed Brady and Rule 5 motions on the Applicant's behalf. Counsel testified he obtained boxes of documents in discovery and would take large volumes of documents with him when he went to visit the Applicant. He testified the Applicant was not comfortable having the discovery documents in jail, so a copy of his case file was not given to the Applicant until the end of the case. Counsel testified there was no video of what took place inside the apartment during the murder. He testified there was a video of the outside of the apartment and he recalls viewing the video. Counsel testified the video was not a key piece of evidence against the Applicant.

Counsel testified he thoroughly investigated the Applicant's case. He testified he reviewed the discovery and was hoping to show the co-defendant was the chief perpetrator. Counsel testified he discussed with the Applicant the elements of the charges he was facing and what the State was required to prove. He testified they also discussed the Applicant's version of facts and possible defenses. Counsel testified the Applicant gave a statement and trace DNA from his hands was found at the scene on a cord used to tie up one of the victims. He testified he did not know if any other DNA was found. Counsel also testified he did not have the DNA evidence from the scene that was linked to the Applicant independently tested.

Counsel testified he was aware the Applicant suffered from ADHD and had likely been manipulated by an older man to commit the crime. He testified he used these facts to paint a sympathetic picture of the Applicant in mitigation. Counsel testified these facts did not provide a defense. He testified he had no legal basis to claim the Applicant lacked competency. He testified he thought the Applicant did not read well so he took extra care to explain things to the Applicant verbally.

Counsel testified he discussed with the Applicant the evidence and his involvement in the

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crime and he did not see a viable defense for the Applicant. Counsel testified he spoke with the Applicant about proceeding to trial and the evidence that the State would present at trial. He testified the Applicant had no interest in going to trial. He testified he knew early on it would be a mitigation case. Counsel testified the Applicant proffered testimony for the State prior to his guilty plea to earn a good plea before Judge Hughston. Counsel testified that during the Applicant's proffer, he did not give the identities of his co-defendants and the State did not insist on any future cooperation from the Applicant.

Counsel testified plea negotiations with the State were ongoing and he thought the case might go capital or towards life without parole. He testified all evidence pointed to the Applicant, but he thought the State felt the Applicant was just being used as a tool by an older man. Counsel testified the State agreed to have the Applicant plead guilty in front of Judge Hughston, to acknowledge the Applicant's cooperation, and to stipulate that the kidnapping was not sexual. Counsel testified he communicated the plea offer to the Applicant. He testified there was no hesitancy or confusion by the Applicant about the plea offer because that was what the Applicant had hoped for. Counsel testified he informed the Applicant of his constitutional rights. He testified it was the Applicant's decision to plead guilty after consulting with his family. Counsel testified the Court definitely took into consideration the mitigation evidence he presented on the Applicant's behalf.

Ineffective Assistance of Counsel

The Applicant alleges that he received ineffective assistance of counsel. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's

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conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. 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).

Courts use a two-pronged test to evaluate 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." Id. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. 668). 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." Id. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues

RMD J/C

relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leake, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citations omitted).

As an initial matter, this Court finds the testimony of trial counsel to be credible, while finding the testimony of the Applicant was not credible. This Court finds counsel is a criminal practitioner who has extensive experience in the trial of serious offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges and what the State was required to prove, Applicant's constitutional rights, Applicant's version of the facts, and possible defenses or lack thereof. The record reflects the Applicant's guilty plea was entered freely, voluntarily, knowingly, and intelligently.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, and provided thorough representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

The Applicant alleges counsel was ineffective for failing to have the DNA evidence

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linking the Applicant to the scene of the murder independently evaluated. This Court finds counsel was not ineffective for failing to have the DNA evidence independently evaluated and this allegation is without merit. This Court finds counsel had no obligation to have the DNA evidence independently evaluated. This Court finds further the Applicant has failed to show what an independent evaluation of the DNA evidence would have yielded. This Court finds the Petitioner was not prejudiced by counsel's failure to have the DNA evidence independently tested since in his own statement to police the Applicant indicated he was present in the apartment during the murder. (Tr. 15:1-5). This Court finds the Applicant has failed to carry his burden of proving counsel's performance was deficient and that the outcome of his proceeding would have been different had counsel had the DNA evidence independently tested.

The Applicant alleges counsel was ineffective for failing to have him mentally evaluated. A defendant must be mentally competent to stand trial to assist counsel in his defense. Drope v. Missouri, 420 U.S. 62 (1975). In determining if counsel is ineffective for failing to request a competency hearing, an applicant must show that a reasonable probability exists that he would be found incompetent at the time of this trial or plea. Jeter v. State, 308 S.C.230, 417 S.E.2d 594 (1992). Counsel may reasonably rely on his own perceptions in deciding if a client is competent to stand trial. Id. This Court finds the counsel was not ineffective for failing to have the Applicant evaluated for competency. This Court finds the Applicant has also failed to present any evidence showing that he would have been found incompetent at the time of his plea. This Court finds credible counsel's perception that the Applicant had no mental competency issues and was involved in the evaluation of the facts of his case. Counsel also provided credible testimony that he took extra care to explain things to the Applicant because of his poor reading skills. This Court finds the Applicant has failed to carry his burden of proving he was mentally

RM09/8

incompetent at the time of his guilty plea and that counsel should have requested he be evaluated for mental competency.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions while representing the Applicant. The Applicant failed to show that counsel's performance was deficient. Therefore, this Court need not address prejudice. The Applicant's complaints concerning counsel's performance are without merit and are denied and dismissed.

Involuntary Guilty Plea

The Applicant claims his guilty plea was induced by fear causing his guilty plea to be entered involuntarily. This Court finds this allegation is without merit and the Applicant's guilty plea was entered freely and voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136

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(1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

This Court finds that the Applicant's guilty plea was entered freely and voluntarily. This Court finds further that the record reflects the Applicant was thoroughly advised of the waiver of his constitutional rights by both trial counsel and the plea judge. The record reflects the Applicant was advised by the Applicant and plea counsel of his right to a jury trial and his right to confront his accusers. (Tr. 6:1-6, 6:18-25). The Applicant was also advised of the potential sentence he was facing for each charge. (Tr. 2:17-25, 3:6, 4:5-20). The Applicant told the Court he wished to plead guilty and that he was actually guilty of the crime he was pleading guilty to. (Tr. 7:12-15). This Court finds the record is void of any indication that the Applicant was threatened or forced to plead guilty. This Court finds the plea court correctly concluded the Applicant's guilty plea was entered freely and voluntarily. This Court finds the Applicant has failed to carry his burden of proving that his guilty plea was involuntarily entered.

All Other Allegations

As to any and all allegations that were raised in the application in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant

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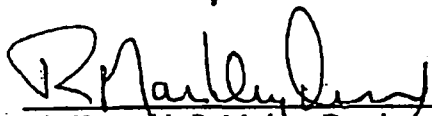
prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 21st day of July, 2014


 The Honorable R. Markley Dennis
 Presiding Judge
 9th Judicial Circuit

Moncks Corner, South Carolina.

Adrian Beaton #327914
 Lieber Corr. Inst
 P.O. Box 205
 Ridgville S.C 29472

September 2, 2014

RECEIVED

SEP 15 2014

CLERK OF COURT
 S.C. SUPREME COURT
 P.O. Box 11330
 Columbia S.C
 29211

S.C. SUPREME COURT

RE: Adrian Beaton# Vs State OF South
 Carolina Case# 2012-CP-10-7668

DEAR Honorable Clerk:

Enclosed Please Find the original and one (1)
 COPY OF the Notice OF Appeal and PROOF
 OF Service in the above referenced case.
 Please File with the Court and return a
 Filed COPY to me.

By COPY OF this Letter I'm serving a COPY
 to Ashleigh Wilson Assistance Attorney
 General's Julie Armstrong, Clerk OF Court OF
 Charleston County, S.C.; and to the S.C.
 OF Appellate Defense.

Respectfully Submitted
 Bu. A. Beaton
 Adrian Beaton

State OF South Carolina
 Supreme Court
 Appeal From Charleston County
 Court of Common Pleas

Case # 2012-CP-10-7668

Adrian Beaton # 387914
 Applicant

VS.

State OF South Carolina
 Respondent

NOTICE OF APPEAL

I, Adrian Beaton, Applicant, APPEALS the dismissal of Applicant's Application For Post Conviction Relief in the above-captioned case. I nevered received the Final Order with the Finding of Facts or the Conclusion of Law on the reasons for dismissal. Only material Applicant received from the Clerk of Court is the letter attach herein this Motion of Appeal being served upon the Court.

Pursuant to S.C. App. Ct. Rule 24B, Applicant attaches a brief explanation as to why the Judge's dismissal was improper and to preserve the record for future allegations Applicant may have when he receive his Final Order.

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SEP 15 2014

S.C. SUPREME COURT

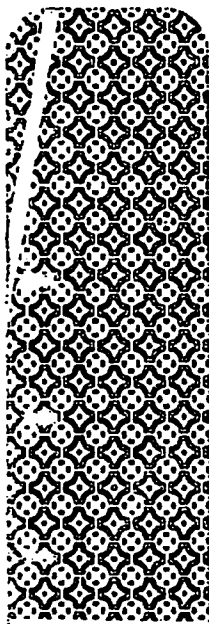
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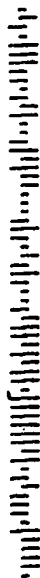
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GK1-SAB 29472



State OF South Carolina
 Supreme Court
 Appeal From Charleston County
 Court Of Common Pleas

CASE # 2012-LP-15-7668

Adrian Beaton # 227914
 Appellant

vs.

State OF South Carolina
 Respondent

Appellant herein, pursuant to S.C. Appellate Ct Rule 24B, brings forth this brief explanation with sufficient evidence showing and proving why the Judge's dismissal of Appellants Post Conviction Relief (PCR) Application was improper.

Issue # 1

Pursuant to Rule 60(b)(2) of the Civil Rule of Procedure, Appellant is entitled to relief of judgment of the hearing held on April 15, 2014, because the Counsel/Attorney who was representing Appellant at this hearing was not Appellant appointed counsel.

This fraudulent behavior demonstrated by Attorney A. Michael Presnell constitutes a violation of Appellants 5th and 14th Amendment rights; under Appellants United States Constitutional Rights; along with Appellant S.C. Constitutional Right under Article 1 § 3.

Due to the extrinsic fraud committed by this attorney which prohibited Appellant from properly presenting his case; Prejudice the Appellant.

DUE to the MISREPRESENTATION OF COUNSEL WHO WAS NOT ASSIGNED BY THE CLERK OF COURT IN THE COURT OF THE ABOVE-CAPTIONED CASE OR THE JUDGE OF THIS CASE WHO APPOINTED ATTORNEY JOSEPH FRANCIS HUND JR. TO REPRESENT APPLICANT IN THE ABOVE-CAPTIONED CASE. SEE EXHIBIT(A) OF SUFFICIENT EVIDENCE ESTABLISHING APPLICANT ALLEGATIONS.

ISSUE # 2

APPLICANT WAS PREJUDICE BECAUSE OF THE MISCONDUCT AND FRAUDULENT BEHAVIOR COMMITTED BY THE ATTORNEY J. MICHAEL BOSNIK WHO WAS NOT APPLICANT'S APPOINTED COUNSEL. APPLICANT WAS PREJUDICE BY THE MISCONDUCT AND FRAUDULENT BEHAVIOR COMMITTED BY THE ABOVE-NAMED ATTORNEY BECAUSE APPLICANT WAS NOT IN POSSESSION OF HIS GUILTY PLEA TRANSCRIPT OF THE JANUARY 26, 2014 HEARING; BECAUSE IT WAS IN THE HANDS OF THIS ATTORNEY WHO WAS NOT APPLICANT'S APPOINTED COUNSEL OR WAS NEVER OBTAINED BY THE CLERK OF COURT OR ANY JUDGE PERMISSION TO SUBSTITUTE OR ANY OTHER FORM OR PROCEDURE TO REPRESENT APPLICANT.

DUE TO THIS ACT OF FRAUD COMMITTED BY THE ABOVE-CAPTIONED ATTORNEY VIOLATED APPLICANT'S DUE PROCESS RIGHT UNDER THE 5TH AMENDMENT ALONG WITH APPLICANT'S 14TH AMENDMENT RIGHT TO EQUAL PROTECTION; UNDER APPLICANT'S UNITED STATES CONSTITUTIONAL RIGHT; ALONG WITH APPLICANT'S S.C. CAROLINA RIGHT TO DUE PROCESS AND EQUAL PROTECTION CLAUSE UNDER ARTICLE 1 § 3.

APPLICANT WAS PREJUDICE BECAUSE IF APPLICANT WAS GIVEN HIS GUILTY PLEA TRANSCRIPT OF THE JANUARY 26, 2014 HEARING APPLICANT WOULD HAVE BEEN ABLE TO SHOW AND PROVE AT THE PCP HEARING HELD ON APRIL 15, 2014 THAT HIS CONVICTION AND SENTENCE WAS NOT KNOWINGLY, VOLUNTARILY OR INTELLIGENTLY MADE OR ENTER INSTEAD OF HAVING TO FILE A MOTION WITH THE COURT TO AMEND OR ALTER JUDGMENT BECAUSE APPLICANT DIDN'T RECEIVE

the guilty plea transcript of the January 26, 2012 hearing until April 17, 2014.

Applicant would have had shown the Court 1) that due to the trial court error in failing to properly construct a competent entry of guilt of applicants guilty plea by failing to ask the applicant was he under the influence of any drugs, alcohol or medication at the time of the guilty plea hearings; if trial court would have ask this question applicant would have informed the court he under psychotropic medication which would not allow applicant to make a intelligent decision.

See Exhibit (B) of sufficient evidence establishing applicant allegation.

Note: Applicant never received any final order from the clerk of court or any other source. So applicant moves to preserve the record for later finding once applicant get in possession of the final order.

Dated: September 9, 2014

Respectfully Submitted
By: A. Beaton
Adrian Beaton #327914
Lieber Corr. Inst
P.O. Box 205
Ridgville S.C 29472

PETITIONERS Exhibit A For Proof
OF the PETITIONERS ALLEGATIONS