

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Horry County

John C. Hayes, III, Circuit Court Judge

RECEIVED

JUN 29 2015

S.C. Supreme Court

NEARIM BLACKWELL-SELIM,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000020

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOSHUA L. THOMAS
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT DATED JANUARY 4, 2007	1
SENTENCING HEARING TRANSCRIPT DATED FEBRUARY 27, 2007	15
<u>STATE V. SELIM</u> , 392 S.C. 707 S.E.2d 426 (Ct. App. MARCH 21, 2011)	53
REMAND TRANSCRIPT DATED MAY 11, 2011	56
APPLICATION FOR POST-CONVICTION RELIEF	122
RETURN	129
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED OCTOBER 29, 2014	135
ORDER OF DISMISSAL	162
INDICTMENT	169

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS

05-GS-26-2615

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

vs.)

NEARIM G. BLACKWELL-SELIM,)

DEFENDANT.)

TRANSCRIPT OF RECORD

JANUARY 4, 2007

CONWAY, SOUTH CAROLINA

BEFORE:

THE HONORABLE, STEVEN H. JOHN, JUDGE

APPEARANCES :

BY: BRADLEY C. RICHARDSON, ESQ., ASSISTANT SOLICITOR
FOR STATE OF SOUTH CAROLINA

BY: BARBARA BLAINE-OLDS, ESQ.
ATTORNEY FOR NEARIM G. BLACKWELL-SELIM

BRENDA R. BABB
Circuit Court Reporter

	INDEX	
GUILTY PLEA		3
RULING OF COURT		13
CERTIFICATE OF REPORTER		14

GUILTY PLEA - JANUARY 4, 2006

3

NEARIM G. BLACKWELL

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: SOLICITOR AND MS. OLDS, COULD YOU
COME UP AND TALK TO ME, PLEASE?

MR. RICHARDSON: YES, SIR, YOUR HONOR.

(WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
RECORD OUT OF THE HEARING OF THE COURT REPORTER.)

THE COURT: YES, SIR?

MR. RICHARDSON: THE STATE AT THIS TIME CALLS
DOCKET NUMBER 2005-GS-26-2615, THE STATE OF SOUTH CAROLINA
COUNTY OF HORRY V. NEARIM GRACE BLACKWELL. IT IS A TRUE
BILLED INDICTMENT FOR MURDER, YOUR HONOR. THE DEFENDANT
COMES BEFORE THIS COURT PLEADING TO THE LESSER INCLUDED
CHARGE OF VOLUNTARY MANSLAUGHTER. I BELIEVE I'VE ALREADY
PASSED UP THE SENTENCING SHEET, YOUR HONOR.

THE COURT: ALL RIGHT, SIR.

MR. RICHARDSON: IT IS THE STATE'S UNDERSTANDING THAT THIS IS MERELY THE GUILT PHASE OF THE PLEA, ENTERING THE PLEA, AND SENTENCING SHALL BE DONE ON FEBRUARY 27 PURSUANT TO THE MOTION OF DEFENSE COUNSEL FOR SENTENCING THAT DAY WHICH WILL TAKE VICTIM'S STATEMENTS, YOUR HONOR, AND SOME STATEMENTS FROM THE DEFENSE SIDE.

THE COURT: ALL RIGHT, SIR. MS. OLDS, IS THAT YOUR UNDERSTANDING OF THE SITUATION?

MS. BLAIN-OLDS: IT IS, YOUR HONOR, AND

1 OFFICIALLY ON THE RECORD THE DEFENSE MOVES TO HAVE THE
2 SENTENCING OF THIS CASE DELAYED UNTIL FEBRUARY 27TH, 2007,
3 IN THAT THE STATE HAS VERY BRIEF NOTICE OF TODAY'S DATE,
4 YOUR HONOR. THERE ARE MITIGATING CIRCUMSTANCES AND THE
5 STATE [SIC] WOULD BE BRINGING IN CERTAIN PERSONS TO SPEAK
6 ON BEHALF OF THE DEFENDANT.

7 THE COURT: ALL RIGHT.

8 MR. RICHARDSON: YOUR HONOR, THE STATE DOES WISH
9 TO RECOGNIZE THE FAMILY OF THE DECEDENT IN THIS CASE. WE
10 HAVE MR. AND MS. THOMAS WHO ARE THE BIOLOGICAL FATHER AND
11 STEPMOTHER OF THE DECEDENT. WE HAVE MR. AND MS. AL SELIM
12 WHO ARE THE BIOLOGICAL FATHER AND STEPMOTHER OF THE OR
13 BIOLOGICAL MOTHER AND STEP, IT'S THE STEPPARENTS AND THE
14 BIOLOGICAL PARENTS ARE HERE, YOUR HONOR.

15 THE COURT: ON BOTH SIDES.

16 MR. RICHARDSON: WE ALSO HAVE THE VICTIM'S
17 DAUGHTER HERE, YOUR HONOR.

18 THE COURT: ALL RIGHT, SIR.

19 MR. RICHARDSON: AND SHE'S HERE WITH HER MOTHER

20 ---

21 THE COURT: ALL RIGHT.

22 MR. RICHARDSON: --- WHO PREVIOUSLY COHABITATED
23 WITH THE DECEDENT.

24 THE COURT: ALL RIGHT. WELL AND I BELIEVE AND
25 I'LL BE GLAD TO HEAR FROM THE STATE BUT IT WOULD SEEM FROM

GUILTY PLEA - JANUARY 4, 2006

5

1 THE COURT'S PERSPECTIVE THAT IF WHAT WE'RE DOING NOW IS TO
2 SEE WHETHER OR NOT THE COURT WILL QUALIFY THE PLEA, THAT IS
3 ACCEPT THE PLEA OR NOT, AND THE SENTENCING PHASE OF THIS
4 PROCEEDING WILL NOT TAKE PLACE UNTIL FEBRUARY 27TH, AND AS
5 INDICATED IT WOULD BE AT 9 A.M. IN THIS COURTROOM, THAT IT
6 WOULD MAKE SENSE THAT THE VICTIM IMPACT STATEMENTS AND ANY
7 INFORMATION FROM THE DEFENSE BE GIVEN TO THE COURT AT THE
8 TIME I WOULD IMPOSE SENTENCE. I'LL BE GLAD TO HEAR FROM
9 ANYBODY TODAY BUT UNDERSTANDING THAT SENTENCING WILL NOT BE
10 CONSIDERED AND WOULD NOT BE IMPOSED UNTIL FEBRUARY 27TH.
11 IT WOULD MAKE THE MOST SENSE TO HEAR FROM EVERYONE THAT HAS
12 BEEN IMPACTED BY THIS AT THE POINT IN TIME WHEN I WOULD
13 IMPOSE THE SENTENCE; AND SO THAT WOULD BE THE COURT'S
14 PERSPECTIVE OF THE PROCEEDINGS.

15 MR. RICHARDSON: YOUR HONOR, I'VE DISCUSSED THAT
16 WITH THE VICTIM'S; THEY ARE IN FULL UNDERSTANDING OF THAT,
17 YOUR HONOR, THEY WILL NOT BE SEEKING TO ADDRESS THE COURT
18 AT THIS TIME.

19 THE COURT: ALL RIGHT, SIR. ALL RIGHT, MS.
20 BLACKWELL, GIVE ME YOUR ATTENTION, MA'AM.

21 DEFENDANT BLACKWELL: YES, SIR.

22 THE COURT: YOU COME BEFORE THE COURT TENDERING
23 YOUR PLEA OF GUILTY TO VOLUNTARY MANSLAUGHTER; IS THAT
24 CORRECT?

25 DEFENDANT BLACKWELL: YES, SIR.

GUILTY PLEA - JANUARY 4, 2006

6

1 THE COURT: YOU UNDERSTAND THE POTENTIAL
2 SENTENCE IN THIS MATTER COULD BE UP TO 30 YEARS; YOU
3 UNDERSTAND THAT?

4 DEFENDANT BLACKWELL: YES, SIR.

5 THE COURT: YOU UNDERSTAND THAT YOU WERE
6 ORIGINALLY INDICTED BY THE HORRY COUNTY GRAND JURY AND A
7 TRUE BILL RENDERED FOR THE OFFENSE OF MURDER; YOU
8 UNDERSTAND THAT?

9 DEFENDANT BLACKWELL: YES, SIR.

10 THE COURT: AND THE MATTER HAS COME BEFORE THE
11 COURT UNDER THE LESSER INCLUDED OFFENSE OF VOLUNTARY
12 MANSLAUGHTER; YOU UNDERSTAND THAT?

13 DEFENDANT BLACKWELL: YES, SIR.

14 THE COURT: YOU UNDERSTAND THAT THE MATTER IS
15 COMING BEFORE THE COURT WITHOUT NEGOTIATIONS OR
16 RECOMMENDATIONS AS TO THE SENTENCE; YOU UNDERSTAND THAT?

17 DEFENDANT BLACKWELL: YES, SIR.

18 THE COURT: YOU ALSO UNDERSTAND THAT VOLUNTARY
19 MANSLAUGHTER IS CONSIDERED A VIOLENT AND MOST SERIOUS
20 OFFENSE BY THE STATE OF SOUTH CAROLINA; YOU UNDERSTAND
21 THAT?

22 DEFENDANT BLACKWELL: YES, SIR.

23 THE COURT: AND YOU'VE DISCUSSED BOTH OF THOSE
24 MATTERS WITH YOUR ATTORNEY, CORRECT?

25 DEFENDANT BLACKWELL: YES, SIR.

GUILTY PLEA - JANUARY 4, 2006

7

1 THE COURT: YOU UNDERSTAND THAT SINCE IT IS
2 CLASSIFIED AS A VIOLENT AND A MOST SERIOUS OFFENSE THERE
3 ARE TWO THINGS THAT WOULD IMPACT THE SENTENCE IN THIS
4 MATTER. FIRST, ANY SENTENCE THE COURT IMPOSES YOU WILL
5 HAVE TO SERVE AT LEAST 85 PERCENT OF THAT SENTENCE BEFORE
6 YOU ARE ELIGIBLE FOR PAROLE, DOES NOT MEAN THAT YOU WOULD
7 GET PAROLE AT THAT POINT IN TIME, BUT IT MEANS THAT YOU
8 HAVE TO SERVE AT LEAST 85 PERCENT OF THE SENTENCE THAT THE
9 COURT MAY IMPOSE BEFORE YOU WOULD BE CONSIDERED FOR PAROLE;
10 YOU UNDERSTAND THAT? DO YOU UNDERSTAND THAT?

11 DEFENDANT BLACKWELL: YES, SIR.

12 THE COURT: ALL RIGHT, MA'AM. YOU ALSO
13 UNDERSTAND THAT VOLUNTARY MANSLAUGHTER BEING A MOST SERIOUS
14 OFFENSE THAT GIVES YOU ONE STRIKE UNDER THE STATE'S TWO
15 STRIKE LAWS REGARDING MOST SERIOUS OFFENSES. SHOULD YOU BE
16 CONVICTED OF A MOST SERIOUS OFFENSE AGAIN IN THE FUTURE
17 EITHER THROUGH TRIAL, PLEA, OR OTHERWISE, THAT YOU WOULD
18 SUBJECT YOURSELF TO LIFE IN PRISON WITHOUT THE POSSIBILITY
19 OF PAROLE; DO YOU UNDERSTAND THAT?

20 DEFENDANT BLACKWELL: YES, SIR.

21 THE COURT: UNDERSTANDING EVERYTHING THAT WE
22 HAVE JUST TALKED ABOUT DO YOU WANT TO GO FORWARD WITH YOUR
23 GUILTY PLEA?

24 DEFENDANT BLACKWELL: YES, SIR.

25 THE COURT: ARE YOU CURRENTLY UNDER THE

GUILTY PLEA - JANUARY 4, 2006

8

1 INFLUENCE OF ANY DRUGS OR INTOXICANTS OF ANY KIND OR HAVE
2 THEM IN YOUR SYSTEM?

3 DEFENDANT BLACKWELL: NO, SIR.

4 THE COURT: YOU SUFFER FROM ANY KIND OF
5 PHYSICAL, MENTAL OR EMOTIONAL PROBLEM THAT WOULD KEEP YOU
6 FROM UNDERSTANDING WHAT WE'RE DOING HERE TODAY?

7 DEFENDANT BLACKWELL: NO, SIR.

8 THE COURT: WHEN YOU PLEAD GUILTY YOU GIVE UP
9 CERTAIN CONSTITUTIONAL RIGHTS, AMONG THOSE ARE THE RIGHT TO
10 REMAIN SILENT. WHEN YOU SPEAK TO ME YOU GIVE UP THAT
11 RIGHT; YOU UNDERSTAND THAT?

12 DEFENDANT BLACKWELL: YES, SIR.

13 THE COURT: OTHER RIGHTS ARE, THE PRESUMPTION OF
14 INNOCENCE, THE RIGHT AGAINST SELF INCRIMINATION AT AT
15 TRIAL, THE STATE HAS TO PROVE YOUR GUILT BEYOND A
16 REASONABLE DOUBT. WHEN YOU PLEAD GUILTY YOU GIVE THOSE
17 RIGHTS UP; DO YOU UNDERSTAND THAT?

18 DEFENDANT BLACKWELL: YES, SIR.

19 THE COURT: YOU ARE ENTITLED TO A JURY TRIAL, 12
20 MEN AND WOMEN WOULD LISTEN TO THE EVIDENCE AND THE MATTERS
21 PRESENTED BY THE STATE TO SEE IF THERE IS INDEED ENOUGH
22 INFORMATION, ENOUGH FACTS TO PROVE YOU GUILTY BEYOND A
23 REASONABLE DOUBT. WHEN YOU PLEAD GUILTY YOU GIVE UP THAT
24 RIGHT; YOU UNDERSTAND THAT?

25 DEFENDANT BLACKWELL: YES, SIR.

GUILTY PLEA - JANUARY 4, 2006

9

1 THE COURT: AND IN THAT JURY TRIAL YOU HAVE THE
2 RIGHT TO CONFRONT YOUR ACCUSERS. WITH YOUR ATTORNEY YOU
3 CAN QUESTION THE WITNESSES, THE EVIDENCE PRESENTED BY THE
4 STATE. YOU HAVE THE RIGHT TO PRESENT A DEFENSE, THAT IS
5 YOU COULD CALL WITNESSES ON YOUR BEHALF, YOU COULD TESTIFY,
6 BUT WHEN YOU PLEAD GUILTY YOU GIVE UP EACH AND EVERY ONE OF
7 THOSE RIGHTS; YOU UNDERSTAND THAT?

8 DEFENDANT BLACKWELL: YES, SIR.

9 THE COURT: YOU'RE PLEADING GUILTY TO VOLUNTARY
10 MANSLAUGHTER, ARE YOU DOING SO FREELY AND VOLUNTARILY?

11 DEFENDANT BLACKWELL: YES, SIR.

12 THE COURT: OF YOUR OWN FREE WILL AND ACCORD?

13 DEFENDANT BLACKWELL: YES, SIR.

14 THE COURT: PLEADING GUILTY BECAUSE YOU ARE
15 GUILTY?

16 DEFENDANT BLACKWELL: YES, SIR.

17 THE COURT: ANYBODY PROMISED YOU ANYTHING OR
18 THREATENED YOU OR FORCED YOU IN ANY WAY TO GET YOU TO PLEAD
19 GUILTY?

20 DEFENDANT BLACKWELL: NO, SIR.

21 THE COURT: NOW YOU'RE HERE WITH YOUR ATTORNEY
22 MS. OLDS, IS THAT CORRECT?

23 DEFENDANT BLACKWELL: YES, SIR.

24 THE COURT: DID YOU TELL HER EVERYTHING YOU NEED
25 TO TELL HER ABOUT THIS CASE?

GUILTY PLEA - JANUARY 4, 2006

10

1 DEFENDANT BLACKWELL: YES, SIR.

2 THE COURT: HAVE YOU HAD ENOUGH TIME TO TALK TO
3 HER?

4 DEFENDANT BLACKWELL: YES, SIR.

5 THE COURT: DO YOU NEED ANY MORE TIME TO TALK TO
6 HER? IF YOU HAVE ANY QUESTIONS, MA'AM, NOW IS THE TIME TO
7 BE ASKING SO IF YOU'VE GOT A QUESTION, PLEASE, ASK HER.

8 DEFENDANT BLACKWELL: NO, SIR.

9 THE COURT: ALL RIGHT. HAS MS. OLDS DONE
10 EVERYTHING THAT YOU EXPECTED OF HER THAT YOU WANTED HER TO
11 DO TO TRY TO HELP YOU IN THIS CASE?

12 DEFENDANT BLACKWELL: YES, SIR.

13 THE COURT: SATISFIED WITH HER HELP AND
14 REPRESENTATION?

15 DEFENDANT BLACKWELL: YES, SIR.

16 THE COURT: ANY COMPLAINTS ABOUT HER HELP OR
17 REPRESENTATION?

18 DEFENDANT BLACKWELL: NO, SIR.

19 THE COURT: MS. OLDS, YOU REPRESENT THE INTEREST
20 OF MS. BLACKWELL IN THIS MATTER?

21 MS. BLAIN-OLDS: I DO, YOUR HONOR.

22 THE COURT: SHE COMES BEFORE THE COURT TO TENDER
23 HER PLEA OF GUILTY TO VOLUNTARY MANSLAUGHTER, DO YOU
24 CONCUR?

25 MS. BLAIN-OLDS: I DO, YOUR HONOR.

GUILTY PLEA - JANUARY 4, 2006

11

1 THE COURT: DO YOU BELIEVE SHE'S COME BEFORE THE
2 COURT OF HER OWN FREE WILL AND ACCORD?

3 MS. BLAIN-OLDS: I BELIEVE SO, YOUR HONOR.

4 THE COURT: AND HAVE YOU EXPLAINED TO HER HER
5 CONSTITUTIONAL RIGHTS AND ANY DEFENSES THAT SHE MIGHT HAVE
6 AS WELL AS THE INFORMATION, THE EVIDENCE IN THE POSSESSION
7 OF THE STATE?

8 MS. BLAIN-OLDS: I HAVE, YOUR HONOR.

9 THE COURT: THANK YOU VERY MUCH. SOLICITOR?

10 MR. RICHARDSON: THANK YOU, YOUR HONOR, MAY IT
11 PLEASE THE COURT. THE INDICTMENT READS THAT NEARIM GRACE
12 BLACKWELL DID IN HORRY COUNTY ON OR ABOUT JUNE 3RD, 2005,
13 WILLFULLY, FELONIOUS, AND INTENTIONALLY KILL THE VICTIM
14 KENNETH AL SELIM WITH MALICE AFORETHOUGHT EITHER EXPRESSED
15 OR IMPLIED BY MEANS OF STABBING THE VICTIM IN THE CHEST.
16 THE VICTIM DID DIE AS A PROXIMATE RESULT THEREOF ON OR
17 ABOUT JUNE 3RD, 2005, IN VIOLATION OF SECTION 16-3-10 SOUTH
18 CAROLINA CODE OF LAWS 1976 AS AMENDED.

19 YOUR HONOR, IN REGARD TO THE MALICE I DO REALIZE
20 THIS IS PLEADING TO VOLUNTARY, THE AUTOPSY REPORT INDICATES
21 THE KNIFE WOUND, FINAL SUMMATION IS THE OVERALL WOUND OF
22 THE PATH IS LEFT, IT WAS OVER THE LEFT NIPPLE, YOUR HONOR.
23 THE WOUND WAS LEFT TO RIGHT, FRONT TO BACK, IN OTHER WORDS
24 IT WENT THROUGH THE CHEST AND BACK AND IN A DOWNWARD MOTION
25 ACCORDING TO THE ANGLE. THERE WAS SOME DISCUSSION AT THE

1 TIME STATEMENTS THAT MR. AL SELIM JUMPED ON THE KNIFE.
2 THE, THE STATE HAS SPOKEN TO THE PATHOLOGIST WHO STATE THAT
3 THAT COULD NOT HAVE HAPPENED IN THAT WAY DUE TO THE ANGLE
4 OF THE WOUND, YOUR HONOR.
5 THE COURT: ALL RIGHT, SIR. ALL RIGHT, MS.
6 BLACKWELL YOU HAVE COME BEFORE THE COURT TO TENDER YOUR
7 PLEA OF GUILTY TO VOLUNTARY MANSLAUGHTER, UNDERSTANDING
8 THAT YOU'RE PLEADING GUILTY TO A LESSER INCLUDED OFFENSE.
9 YOU UNDERSTAND AND HAVE HEARD THE FACTS AS STATED BY THE
10 SOLICITOR, ARE THOSE FACTS TRUE AND CORRECT?
11 DEFENDANT BLACKWELL: YES, SIR.
12 THE COURT: HAVE YOU UNDERSTOOD MY QUESTIONS
13 HERE TODAY?
14 DEFENDANT BLACKWELL: YES, SIR.
15 THE COURT: HAVE ALL YOUR ANSWERS BEEN THE
16 TRUTH?
17 DEFENDANT BLACKWELL: YES, SIR.
18 THE COURT: ANYBODY TELL YOU HOW TO ANSWER MY
19 QUESTIONS?
20 DEFENDANT BLACKWELL: NO, SIR.
21 THE COURT: YOU UNDERSTAND YOU HAVE THE RIGHT TO
22 APPEAL YOUR GUILTY PLEA WITHIN 10 DAYS OF THE DATE OF THE
23 SENTENCING; YOU UNDERSTAND THAT?
24 DEFENDANT BLACKWELL: YES, SIR.
25 THE COURT: SO THAT 10 DAYS WILL START FROM THE

GUILTY PLEA - JANUARY 4, 2006

13

1 DATE THAT I ACTUALLY IMPOSE A SENTENCE IN THIS PARTICULAR
2 CASE; YOU UNDERSTAND THAT?

3 DEFENDANT BLACKWELL: YES, SIR.

4 THE COURT: I FIND THERE'S BEEN A SUBSTANTIAL
5 FACTUAL BASIS FOR THE PLEA. I FIND THAT THE DEFENDANT'S
6 DECISION TO PLEAD GUILTY HAS BEEN DONE FREELY, VOLUNTARILY,
7 KNOWINGLY, AND INTELLIGENTLY MADE. SHE'S HAD THE ADVICE OF
8 COMPETENT COUNSEL WITH WHOM SHE'S SATISFIED, THEREFORE, MS.
9 BLACKWELL'S DECISION TO PLEAD GUILTY TO VOLUNTARILY
10 MANSLAUGHTER IS ACCEPTED.

11 BASED UPON THE PRESENTATION TO THE COURT FROM THE
12 STATE AND THE DEFENSE TO ALLOW STATEMENTS TO BE MADE ON
13 BOTH SIDES OF THE CASE, THE SENTENCING IN THIS CASE WILL BE
14 DEFERRED UNTIL FEBRUARY 27TH AT 9 A.M. AT WHICH TIME I WILL
15 HEAR FROM WITNESSES AND/OR TESTIMONY TO BE PRESENTED FROM
16 THE STATE AND FROM THE DEFENSE AT THAT TIME BEFORE THE
17 COURT IMPOSES A SENTENCE IN THIS MATTER. THANK YOU VERY
18 MUCH.

19 MS. BLAIN-OLDS: THANK YOU, YOUR HONOR.

20 MR. RICHARDSON: YOUR HONOR, THE DEFENDANT
21 REMAIN IN CUSTODY UNTIL ---

22 THE COURT: YES, SIR, THE DEFENDANT OBVIOUSLY
23 REMAINS IN CUSTODY UNTIL THAT DATE, THANK YOU VERY MUCH.

24 MR. RICHARDSON: THANK YOU, YOUR HONOR.

25 END OF REQUESTED TRANSCRIPT - - - -

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED BRENDA R. BABB, OFFICIAL COURT REPORTER THE SOUTH CAROLINA COURT ADMINISTRATION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR HORRY COUNTY, SOUTH CAROLINA.

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

August 3, 2007
Brenda R. Babb
BRENDA R. BABB, CVR

OFFICIAL REPORTER

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
05-GS-26-2615

STATE OF SOUTH CAROLINA,

PLAINTIFF,

vs.

NEARIM G. BLACKWELL-SELIM,

DEFENDANT.

TRANSCRIPT OF RECORD

FEBRUARY 27, 2007
CONWAY, SOUTH CAROLINA

BEFORE:

THE HONORABLE, STEVEN H. JOHN, JUDGE

APPEARANCES:

BY: BRADLEY C. RICHARDSON, ESQ., ASSISTANT SOLICITOR
FOR STATE OF SOUTH CAROLINA

BY: BARBARA BLAINE-OLDS, ESQ.
ATTORNEY FOR NEARIM G. BLACKWELL-SELIM

BRENDA R. BABB
Circuit Court Reporter

	INDEX	
PRESENTATION BY DR. LORING		21
SENTENCE OF THE COURT		37
CERTIFICATE OF REPORTER		38

SENTENCING HEARING - FEBRUARY 27, 2007

3

1 THE COURT: WE ARE HERE IN THE MATTER OF 2005-
2 GS-26-2615, THE STATE OF SOUTH CAROLINA V. NEARIM GRACE
3 BLACKWELL. THE PARTIES WERE PREVIOUSLY BEFORE THE COURT ON
4 FEBRUARY, I MEAN EARLIER THIS YEAR, AND WE DELAYED
5 SENTENCING. AT THAT POINT IN TIME THE COURT ACCEPTED THE
6 GUILTY PLEA OF THE DEFENDANT BLACKWELL TO VOLUNTARY
7 MANSLAUGHTER AND SENTENCING WAS DELAYED TO THIS DATE TO
8 ALLOW THE PARTIES TO PRESENT WHATEVER INFORMATION,
9 WITNESSES BOTH FROM THE STATE'S SIDE AND THE DEFENSE SIDE
10 BEFORE THE COURT IMPOSED THE SENTENCE IN THIS MATTER.
11 SOLICITOR?

12 MR. RICHARDSON: THANK YOU, YOUR HONOR. YOUR
13 HONOR, AS YOU STATED WE WERE BEFORE YOU ON JANUARY 4TH,
14 2007, THE GUILTY PLEA HAD BEEN QUALIFIED AND THE GUILTY
15 PLEA HAD BEEN ACCEPTED. YOUR HONOR, THE INDICTMENT HAD
16 BEEN TRUE BILLED FOR THE CHARGE OF MURDER AND THE DEFENDANT
17 PLEADED TO THE LESSER INCLUDED OFFENSE OF VOLUNTARY
18 MANSLAUGHTER.

19 YOUR HONOR, THE FACTS AT THAT TIME WERE THAT ON
20 JUNE 3RD, 2005, THAT THE DEFENDANT STABBED HER COMMON LAW
21 HUSBAND, LIVE-IN BOYFRIEND, CO-HABITATION FOR SOME TIME, IN
22 THE CHEST. HE DIED AS A RESULT OF THAT STAB WOUND. THE
23 STATE READ INTO THE REPORT OF THE MEDICAL EXAMINER WHO
24 STATED THAT STAB WOUND TO THE ABDOMEN A DOWNWARD MOTION
25 LEFT TO RIGHT, FRONT TO BACK, WHICH IS CONTRADICTORY TO THE

SENTENCING HEARING - FEBRUARY 27, 2007

4

1 STATEMENT THAT HAD BEEN PRODUCED BY THE DEFENDANT
2 PREVIOUSLY THAT THE VICTIM HAD JUMPED ON THE KNIFE, YOUR
3 HONOR.

4 PRESENT IN THE COURTROOM TODAY WE HAVE MR. AND
5 MS. THOMAS WHO -- MS. THOMAS IS THE BIOLOGICAL MOTHER OF
6 KENNY. WE HAVE MR. AND MS. SELIM. MR. SELIM IS THE
7 BIOLOGICAL FATHER OF KENNY SELIM, YOUR HONOR. AND THE
8 STATE IS PREPARED TO GO FORWARD AT THIS TIME.

9 THE COURT: ALL RIGHT, SIR. ALL RIGHT, MS.
10 OLDS, IS THE DEFENSE READY TO PROCEED AT THIS POINT IN
11 TIME?

12 MS. BLAIN-OLDS: WE ARE READY, YOUR HONOR.

13 THE COURT: ALL RIGHT, ALL RIGHT, SOLICITOR,
14 THEN I'LL BE, WHAT WE'LL DO FIRST THEN IS I'LL BE GLAD TO
15 HEAR FROM ANY REPRESENTATIVES OF THE STATE OR
16 REPRESENTATIVES OF THE DECEASED IN, IN THIS MATTER IN THE
17 PRESENTATION THEY WOULD LIKE TO MAKE TO, TO THE COURT. ONE
18 THING BEFORE THAT, TELL ME AGAIN AS FAR AS ANY PRIOR RECORD
19 OF MS. BLACKWELL.

20 MR. RICHARDSON: YOUR HONOR, THE RECORD THAT I
21 HAVE REFLECTS THAT MS. BLACKWELL, I DON'T HAVE THE
22 SENTENCING DISPOSITION, WE HAVE A 1991 DOMESTIC VIOLENCE
23 AND DISTURBING THE PEACE OUT OF DENVER, COLORADO.

24 WE HAVE A 2003 ASSAULT THREE AND AN INTERFERENCE
25 WITH, OR RESISTING ARREST, OUT OF CONNECTICUT. SHE GOT

SENTENCING HEARING - FEBRUARY 27, 2007

5

1 PROBATION ON THAT. I SEE THE PROBATION WAS TERMINATED IN
2 2004.

3 WE HAVE A 1994 UTTERING FORGERY OUT OF
4 MISSISSIPPI. IT DOESN'T SHOW A DEPOSITION. THERE WERE
5 SEVEN COUNTS OF THAT, YOUR HONOR.

6 THE COURT: ALL RIGHT, THANK YOU. ALL RIGHT,
7 YOU MAY PROCEED, SIR. YOU MAY PROCEED WITH WHATEVER
8 WITNESSES YOU'D LIKE TO BRING FORWARD.

9 MR. RICHARDSON: YOUR HONOR, FIRST I BELIEVE MS.
10 SELIM WANTED TO PASS UP, I HAVE IN MY HANDS A PICTURE AND A
11 LETTER FROM MS. SELIM.

12 THE COURT: YES, SIR, ALL RIGHT.

13 MR. RICHARDSON: MS. SELIM IS THE STEPMOTHER OF
14 KENNY.

15 THE COURT: ALL RIGHT, THANK YOU. YES, MA'AM,
16 I'LL BE GLAD TO HEAR FROM YOU, IF YOU'D STATE YOUR, STATE
17 YOUR NAME FIRST, PLEASE, AND THEN I'LL BE GLAD TO HEAR FROM
18 YOU.

19 FAMILY MEMBER: DONNA THOMAS. I'M KENNY SELIM'S
20 MOTHER. THIS IS A PICTURE OF KEN.

21 DEAR HONORABLE JUDGE, THIS IS A TWISTED VIOLENCE.
22 IN MOST SCENARIOS A WOMAN IN TROUBLE CAN EITHER VERBALLY OR
23 VERBALLY PHYSICALLY OR PSYCHOLOGICALLY. IN THIS CASE
24 KENNY WAS VIOLATED VERBALLY, PSYCHOLOGICALLY IN CONTROL OF
25 HIS GIRLFRIEND, NEARIM BLACKWELL. THIS IS A FATAL

SENTENCING HEARING - FEBRUARY 27, 2007

6

1 ATTRACTION THAT ULTIMATELY ENDED IN KENNY'S DEATH BY A
2 SINGLE STAB WOUND INTO HIS HEART BY NEARIM BLACKWELL. OUR
3 HEARTS WILL NEVER BE THE SAME.

4 THIS IS EXTREMELY DIFFICULT TO WRITE A FAIRLY
5 BRIEF LETTER TO YOU ABOUT KEN BUT WE WANTED YOU TO KNOW HOW
6 WE FELT ABOUT KEN'S RELATIONSHIP WITH NEARIM. TO US IT WAS
7 NO ACCIDENT. IT WAS JUST ANOTHER ACT OF VIOLENCE
8 DELIBERATELY PERFORMED TO OUR SON, KEN, BY NEARIM. KEN WAS
9 STABBED THREE TIMES IN THE BACK BY NEARIM ON AN EARLIER
10 DOMESTIC FELONIOUS CASE IN CONNECTICUT SIX WEEKS PRIOR TO
11 HIS DEATH. NEARIM WOULD CUT OR MAIM HERSELF AND SHE WOULD
12 CALL THE POLICE AND HAVE KEN ARRESTED SAYING KEN DID THIS
13 TO HER. SIX WEEKS BEFORE THAT INCIDENT I RECALL KEN SAYING
14 TO ME DURING A PHONE CONVERSATION, I SLEEP WITH ONE EYE
15 OPEN, KEN TOLD ME, THAT HE FEARED FOR HIS LIFE. KEN WAS NO
16 ANGEL AND MADE PREVIOUS BAD DECISIONS IN HIS ADULT LIFE.
17 BUT WHEN HE AND NEARIM STARTED THE RELATIONSHIP THERE WAS A
18 MAJOR CHANGE IN HIS PERSONALITY. KEN SEEMED TO US SAD NOT
19 HAPPY, NEVER SMILED OR JOKED. THIS WAS UNLIKE KEN WHO HAD
20 AN INFECTIOUS SMILE AND A CONTAGIOUS LAUGH. WE TOLD KEN
21 HOW WE FELT ABOUT THE RELATIONSHIP. WE TOLD KEN HE NEEDED
22 TO CHANGE HIS LIFE AND ONE MAJOR CHANGE WAS TO GET OUT OF
23 THAT RELATIONSHIP WITH NEARIM. KENNY WOULD ALWAYS SAY I
24 CAN'T. KEN DIDN'T SAY, I LOVE HER, I WANT TO STAY. KEN
25 JUST SAID, I CAN'T, WITHOUT ANY FURTHER ELABORATION. WE

SENTENCING HEARING - FEBRUARY 27, 2007

7

1 FEEL VERY STRONGLY THAT NEARIM MAY HAVE THREATENED KEN IN
2 SOME WAY. WAS KEN THREATEN THAT NEARIM MAY DO HARM TO
3 CALLIE OR ONE OF US? CALLIE IS KEN'S DAUGHTER. WE'LL
4 NEVER KNOW FOR SURE BECAUSE KEN'S VOICE WILL NEVER BE HEARD
5 AGAIN.

6 ON JUNE 3RD, '05 WE RECEIVED A CALL FROM KEN'S EX-
7 GIRLFRIEND, JANIE BRIGHT, WHO IS THE MOTHER OF KEN DAUGHTER
8 CALLIE SALIM. CALLIE, EXCUSE ME, JANIE TOLD US THERE WAS A
9 MURDER AND THE BODY STILL HAD TO BE IDENTIFIED. THE POLICE
10 THOUGHT IT MIGHT BE KEN'S. THOUGHTS OF DESPAIR WENT
11 THROUGH MY HEAD. KEN IS MY ONLY CHILD, MY SON. I COULDN'T
12 GRASP THAT CRUEL POSSIBILITY. CALLIE'S FATHER, KEN, HAD
13 TAKEN HIS LAST BREATH. WHAT WAS I TO DO? MY ONLY CHILD,
14 MY BABY, WAS MURDERED. JANIE CALLED AGAIN LATER THAT DAY
15 AND THE BODY WAS IDENTIFIED AS KEN'S. ISN'T IT IRONIC THAT
16 KEN WAS KILLED IN THE STATE OF SOUTH CAROLINA AS THAT IS
17 WHERE CALLIE LIVED WHEN HE AND NEARIM LIVED IN CONNECTICUT?
18 CALLIE LIVED WITH HER MOTHER, JANIE BRIGHT. WE ASK
19 OURSELVES THIS QUESTION: WHY DID NEARIM AND KEN STOP IN
20 SOUTH CAROLINA? IT WAS ONLY A COUPLE OF HOURS DRIVE WHERE
21 CALLIE LIVED. WAS KEN FINALLY GOING TO LEAVE HER? KEN HAD
22 CALLIE'S NAME AND ADDRESS IN HIS POCKET WHEN HE WAS
23 MURDERED. WAS KEN GOING TO TRY AND START A NEW LIFE WITH
24 HIS DAUGHTER CALLIE? WERE THERE DISCUSSIONS AND ARGUMENTS
25 OVER THIS IN THE DAYS PRECEDING KEN'S DEATH?

SENTENCING HEARING - FEBRUARY 27, 2007

8

1 I THANK GOD THAT NEARIM HAS THREE CHILDREN AND
2 SHE HASN'T CUSTODY OF THE THREE OF THEM. ONE WAS WITH HER
3 HUSBAND, HER FORMER HUSBAND IN CONNECTICUT AND THE OTHER
4 TWO WERE IN FLORIDA WITH HER MOTHER. WE FEAR NEARIM'S
5 THOUGHTS AND ACTIONS. WE FEEL THAT NEARIM IS A DANGER TO
6 SOCIETY AND MAYBE CAPABLE OF HURTING SOMEONE ELSE. WHEN
7 NEARIM IS FREE SHE COULD FIND HERSELF CONTROLLING ANOTHER
8 RELATIONSHIP AND HURTING ANOTHER FAMILY CAUSING THEM THE
9 UNIMAGINABLE PAIN WE'LL HAVE THE REST OF OUR LIVES. KEN
10 CAN NEVER SAY AGAIN, I LOVE YOU, MOM, OR HAPPY BIRTHDAY
11 FEBRUARY 24TH TO HIS DARLING DAUGHTER CALLIE. I CAN NEVER
12 WISH KEN MERRY CHRISTMAS OR HAPPY BIRTHDAY, NOR CAN I SHARE
13 ANOTHER MEAL OF CELEBRATION WITH KEN FOR HE HAS BEEN
14 PERMANENTLY SILENCED AND OVER TAKEN BY NEARIM'S HOSTILE
15 BEHAVIOR ONCE AGAIN. GRIEF PREVAILS IN MY HEART, TEARS
16 ENVELOPE MY BEING. A MOTHER'S LOVE IS UNCONDITIONAL AND I
17 LOVED KEN WITH MY HEART AND SOUL. I WOULD HAVE RATHER BEEN
18 KILLED MYSELF. PARENTS AREN'T SUPPOSED TO OUTLIVE THE
19 CHILDREN. KEN LEFT A GOOD LEGACY, HIS DAUGHTER, CALLIE, MY
20 GRANDDAUGHTER, CALLIE. CALLIE HAS TO GROW UP WITH DISTANT
21 MEMORIES OF KEN AND SADNESS THAT HER FATHER HAD TO DIE THIS
22 WAY LEAVING ALL OF US TO MOURN. CALLIE WILL NOT HAVE A
23 FATHER TO SEE HER GRADUATE OR WALK HER DOWN THE AISLE ON
24 HER WEDDING DAY. THIS IS A WAY TO EXPRESS HER HURT AND
25 LOSS AND PRAY IN KEN'S NAME JUSTICE WILL BE DONE BECAUSE

SENTENCING HEARING - FEBRUARY 27, 2007

9

1 KEN'S AT PEACE. AND ENDING, OUR SON AND CALLIE'S DAD DEAD
2 AT 31 YEARS OF AGE FOREVER BY THE HAND OF NEARIM BLACKWELL.
3 SHE STILL HAS HER LIFE. I BELIEVE THAT AS A DAD, HONORABLE
4 JUDGE, YOUR CONSCIOUS WILL PREVAIL AND WE PRAY THAT THIS
5 DOESN'T HAPPEN TO ONE OF YOUR CHILDREN. WE PRAY YOUR HONOR
6 NEVER HAS TO FEEL THE PAIN OR LOSS OF A CHILD BECAUSE OUR
7 SENTENCE IS FOREVER. WE ASK, YOUR HONOR, NEARIM BLACKWELL
8 RECEIVE THE LONGEST PUNISHMENT ALLOWED BY LAW FOR THE DEATH
9 OF OUR SON, KENNY SELIM. NEARIM HAS TO ULTIMATELY ANSWER
10 TO HER MAKER, GOD, FOR THE MURDER OF OUR SON, KEN. WITH
11 DEEPEST GRIEF, DONNA DENNISON.

12 THE COURT: THANK YOU, MA'AM.

13 MR. RICHARDSON: YOUR HONOR, ALSO MS. BRIGHT IS
14 HERE. SHE ACTUALLY HAS A POEM THAT WAS WRITTEN BY CALLIE.

15 THE COURT: ALL RIGHT.

16 MR. RICHARDSON: ABOUT HER FATHER. A SHORT POEM.
17 SHE JUST WANTS TO READ IT.

18 THE COURT: ALL RIGHT.

19 MS. BRIGHT: CALLIE WROTE THIS THE DAY AFTER SHE
20 FOUND OUT IT WAS HER DADDY HAD DIED.

21 THE COURT: ALL RIGHT,

22 MS. BRIGHT: DADDY'S GONE. I WILL NEVER FORGET
23 YOUR VOICE. I WILL NEVER FORGET THE SCENT OF YOUR CLOTHES
24 OR THE LAUGHTER OF YOUR VOICE, THE SMILE OF YOUR FACE. I
25 WILL NEVER GET TO BE RIGHT NEXT TO YOU BUT I DO HAVE

SENTENCING HEARING - FEBRUARY 27, 2007

10

1 MEMORIES AND LOVE FOR YOU STILL.

2 I WAS WITH FOR OVER SEVEN YEARS. WE NEVER HAD
3 ANY DOMESTIC VIOLENT FIGHTS. HE WAS A GOOD FATHER TO MY --
4 I HAD A SON BEFORE I WAS WITH KENNY. HE WAS A GREAT FATHER
5 TO HIM AND HE WAS A GREAT FATHER TO MY DAUGHTER. KEN KNEW
6 THE FLORENCE AND MYRTLE BEACH AREA. WE WERE ONLY FOUR AND
7 HALF HOURS AWAY FROM HERE. IN MY HEART I HONESTLY BELIEVE
8 THAT HE WAS TRYING TO GET TO HIS DAUGHTER AND SHE KNOWS IT,
9 TOO, BECAUSE HE CALLED MY SISTER A COUPLE OF DAYS BEFORE
10 THAT AND SAID HE WAS GOING TO HE HIS DAUGHTER AND SHE
11 COULDN'T BE HERE TODAY BECAUSE SHE'S IN CONNECTICUT. MY
12 DAUGHTER APPRECIATES YOU LETTING ME READ THIS POEM. SHE'S
13 WAITING OUTSIDE. SHE DIDN'T WANT TO COME IN. THANK YOU.

14 THE COURT: ALL RIGHT, THANK YOU, MA'AM.

15 MR. RICHARDSON: YOUR HONOR, I MAY HAVE
16 NEGLECTED TO SAY THAT ALL OF THESE ACTIONS DID OCCUR HERE
17 IN HORRY COUNTY.

18 THE COURT: ALL RIGHT, SIR. ALL RIGHT, MS.
19 OLDS, I'LL BE GLAD TO HEAR FROM YOU, MA'AM.

20 MS. BLAIN-OLDS: THANK YOU, YOUR HONOR, MAY IT
21 PLEASE THE COURT. YOUR HONOR, AT THE SUMMATION OF THE
22 DEFENSE'S PRESENTATION WE WILL SEEK, PURSUANT TO SOUTH
23 CAROLINA STATUTORY CODE 16-25-90 RELATING TO CONDITIONS FOR
24 EARLY PAROLE FOR CERTAIN OFFENDER VICTIMS OF SPOUSAL ABUSE.
25 YOUR HONOR, THE DEFENSE INTENDS TO PRESENT EVIDENCE TO THE

SENTENCING HEARING - FEBRUARY 27, 2007

11

1 COURT THAT NEARIM BLACKWELL WAS IN FACT A VICTIM OF
2 CRIMINAL DEFENSE, PARDON ME, AT, OF CRIMINAL DOMESTIC
3 VIOLENCE AT THE HANDS OF THE DECEASED, KENNETH SELIM, AND
4 WILL ASK THE COURT FOR A SPECIFIC FINDING ON THAT REGARD.
5 PARDON ME, YOUR HONOR.

6 YOUR HONOR, IT WOULD BE IMPOSSIBLE FOR THE
7 DEFENSE TO PRESENT ITS CASE TO THE COURT WITHOUT FIRST
8 SPEAKING ABOUT THE DECEASED, KENNETH SELIM, HIMSELF. MR.
9 SELIM DID IN FACT HAVE A CRIMINAL HISTORY THAT I THINK THE
10 COURT SHOULD BE MADE AWARE OF.

11 IN JULY 1993 HE WAS CONVICTED OF CRIMINAL
12 MISCHIEF, FAILURE TO APPEAR, LARCENY THIRD, WHICH IS A
13 FELONY, AND LARCENY FOURTH, WHICH IS A MISDEMEANOR.

14 IN AUGUST 1993 HE WAS CONVICTED OF LARCENY THIRD
15 AND LARCENY FOURTH.

16 IN APRIL 1998 HE WAS CONVICTED OF BURGLARY
17 SECOND, CRIMINAL TRESPASS. YOUR HONOR, A CHARGE THAT IS
18 DESIGNATED AS LARCENY SIX, CRIMINAL IMPERSONATING.

19 IN JANUARY '01 CONVICTED OF BEING UNDER THE
20 INFLUENCE.

21 IN AUGUST '02 CONVICTED OF FELONY ASSAULT SECOND
22 AND MISDEMEANOR ASSAULT THIRD.

23 IN FEBRUARY 2003 CONVICTED A VIOLATION OF
24 PROBATION AND FELONY ASSAULT FIRST.

25 IN JULY 2004 HE WAS CONVICTED OF FELONY ASSAULT

SENTENCING HEARING - FEBRUARY 27, 2007

12

1 FIRST.

2 YOUR HONOR, KENNETH SELIM HAD OUTSTANDING ARRESTS
3 FOR WHICH THERE WAS NO DISPOSITION. IF I MIGHT APPROACH,
4 YOUR HONOR, I HAVE A PACKET OF POLICE INCIDENT REPORTS THAT
5 I WOULD LOVE TO SHARE WITH THE COURT.

6 THE COURT: ALL RIGHT.

7 MS. BLAINE-OLDS: IF I MAY CONTINUE, YOUR HONOR.
8 BOTH ARRESTS INCLUDE A FEBRUARY, 2002 ARREST FOR CRIMINAL
9 DOMESTIC VIOLENCE. THE PACKET THAT I JUST HANDED YOUR
10 HONOR IS IN CHRONOLOGICAL ORDER.

11 THIS INCIDENT REPORT INDICATES THAT A POLICE
12 OFFICER OBSERVED A FEMALE LATER IDENTIFIED AS NEARIM
13 BLACKWELL, DATE OF BIRTH 1-30-1967, LYING ON THE GROUND AND
14 CRYING. I ASKED BLACKWELL WHAT HAD HAPPENED AND SHE STATED
15 THAT HER BOYFRIEND KEN KIDWELL HAD BEATEN THE, EXPLETIVE
16 DELETED, OUT OF HER AND TOOK OFF RUNNING TOWARDS THE
17 CHURCH. BLACKWELL APPEARED TO BE IN A LOT OF PAIN -- AND,
18 YOUR HONOR, I WILL BE SCANNING THROUGH THIS, AND NOT
19 READING IT IN ITS ENTIRETY. THERE WAS ALSO A VISIBLE
20 INJURY TO HER KNUCKLES ON HER LEFT HAND. THERE WERE
21 BYSTANDERS AND THE OWNER OF A PIZZA BELLA STATED THAT
22 NEARIM TOLD HIM THAT HER BOYFRIEND BEAT HER UP AND THAT HE
23 HAD A JOB APPLICATION THAT HE FILLED OUT A COUPLE OF DAYS
24 AGO. BROWN GAVE THE OFFICER THE APPLICATION.

25 AS IT TURNS OUT THAT APPLICATION INDICATED THE

SENTENCING HEARING - FEBRUARY 27, 2007

13

1 NAME OF THE ASSAILANT WAS KENNETH SELIM. THE SOCIAL
2 SECURITY NUMBER THAT HAD BEEN LEFT ON THAT APPLICATION WAS
3 THAT OF KENNETH SELIM'S AND THE ADDRESS WAS ALSO THAT OF
4 KENNETH SELIM'S.

5 NEARIM BLACKWELL LATER SAID THAT SHE WAS AFRAID
6 TO REPORT KENNETH SELIM BECAUSE OF HIS HISTORY OF BEATING
7 HER.

8 MS. BLACKWELL WAS QUESTIONED ABOUT THE INCIDENT
9 LATER ON FEBRUARY 12TH. SHE SAID THAT SHE AND KEN WERE
10 WALKING DOWN MAIN STREET NEAR PIZZA BELLA. SHE WAS TELLING
11 HIM THAT SHE WAS UPSET BECAUSE HE DID NOT GIVE A C.T. TO
12 HER, A CD TO HER SON AND SHE BEGAN TO CRY. KEN GOT ANGRY
13 WITH HER AND SNATCHED THE CD OUT OF HER HAND. IN RESPONSE
14 BLACKWELL SWORE AT HIM THEN KEN BEGAN TO HIT HER ON THE
15 RIGHT SIDE OF THE FACE AND SHOULDER AREA. HE THEN PUT HIS
16 ARM AROUND HER NECK AND BEGAN TO DRAG HER DOWN THE
17 SIDEWALK. PEOPLE IN THE VICINITY YELLED. THE POLICE WERE
18 IN THE VICINITY AND SOON CAME TO HER RESCUE.

19 LATER ON MAY, A MAY DATE IN 2002 KENNETH SELIM
20 WAS CHARGED WITH ASSAULT FIRST, ANOTHER FELONY. WE HAVE A,
21 AN INCIDENT REPORT FOR THIS ONE AS WELL.

22 TO SUM THAT UP, YOUR HONOR, NEARIM BLACKWELL WAS
23 PRESENT WHEN KENNETH SELIM BEAT AN UNIDENTIFIED DRUNK MAN
24 SEVERELY. THREE HOURS LATER WHEN THE POLICE CHECKED ON
25 THAT VICTIM IN THE HOSPITAL HE REMAINED UNCONSCIOUS. THE

SENTENCING HEARING - FEBRUARY 27, 2007

14

1 MAN'S BLOOD ALCOHOL LEVEL WAS EXTREMELY HIGH.

2 NEARIM BLACKWELL WAS SO CLOSE TO THE SCENE OF
3 THIS BEATING THAT SHE HAD BLOOD SPLATTER ON HER CLOTHING.
4 SHE REFUSED TO ASSIST THE POLICE OR TO GIVE A STATEMENT TO
5 THEM INDICATING TO THE POLICE THAT SHE WAS AFRAID TO SAY
6 ANYTHING UNTOWARD KENNETH SELIM BECAUSE HE WOULD BEAT HER.
7 THE ALCOHOL CONTENT ---

8 MR. RICHARDSON: YOUR HONOR, I'D OBJECT TO THE
9 INTRODUCTION OF THESE DOCUMENTS. THERE ARE NO CONVICTIONS
10 LISTED ON HERE, YOUR HONOR. THERE ARE SELF-SERVING
11 STATEMENTS INCLUDED IN THESE DOCUMENTS.

12 THE COURT: I'M GOING TO ALLOW THEM. I'M GOING
13 TO LISTEN TO ALL OF IT TO MAKE MY DECISION. THANK YOU VERY
14 MUCH, GO AHEAD.

15 MS. BLAIN-OLDS: THANK YOU, YOUR HONOR.

16 THE COURT: AND YOU DON'T NEED TO READ THESE,
17 ALL THESE TO ME. I'LL BE GLAD FOR YOU TO MAKE YOUR POINTS.
18 I MEAN I'M ---

19 MS. BLAIN-OLDS: I WILL, YOUR HONOR, THANK YOU.

20 THE COURT: --- MORE THAN THREE QUARTERS OF THE
21 WAY READING THROUGH ALL OF IT ALREADY SO IF YOU'D LIKE TO
22 MAKE YOUR POINT I'LL BE GLAD FOR YOU TO DO SO.

23 MS. BLAIN-OLDS: I'LL BE MORE BRIEF, YOUR HONOR.
24 YOUR HONOR, I HAVE ALSO INCLUDED A COPY OF AN INTERNET
25 REPORT OF A, REPORT FROM MIDDLETOWN PRESS. IT IS THE

SENTENCING HEARING - FEBRUARY 27, 2007

15

1 NEWSPAPER IN MIDDLETOWN, MASSACHUSETTS, I'M SORRY,
2 MIDDLETOWN, CONNECTICUT, YOUR HONOR, INDICATING THAT IN
3 DECEMBER 2002 THAT KENNETH SELIM HAD BEATEN NEARIM IN THE
4 FACE, CUT HER ELBOW, AND MADE A FIVE INCH CUT IN HER BACK
5 AS SHE RAN FROM HIM.

6 IN JANUARY '05 THERE IS A, AN INCIDENT REPORT
7 INDICATING THAT KENNETH HAD PUNCHED NEARIM BLACKWELL
8 SEVERAL TIMES IN THE FACE AND ABOUT HER BODY IN SELF
9 DEFENSE, PARDON ME, THAT HE HAD STRUCK HER SEVERAL TIMES IN
10 THE FACE AND ABOUT HER BODY. IN SELF DEFENSE SHE STRUCK
11 HIM WITH A PLASTIC FRONT INTAKE GRILL FROM A REFRIGERATOR.
12 I BELIEVE THEY WERE BOTH ARRESTED ON THAT DATE.

13 MOVING ALONG, YOUR HONOR, IN APRIL 2004 NEARIM
14 BLACKWELL PRESENTED TO THE LOCAL HOSPITAL WITH THREE-DAY-
15 OLD FACIAL BRUISING. SHE DID NOT REPORT TO THE POLICE AT
16 THAT TIME THE SOURCE OF THE INJURIES TO HER FACE BUT NOW
17 DECLARES THAT THAT HAD BEEN A RESULT OF A BEATING.

18 FINALLY, ON JUNE, IN JUNE 2004 NEARIM BLACKWELL
19 PRESENTED AT THE HOSPITAL, LEFT WITHOUT COMPLETING
20 TREATMENT AND AGAINST MEDICAL ADVICE. THE PHYSICIAN NOTES
21 INDICATES THAT HER INJURIES WERE CONSISTENT WITH ABUSE.
22 SHE HAD A SUBDURAL HEMATOMA AND INJURY TO BOTH HER EYES.
23 THERE WAS A NOTATION BY AN EARLIER PHYSICIAN, AN
24 OPHTHAMOLOGIST ELIZABETH ROCKO, THAT NEARIM HAD GIVEN
25 HISTORY OF ABUSE BY KENNETH SELIM OVER THE PRIOR TWO YEARS

1 BUT AGAINST THE HOSPITAL'S REQUEST SHE REFUSED TO REPORT
2 HIM.

3 YOUR HONOR, I HAVE ALSO INCLUDED AFFIDAVITS THAT
4 ARE SWORN BY FOUR INDIVIDUALS. THE FIRST SUCH AFFIDAVIT
5 COMES FROM PAM WILSON WHO INDICATES THAT SHE SAW KENNETH
6 SELIM BEAT NEARIM BLACKWELL ON NUMEROUS OCCASIONS, ONE IN
7 THE SUMMER OF 2001. SHE USED THE WORD SAVAGELY BEAT WITH A
8 STICK THAT HAD A NAIL, THAT HAD A NAIL STICKING OUT OF IT.
9 ANOTHER INDICATION IN 2001, PARDON ME, ANOTHER TIME SHE
10 BELIEVES ALSO TO HAVE BEEN IN 2001. YOUR HONOR HAS A COPY
11 OF THAT AFFIDAVIT.

12 THERE'S AN AFFIDAVIT FROM A SANDRA LECLAIR THAT
13 IS ALSO SWORN AND PROPERLY NOTARIZED INDICATING THAT DURING
14 THE EARLY 2000'S THAT SHE HAD SEEN KENNY SELIM PUNCH NEARIM
15 IN THE HEAD HARD. SHE WOULD HIT HIM BACK. HE CALLED HER
16 NAMES, HE'D HIT HER HARD, SHE'D FIGHT BACK.

17 I HAVE AN AFFIDAVIT FROM, A SWORN AFFIDAVIT FROM
18 FRANCES BLACKWELL WHO IS THE MOTHER OF NEARIM BLACKWELL
19 INDICATING THAT SHE AT LEAST ON, WELL ON SEVERAL OCCASIONS
20 SHE SAID HEARD NEARIM ASKING OVER THE PHONE FOR HER HELP TO
21 LEAVE KENNY AND COULD HEAR KENNY'S VOICE SHOUTING THROUGH
22 THE PHONE, YOU'LL NEVER GET AWAY FROM ME, I'LL FIND YOU, I
23 WILL KILL YOU.

24 IN AN AFFIDAVIT OF DONALD BLACKWELL, MR.
25 BLACKWELL'S PRESENT IN COURT THIS MORNING, YOUR HONOR, HE

SENTENCING HEARING - FEBRUARY 27, 2007

17

- 1 SITS JUST TO MY LEFT, INDICATING THAT THE COUPLE LIVED WITH
2 FOR SOME PERIOD OF TIME, THAT THERE WERE A NUMBER OF
3 INCIDENTS WHERE MR. SELIM, PARDON ME, KENNETH SELIM BEGAN
4 TO GET PHYSICAL WITH NEARIM BLACKWELL BUT HE WOULD BREAK
5 THOSE INCIDENTS UP.

6 YOUR HONOR, I HAVE A LETTER THAT IS, THAT WAS
7 GIVEN TO AN ATTORNEY BY KENNETH SELIM. THERE IS NOT A DATE
8 ON THIS LETTER BUT IT INDICATES THAT ON JANUARY 22ND BOTH
9 KENNETH SELIM AND NEARIM BLACKWELL HAD BEEN CHARGED WITH
10 CRIMINAL DOMESTIC VIOLENCE. HE CALLED 911. HE INDICATED
11 THAT HIS INJURIES WERE NOT EXTENSIVE OR SERIOUS, THAT HE
12 WAS TRYING TO GET SOME MARRIAGE COUNSELING, BUT INDICATING
13 MORE SPECIFICALLY THAT HE HAD A SEVERE DRINKING PROBLEM,
14 THAT HE WAS SEEKING HELP, THAT HIS ACTIONS CAUSED HER TO
15 TRY TO DEFEND HERSELF AND THAT HE WANTED HER CASE TO BE
16 DISSOLVED. SHE IS NOT A VIOLENT PERSON; SHE WAS ONLY
17 PROTECTING HERSELF.

18 AND, FINALLY, YOUR HONOR, IF I MIGHT SHOW THE
19 COURT, THIS IS THE DEFENDANT'S WRIST BAND UPON HER ARREST.
20 WE HAVE NOT BEEN ABLE TO GET THAT BLOWN UP IN SUCH A WAY
21 THAT YOU CAN SEE THE SWELLING UNDER HER EYES AT THE TIME OF
22 HER ARREST.

23 THE COURT: THANK YOU.

24 MS. BLAIN-OLDS: THANK YOU, YOUR HONOR. MY
25 CLIENT HAS INDICATED TO ME AND TO OTHERS THAT THOSE

SENTENCING HEARING - FEBRUARY 27, 2007

18

1 INJURIES TO HER FACE WERE AT THE HANDS OF KENNETH SELIM.

2 YOUR HONOR, PRESENT IN COURT WITH ME THIS MORNING
3 ARE TWO INDIVIDUALS WHO WOULD LIKE TO ADDRESS THE COURT.

4 ONE IS MS. JERRI SANDERS WHO IS A LONG TIME FRIEND, FRIEND
5 TO THE, TO THE POINT THAT SHE HAS CLAIMED KINSHIP WITH
6 NEARIM BLACKWELL WHO WOULD LIKE TO TALK ABOUT HER RELATION
7 WITH HER AND WHAT SHE KNOWS ABOUT THIS YOUNG WOMAN.

8 THE OTHER IS DR. MARTY LORING WHO HAS EVALUATED
9 MS. BLACKWELL PSYCHOLOGICALLY, WHOSE OWN BACKGROUND SPEAKS
10 TO HER BEING ABLE TO UNDERSTAND VICTIMIZATION AND THE
11 BEHAVIORS, THE EXPECTED BEHAVIORS, AND, AND THE STUDIED
12 BEHAVIORS OF INDIVIDUALS WHO OVER A LONG PERIOD OF TIME ARE
13 VICTIMIZED BY DOMESTIC ABUSE.

14 DR. LORING HAS A GRADUATE DEGREE IN SOCIOLOGY
15 FROM EMORY UNIVERSITY. SHE RECEIVED HER PHD IN 1985. SHE
16 DID RESEARCH AT THE BROWN MAWR COLLEGE GRADUATE SCHOOL OF
17 SOCIAL WORK AND SOCIAL RESEARCH AND HAS A BACHELOR OF ARTS
18 FROM VASSAR COLLEGE. SHE IS DIRECTOR FOR THE CENTER OF
19 MENTAL HEALTH AND HUMAN DEVELOPMENT IN ATLANTA GEORGIA OR
20 HAS BEEN. PRESENTLY IS A FORENSIC CONSULTANT, AN EXPERT
21 WITNESS, AND A MITIGATION SPECIALIST. DR. LORING HAS
22 GRACIOUSLY AGREED TO TAKE ON MS. BLACKWELL'S CASE AND TO
23 SPEND CONSIDERABLE TIME WITH HER AND WITH OTHERS WHO KNOW
24 HER AND ABOUT HER HISTORY AND IF YOUR HONOR WILL ALLOW ME,
25 PLEASE, I WILL FIRST PRESENT MS. JERRI SANDERS TO ALLOW HER

SENTENCING HEARING - FEBRUARY 27, 2007

19

1 TO SPEAK AND THEN DR. LORING.

2 THE COURT: ALL RIGHT, STATE YOUR NAME AND I'LL
3 BE GLAD TO HEAR FROM YOU, MA'AM.

4 MS. SANDERS: GOOD MORNING AND THANK YOU FOR
5 GIVING ME AN OPPORTUNITY TO SPEAK ON BEHALF OF NEARIM. MY
6 BROTHER, DONALD, AND I ---

7 THE COURT: COULD YOU TELL ME YOUR NAME FIRST,
8 PLEASE, MA'AM?

9 MS. SANDERS: JERRI MARIE SANDERS.

10 THE COURT: THANK YOU, MA'AM.

11 MS. SANDERS: AND MY BROTHER, DONALD, AND I,
12 I'LL HAVE TO CLARIFY THAT I CALL HIM MY BROTHER BECAUSE I
13 WAS TAKEN IN AS A YOUNG CHILD BY HIS MOTHER AND HAS SINCE
14 BEEN INCLUDED OR AM A PART OF THE FAMILY. TECHNICALLY WE
15 ARE COUSINS.

16 DONALD AND I TRAVELED FROM NEW YORK BECAUSE AS
17 NEARIM'S OLDER COUSINS WE HAVE HAD CONTACT WITH HER
18 THROUGHOUT HER LIFE AND WE'VE HAD A POSITIVE RELATIONSHIP
19 WITH HER. FROM CHILDHOOD NEARIM WAS OUTGOING. SHE WAS A
20 HAPPY CHILD, VERY INTELLIGENT, ALWAYS CURIOUS ABOUT PEOPLE.
21 SHE WAS CLOSE TO HER FAMILY AND EVEN AT A YOUNG AGE TRIED
22 TO ENCOURAGE FAMILY MEMBERS TO STAY TOGETHER AND TAKE CARE
23 OF EACH OTHER.

24 SHE WAS ESPECIALLY CLOSE TO HER LATE JAZZ
25 MUSICIAN FATHER DRUMMER EDWARD BLACKWELL. AFTER NEARIM'S

SENTENCING HEARING - FEBRUARY 27, 2007

20

1 FATHER DEATH SHE FACED LIFE AND ITS CHALLENGES WITHOUT HIM
2 BUT SHE ALWAYS KEPT IN TOUCH WITH ALL FAMILY MEMBERS. SHE
3 WOULD OFFER EVEN TO US IN HER TIMES OF TROUBLE HELP
4 WHENEVER SHE COULD. SHE CAME A LONG WAY TO ATTEND A BABY
5 SHOWER FOR MY DAUGHTER WHO SHE SPENT TIME WITH WHEN THEY
6 WERE BOTH YOUNG CHILDREN.

7 NEARIM KNEW THAT I, TOO, WAS A BATTERED WOMAN SO
8 SHE SHARED WITH ME AND SOMETIMES WOULD ASK MY ADVICE AND
9 GUIDANCE. SHE DISCUSSED WITH ME HER WISH TO HAVE A LOVING
10 RELATIONSHIP WITH A MAN AND A NON ABUSIVE RELATIONSHIP WITH
11 A MAN.

12 NEARIM HAS CORRESPONDED WITH ME BY LETTER AND
13 INITIALLY COMMUNICATED WITH ME BY TELEPHONE. I KNOW HOW
14 PAINFUL IT IS FOR HER TO HANDLE WHAT HAS HAPPENED. HER
15 COMMUNICATION EXPRESSED BOTH HER REMORSE AND HER SADNESS.
16 WHEN SHE VISITED NEW YORK WITH THE YOUNG MAN SHE DID TALK
17 ABOUT HOW MUCH SHE LOVED HIM BUT WAS CONFUSED ABOUT THE WAY
18 THAT SHE WAS TREATED.

19 WE SPEAK FOR RELATIVES BOTH IN NEW ORLEANS AND IN
20 FLORIDA FOR VARIOUS REASONS WHO COULD NOT BE HERE TODAY. I
21 ALSO MADE CONTACT WITH SOME OF NEARIM'S FATHER'S MUSICIAN
22 FRIENDS WHO KNEW HER AFFECTIONATELY AS MEME AND THEY
23 EXPRESSED THEIR SUPPORT AND CONCERN AND HOPE THAT
24 EVERYTHING WILL BE ALL RIGHT FOR HER.

25 I KNOW THAT UPON HER RETURN TO THE COMMUNITY

SENTENCING HEARING - FEBRUARY 27, 2007

21

1 NEARIM WILL BE A POSITIVE MEMBER OF A COMMUNITY. I THINK
2 SHE HAS A LOT OF POTENTIAL AS A PERSON, TO BE A
3 CONTRIBUTING MEMBER OF SOCIETY. WITH THE PROPER HELP I
4 KNOW THAT SHE CAN REALLY ADJUST TO LIFE WITHOUT FINDING
5 HERSELF IN SITUATIONS WHERE SHE IS ABUSED SO I ASK THAT
6 THERE BE LENIENCY IN TERMS OF THE TIME THAT SHE HAS TO
7 SPEND BUT HOPEFULLY THAT THAT TIME WILL GIVE HER AN
8 OPPORTUNITY TO SEEK AND OBTAIN AND GET THE HELP THAT SHE
9 NEEDS, THANK YOU.

10 THE COURT: THANK YOU, MA'AM. YES, MA'AM, IF
11 YOU'D STATE YOUR NAME I'LL BE GLAD TO HEAR FROM YOU.

12 DR. LORING: DR. MARTY LORING.

13 THE COURT: YES, MA'AM.

14 DR. LORING: YOUR HONOR, THANK YOU FOR THE
15 OPPORTUNITY TO SHARE WITH YOU THIS MORNING. I'M GOING TO
16 TRY TO BE BRIEF AND NOT TO REPEAT ANY OF THE INFORMATION
17 THAT'S ALREADY BEEN SO EFFECTIVELY SHARED WITH YOU.

18 YOUR HONOR, I WAS ASKED TO EVALUATE MS.
19 NEARIM BLACKWELL BY THE PUBLIC DEFENDER'S OFFICE AND IN, IN
20 GENERAL WHEN I DO AN EVALUATION, YOUR HONOR, I INTERVIEW AN
21 INDIVIDUAL OVER A PERIOD OF TIME. I USE TRAUMA TOOLS AND
22 THAT WOULD BE THE TRAUMA SYMPTOM CHECK LIST, TRAUMA BELIEF
23 INVENTORY PER WHICH IMPACT OF EVENT SCALE AND THE CAPS, C-
24 A-P-S, CLINICIAN ADMINISTERED POST TRAUMATIC STRESS
25 DISORDER SCALE. I USE THESE TOOLS TO SEE IF INDEED THE

SENTENCING HEARING - FEBRUARY 27, 2007

22

1 PERSON SUFFERS FROM TRAUMA, HOW SEVERE IS IT IF IT EXISTS
2 AND WHAT CAUSED THE TRAUMA AND LASTLY, YOUR HONOR, I'M
3 LOOKING AT WHETHER THE PERSON'S ANSWERS TO A LARGE NUMBER
4 OF QUESTIONS INTERSPERSED DURING THE INTERVIEW ARE IN FACT
5 CONSISTENT.

6 WE ARE WARNED AS MENTAL HEALTH PROFESSIONALS THAT
7 SOME PEOPLE MAY TRY TO FAKE IT OR LIE IN PRESENTING
8 THEMSELVES WHEN THEY'RE BEING EVALUATED FOR COURT ISSUES
9 AND WHEN I FIND THAT PEOPLE ANSWER QUESTIONS RELATING TO
10 THE TRAUMA TOOLS INCONSISTENTLY IT INDICATES TO ME THEY'RE
11 MAKING AN EFFORT TO FAKE IT AND ARE NOT SIMPLY REVEALING
12 WHAT'S INSIDE WHETHER IT IS TRAUMA OR NOT.

13 YOUR HONOR, IN ADDITION TO THE TRAUMA TOOLS I
14 ALWAYS INTERVIEW COLLATERAL WITNESSES WHO WERE THERE WHEN,
15 WHEN I WASN'T. THEY, THEY SAW WHAT I DIDN'T.

16 I REVIEW DOCUMENTS. I REQUEST THAT I BE GIVEN
17 ALL AVAILABLE DOCUMENTS HAVING TO DO WITH EVERYTHING FROM
18 POLICE REPORTS TO MEDICAL RECORDS, ANYTHING THAT WOULD HELP
19 ME AGAIN UNDERSTAND THE PERCEPTION OF INDIVIDUALS WHO WERE
20 THERE AT TIMES THAT I WASN'T AND I'M VERY INTERESTED IF
21 THERE WERE MENTAL HEALTH PROFESSIONALS WHO HAD THE
22 OPPORTUNITY TO EVALUATE SOMEONE PRIOR TO MYSELF.

23 I DID ALL THESE THINGS WITH MS. NEARIM BLACKWELL.
24 I SAW HER ON JANUARY 7TH AND THEN AGAIN ON THE 26TH OF
25 FEBRUARY. I SAW HER YESTERDAY. IN TOTAL, YOUR HONOR, WITH

SENTENCING HEARING - FEBRUARY 27, 2007

23

1 MY INTERVIEWS WITH HER AND WITH PHONE CALLS WITH HER I
2 SPENT APPROXIMATELY SIX HOURS DURING THE INTERVIEWS WITH
3 MS. BLACKWELL.

4 I DID USE THE TRAUMA TOOLS. I FOUND NO EVIDENCE
5 OF INCONSISTENCY IN HER ANSWERS TO ME SO THAT I FOUND NO
6 INDICATION THAT SHE WAS NOR FAKING IT OR LYING TO ME IN
7 ANSWERING THE QUESTIONS.

8 WHEN I'M FINISHED I WOULD LIKE TO TELL YOU, YOUR
9 HONOR, MY DIAGNOSIS BASED ON THOSE TRAUMA TOOLS AND ON THE
10 OTHER SOURCES WHICH WERE THE COLLATERAL WITNESSES AND THE
11 REVIEW OF DOCUMENTS.

12 THE COLLATERAL WITNESSES YOU'VE ALREADY HEARD
13 ABOUT THE AFFIDAVITS GIVEN BY FOUR OF THE COLLATERAL
14 WITNESSES WHOM I INTERVIEWED SO I'M NOT GOING TO GO BACK
15 OVER THAT.

16 I ALSO SPOKE WITH A GENTLEMAN NAMED MICHAEL MOODY
17 WHO NEARIM WOULD CALL WHEN MR. KENNETH SELIM AND SHE WOULD
18 BE INVOLVED IN FAMILY VIOLENCE AND WHAT MICHAEL MOODY
19 REPORTED WAS THAT HE TOOK NEARIM TO THE HOSPITAL AFTER SHE
20 WAS CUT BY MR. SELIM, THAT HE WOULD GO TO GET, TO PICK UP
21 NEARIM WHEN SHE WOULD CALL AND THAT AT TIMES MR. SELIM
22 WOULD BLOCK HIS VAN, NOT ALLOW HIM TO GET HER TO THE
23 HOSPITAL. MR. MOODY REPORTED THAT ON ONE OCCASION MR.
24 SELIM DRAGGED HER OUT OF THE VAN WHICH HE HAD PLACED HER IN
25 TO TAKE HER TO THE HOSPITAL.

SENTENCING HEARING - FEBRUARY 27, 2007

24

1 I SPOKE WITH HER DAUGHTER, MEDINA KIDWELL, WHO
2 REPORTED THAT SHE HEARD ON THE TELEPHONE WHILE TALKING WITH
3 HER MOTHER MR. SELIM THREATEN TO KILL HER MOTHER AND
4 INDICATE TO HER MOTHER SHOUTING THAT SHE COULDN'T LEAVE
5 HIM, HE WOULDN'T ALLOW IT.

6 THE THIRD COLLATERAL WITNESS WITH WHOM I SPOKE
7 WAS DAVID GOULD WHO REPORTED THAT HE WITNESSED MR. SELIM
8 PUNCH MS. BLACKWELL AND THEN HE CALLED THE POLICE AND MR.
9 SELIM RAN AWAY.

10 YOUR HONOR, I REVIEWED A LARGE NUMBER OF
11 DOCUMENTS WHICH WERE PROVIDED TO ME, THE DISCOVERY
12 MATERIAL, POLICE REPORTS FROM BOTH MIDDLETOWN, CONNECTICUT
13 AND MYRTLE BEACH, HOSPITAL RECORDS INCLUDING MENTAL HEALTH
14 REPORTS, AUTOPSY REPORT, ETCETERA, AND THE MEDICAL REPORTS,
15 AS I SUGGESTED, CONTAINED MENTAL HEALTH MATERIAL AND ALSO
16 PHYSICAL TREATMENT FOR HER EPILEPSY.

17 THE, THE HOSPITAL REPORTS CONTAINED INFORMATION
18 BY DOCTOR MONAHAR, M-O-N-A-H-A-R, AT MIDDLESEX HOSPITAL WHO
19 HAD EVALUATED MS. SELIM, WHO HAD TALKED WITH HER ABOUT
20 SUBSTANCE ABUSE ISSUES. MS. SELIM HAS A PATTERN OF
21 RESPONDING TO STRESSES BY USE OF IN THE PAST DRUGS AND MORE
22 RECENTLY ALCOHOL, NOT IMMEDIATE RECENTLY, BUT IN THE
23 RELATIONSHIP WITH MR. SELIM, THAT SHE, DR. MONAHAR NOTES
24 THAT SHE SUCCESSFULLY COMPLETED THE STAR PROGRAM AT MERRITT
25 HALL WHERE HE FELT SHE HAD ADDRESSED SUBSTANCE ABUSE

SENTENCING HEARING - FEBRUARY 27, 2007

25

1 ISSUES. SHE WAS ALSO BEING TREATED AND COUNSELED BY
2 COMMUNITY HEALTH SYSTEM.

3 DR. MONAHAR DIAGNOSED MS. BLACKWELL AS HAVING ON
4 GOING DEPRESSION THAT INCLUDED HIGH ANXIETY, MILD AND
5 PERIMITTENT MEMORY CONCENTRATION. SHE FELT THAT SHE HAD
6 POST TRAUMATIC STRESS DISORDER, YOUR HONOR, AS WELL AS
7 DEPRESSION AND SEVERE ANXIETY. SHE TALKED ABOUT HER
8 HISTORY AS BEING VERY IMPORTANT IN UNDERSTANDING HER. DR.
9 MONAHAR SAID AND I QUOTE, "SO SHE HAS SUFFERED A GREAT
10 DEAL. SHE WAS IN A TERRIBLE DEPRESSION AFTER HER FATHER
11 DIED AND SHE WANTED NOTHING BETTER TO DO THAN TO DIE AND
12 JOIN HIM AND AT THAT POINT HER ALCOHOL ABUSE ESCALATED."
13 HE DESCRIBED A SUICIDE ATTEMPT ON HER PART AFTER HER FATHER
14 DIED.

15 YOUR HONOR, I DON'T WANT TO TAKE UP TOO MUCH OF
16 THE COURT'S TIME, I JUST DO WANT TO SAY THAT HER, HER
17 HISTORY IS RATHER REMARKABLE, HER HISTORY OF ABUSE. SHE,
18 SHE WAS TERRIBLY NEGLECTED AS AN INFANT AND YOUNG CHILD.
19 MEANING NO DISRESPECT BUT HER MOTHER WAS INVOLVED IN DRUG
20 ADDICTION AND HER COUSIN DONALD BLACKWELL ACTUALLY REMOVED
21 HER HIMSELF FROM HER MOTHER'S HOME WHEN HE DISCOVERED HER
22 LYING IN HER OWN BODY WASTE UNFED AT A VERY YOUNG AGE AND
23 DISCOVERED HER MOTHER INVOLVED IN DRUG USE, NOT ABLE TO
24 ATTEND TO HER. SHE WAS TAKEN CARE OF VERY NICELY BY HIM
25 AND HIS FAMILY UNTIL SHE WAS RETURNED TO HER MOTHER.

SENTENCING HEARING - FEBRUARY 27, 2007

26

1 HER FATHER WAS A FAMOUS JAZZ MUSICIAN. WHEN HER
2 FATHER WAS PRESENT IN THE HOME THINGS WOULD GO WELL BUT
3 UNFORTUNATELY HE WAS AWAY A GREAT DEAL OUT OF THE COUNTRY
4 WITH HIS MUSIC AND THAT'S WHEN THINGS WERE VERY UNFORTUNATE
5 AND DYSFUNCTIONAL IN HER FAMILY. SHE WAS BEATEN WITH
6 HANGERS BY HER MOTHER, MOLESTED BY ONE BROTHER BY REPORT OF
7 HER, RAPED BY ANOTHER BROTHER BY REPORT OF HER. THIS WAS
8 REPORTED TO DR. MONAHAR BEFORE ANY COURT ISSUES AROSE. SHE
9 WAS DEVASTATED BY HER FATHER'S DEATH. SHE WAS PHYSICALLY
10 ABUSED BY TWO INDIVIDUALS BY HER REPORT AND REPORTS OF
11 OTHERS PRIOR TO HER RELATIONSHIP WITH MR. SELIM.

12 YOU HAVE HEARD A DISCUSSION OF INCIDENTS. I'M
13 NOT GOING TO GO INTO THEM THOUGH THERE CERTAINLY IS
14 DOCUMENTATION IN THE POLICE REPORTS FROM CONNECTICUT AND
15 THE WITNESS REPORTS. DR. BERNSTEIN HAD REPORTED THAT HE
16 FELT THAT SHE WAS BEING ABUSED AND THERE WERE EFFORTS ON
17 THE PART OF THE MEDICAL PERSONNEL TO, TO DISCOVER THIS, TO
18 GET HER TO REPORT IT AND SHE WAS OFTEN UNWILLING TO DO THAT
19 EVEN THOUGH SHE WENT TO THE HOSPITAL FOR TREATMENT.

20 YOUR HONOR, I'M GOING TO ASK IF I COULD HAVE A
21 LITTLE OF THAT KLEENEX WHILE I'M TALKING IF I MAY, OH
22 THAT'S FINE, THANK YOU VERY MUCH.

23 YOUR HONOR, TWO LAST THINGS I'D LIKE TO SHARE
24 WITH YOU, ONE IS MY DIAGNOSIS AND THE SECOND IS HER
25 ASPIRATIONS FOR THE FUTURE. PART, PART OF MY DIAGNOSIS IS

SENTENCING HEARING - FEBRUARY 27, 2007

27

1 THAT SHE IS CERTAINLY VERY, EXPRESSES A LOT OF REMORSE FOR,
2 FOR WHAT SHE DID UNDER CONDITIONS WHERE SHE EXPRESSED
3 FEELINGS OF PANIC AND FEAR FOR HER LIFE.

4 I HAVE A NO SUICIDE CONTRACT WITH HER THAT SHE
5 HAS PROMISED ME SHE'S NOT GOING TO TRY TO HARM HERSELF EVEN
6 THOUGH SHE FEELS TERRIBLE ABOUT HER OWN BEHAVIOR. SHE SEES
7 FOR HER FUTURE HOPES THAT SHE'LL HAVE AN OPPORTUNITY AT
8 SOME POINT TO HELP OTHERS TO AVOID THE KIND OF RELATIONSHIP
9 SHE WAS INVOLVED IN BEFORE SUCH TRAGEDIES HITS TO SOMEONE
10 ELSE AND TO THEIR FAMILY.

11 BECAUSE THEY WON'T ALLOW ME TO TRAVEL WITH MY
12 CHARTS ON AIRPLANES THESE DAYS I TOOK THE LIBERTY OF
13 PUTTING TOGETHER SOME HAND MADE CHARTS AND, YOUR HONOR, I
14 JUST AGAIN FEEL VERY SENSITIVE TO THE COURT'S TIME, LET ME
15 SUMMARIZE THIS BY SAYING THAT NEARIM BLACKWELL SUFFERS FROM
16 THE BATTERED WOMAN'S SYNDROME, THAT SHE CERTAINLY LOVED AND
17 LOVES MR. SELIM, HAD INCREASED FEAR OF HIM, WAS TERRIFIED
18 BY HARM OR DEATH. SHE HAS A HISTORY OF DEPRESSION AND
19 PANIC WHICH SHE BROUGHT INTO THIS RELATIONSHIP WITH HER AND
20 HER, ACCORDING TO WITNESS REPORTS, HER PREFERRED WAY OF
21 AVOIDING VIOLENCE WAS TO RUN AWAY. THE FOLKS FROM
22 CONNECTICUT REPORT HER RUNNING AWAY AND HIDING AND MR.
23 SELIM TRYING TO FIND HER BUT WHEN THAT WASN'T POSSIBLE SHE
24 WOULD, AS REPORTED, TRY TO FIGHT BACK WHEN SHE WAS BEING
25 HIT OR PUNCHED OR CHOKED BY HIM.

SENTENCING HEARING - FEBRUARY 27, 2007

28

1 THERE'S A CYCLE OF VIOLENCE HERE IN THAT IT
2 APPEARS FROM REPORTS THAT MR. SELIM WOULD APOLOGIZE AND TRY
3 TO MAKE THINGS BETTER IN SOME WAYS BUT THAT, THAT WHEN THE
4 VIOLENCE ESCALATED AGAIN THEN SHE WOULD BE HARMED. SHE
5 HOPED FOR CHANGE AS MANY BATTERED WOMEN DO.

6 SHE HAS LOW SELF ESTEEM, POST TRAUMATIC STRESS
7 DISORDER, AND WOULD RESPOND TO BEING ATTACKED OFTEN BY, IF
8 NOT ABLE TO ESCAPE AND HIDE FLAILING ABOUT WITH HER ARMS OR
9 HITTING OR GRABBING SOMETHING LIKE THE BOTTOM PART OF THE
10 GRILL OF THE REFRIGERATOR, IT SAID IN ONE POLICE REPORT,
11 AND HITTING HIM OFF OF HER WHEN SHE WAS BEING CHOKED. THIS
12 PATTERN OF DEPRESSION PANIC AND FLAILING WOULD NOT SERVE
13 HER WELL AT THE TIME OF THE TRAGEDY.

14 SHE DESCRIBES NOT REALLY REMEMBERING VERY WELL
15 WHAT HAPPENED, THAT SHE TRIED TO GIVE THE POLICE A
16 STATEMENT, TRIED TO EXPLAIN WHAT SHE COULD REMEMBER, BUT AS
17 WITH OTHERS WHO HAVE POST TRAUMATIC STRESS DISORDER THEY
18 SIMPLY BLOCK OUT SOME OF WHAT HAPPENS. THEY -- OH, THANK
19 YOU -- THEY EXPERIENCE WHAT WE CALL DISASSOCIATION WHEN
20 SOME OF US HAVE HAD IN SMALLER PIECES IF WE'VE HAD A
21 TERRIBLE CAR ACCIDENT, IF WE'VE COME BACK FROM WAR IN, IN
22 IRAQ OR OTHER PLACES WHERE WE'VE EXPERIENCED HORRIBLE
23 TRAUMAS, SAW HORRIBLE THINGS, WILL HURT OURSELVES. AND
24 WHEN WE TRY TO PIECE IT TOGETHER WE DON'T REMEMBER THE
25 WHOLE THING AND SHE WISHES SHE COULD BUT FEELS SHE CAN'T

SENTENCING HEARING - FEBRUARY 27, 2007

29

1 REMEMBER ALL OF WHAT HAPPENED DURING THE INCIDENT. SHE
2 DOES REMEMBER FEELING PANIC, FEELING THAT THIS COULD BE THE
3 TIME THAT SHE DIES -- THANK YOU.

4 SHE SUFFERS FROM SEVERE POST TRAUMATIC STRESS
5 DISORDER WHICH SHE HAS SUFFERED FROM DURING THE GREAT DEAL
6 OF HER LIFE.

7 SHE HAS, SHE HAS MEMORIES OF, OF WAKING UP IN THE
8 ABUSE SHE SUFFERED AS A SMALL CHILD. I'M NOT GOING TO GO
9 INTO GRAPHIC DETAILS, I JUST DON'T THINK IT'S UNNECESSARY,
10 BUT SHE, SHE WOKE UP IN HORROR MANY TIMES AS A CHILD AND
11 THIS CARRYING THIS TRAUMA INTO THIS RELATIONSHIP WHEN THE
12 FAMILY VIOLENCE OCCURRED SHE WOULD EXPERIENCE ACUTE TRAUMA
13 IN ADDITION TO THE CHRONIC TRAUMA THAT SHE WAS CARRYING.

14 SHE HAS FLASHBACKS TO THE, TO THE FAMILY
15 VIOLENCE. DURING THE INCIDENT, ONE INCIDENT AS A CHILD
16 WHEN SHE WAS MOLESTED BY ONE OF HER BROTHERS HE ATTEMPTED
17 TO SUBMERGE HER HEAD IN, IN WATER WHILE MOLESTING HER, HER
18 BROTHER DID, AND SO SHE'S VERY SENSITIVE TO HAVING AN
19 EXPERIENCE WHERE SHE CAN'T BREATHE.

20 WHEN SHE WAS CHOKED BY MR. SELIM AS REPORTED BY
21 HERSELF OR WITNESSES SHE REPORTS PANICKING WHEN SHE
22 COULDN'T CATCH HER BREATH. SHE REPORTS HAVING A RECALL OF
23 THAT AT THE TIME OF THE TRAGEDY WHEN THE INCIDENT OCCURRED
24 NOT BEING ABLE TO CATCH HER BREATH AND BEING CHOKED AND
25 PANICKING. AND THEN WHEN PEOPLE WHO HAVE THE BATTERED

SENTENCING HEARING - FEBRUARY 27, 2007

30

1 WOMAN SYNDROME AND POST TRAUMATIC DISORDER PANIC WITH A GUN
2 OR A KNIFE OR HOT MATERIAL IN THEIR HANDS WE SOMETIMES SEE
3 TRAGEDIES UNFOLD WHERE THEY DON'T EVEN NECESSARILY RECALL
4 IN FLAILING AND PUSHING THE HORRIBLE STABBING OR SHOOTING
5 OR THROWING OF HOT LIQUID. THE FLAILING COMES FROM, OFTEN
6 FROM THE PANIC.

7 JUST TO BE VERY QUICK, YOUR HONOR, SHE
8 EXPERIENCES AS PART OF POST TRAUMATIC STRESS DISORDER
9 DIAGNOSED FIRST BY THE DOCTOR WHO EVALUATED HER, DR.
10 MONAHAR, AND ALSO BY MYSELF, HOPELESSNESS, POOR
11 CONCENTRATION, THE DIS-ASSOCIATIVE STAGE WHERE SHE HAS THAT
12 PSYCHIC AMNESIA, SHE CAN'T REMEMBER AT ALL, DISTRESSING
13 MEMORIES, DISTRESS AND AVOIDANCE OF TRAUMA. AS OPPOSED TO
14 COMPLAINING ABOUT WHAT SHE HAS BEEN THROUGH SHE TRIES TO
15 AVOID IT. I HAD TO REALLY PUSH AND PRESS HER TO TALK ABOUT
16 CHILDHOOD ABUSE EXPERIENCES WITH INTO RELATIONSHIPS OR
17 WHERE ABUSE WAS REPORTED AND EVEN IN, BLESS YOU, YOUR
18 HONOR, EVEN IN HER RELATIONSHIP WITH MR. SELIM.

19 SHE'S HYPER-VIGILANT AS PEOPLE WITH TRAUMA ARE.
20 IF THERE ARE LOUD NOISES OR THINGS THAT STARTLE HER SHE
21 JUMPS, OVERREACTS, AND SHE HAS DEPRESSION AND DESPERATION
22 WHICH IS WHY I MADE A NO SUICIDE CONTRACT WITH HER BECAUSE
23 I HAD SOME CONCERNS ABOUT HER MENTAL HEALTH AND SHE, SHE
24 HAS KEPT TO THAT.

25 SHE IS WILLING TO TALK WITH ME ABOUT HER HOPES

SENTENCING HEARING - FEBRUARY 27, 2007

31

1 FOR THE FUTURE. SHE DOES WANT VERY MUCH TO FINISH UP FIVE
2 CREDITS OF HER ASSOCIATE AA DEGREE. SHE WOULD LIKE TO WORK
3 IN A BATTERED WOMAN'S SHELTER IN PARTICULAR WITH CHILDREN
4 TO TRY TO HELP PEOPLE TO SEE HOW THIS KIND OF TRAGEDY CAN
5 WIND UP TO HELP FAMILIES TO DEAL WITH THAT.

6 AND, YOUR HONOR, THAT'S PRETTY MUCH WHAT I HAD TO
7 SHARE. I THANK YOU FOR YOUR KINDNESS IN ALLOWING ME TO DO
8 THAT.

9 THE COURT: THANK YOU, MA'AM.

10 MS. BLAIN-OLDS: YOUR HONOR, IF I MAY JUST ---

11 THE COURT: JUST ONE SECOND, I'LL HEAR YOU IN
12 JUST A SECOND SOLICITOR.

13 MR. RICHARDSON: THANK YOU, YOUR HONOR.

14 THE COURT: YES, MA'AM, MS. OLDS, ANYTHING ELSE?

15 MS. BLAIN-OLDS: JUST BRIEFLY, THERE'S THINGS I
16 HAVEN'T TOLD YOU, YOUR HONOR. MY CLIENT IS 39 YEARS OLD.
17 SHE HAS THREE CHILDREN. THERE WAS MENTION OF, A
18 DESCRIPTION OF HER HAVING LOST HER CHILDREN BY HER OWN
19 DEEDS OR MISDEEDS, YOUR HONOR. SINCE I'VE REPRESENTED HER
20 HELPED HER TO TRANSFER CUSTODY TO HER MOTHER TO BE CERTAIN
21 THAT HER CHILDREN WOULD BE WITH, WITH ANOTHER FAMILY MEMBER
22 TO MAKE SURE THAT HER CHILDREN WOULD RECEIVE PROPER CARE
23 WHILE SHE WAS UNABLE TO FOLLOW UP ON THAT. SHE DOES HAVE
24 TWO YEARS OF COLLEGE AND DOES WANT PURSUE THAT.

25 YOUR HONOR, UPON MY MEETING MS. BLACKWELL AND

SENTENCING HEARING - FEBRUARY 27, 2007

32

1 WORKING WITH HER IT TOOK SEVERAL MONTHS FOR US TO GET TO A
2 POINT THAT SHE WOULD TALK TO ME ABOUT ANYTHING. BUT THE
3 TRAGEDY, THE LOSS IN HER OWN LIFE. YOUR HONOR, I THINK
4 IT'S IMPORTANT THAT THE COURT KNOW THAT SHE IS JUST NOT A
5 COLD PERSON. FOR NUMEROUS TIMES I WENT TO SEE HER, THE
6 ONLY THING SHE WOULD TALK TO ME ABOUT WAS WHERE MR. SELIM'S
7 BODY WAS, WAS THERE A SERVICE, COULD SHE SEE HIM, WAS THERE
8 ANY OPPORTUNITIES FOR ME TO FIND OUT WHAT STATE HE WAS IN
9 AND WHAT HAPPENED TO HIM? FOR MONTHS AFTER THAT REPEATED
10 NIGHTMARES ABOUT WHAT MIGHT HAVE HAPPENED BECAUSE SHE'S
11 NEVER MADE ANY CLAIM THAT SHE FULLY REMEMBERED WHAT DID
12 HAPPEN.

13 YOUR HONOR, MY CLIENT HAS SERVED TO DATE 635 DAYS
14 IN JAIL. AS I UNDERSTAND IT THE CHARGE FOR WHICH SHE HAS
15 PLED GUILTY CARRIES WITHIN A RANGE OF TWO TO 30 YEARS, I
16 BELIEVE. YOUR HONOR, I WOULD ASSERT TO THE COURT THAT THE
17 REASON THERE IS SUCH A RANGE IS BECAUSE THE LEGISLATION
18 ANTICIPATED THAT THERE WOULD BE SITUATIONS SUCH AS THIS AND
19 ALLOWING A JUDGE, YOUR HONOR, TO CONSIDER ALL THESE FACTORS
20 IN SENTENCING A PERSON WHOSE CHARGE IS MANSLAUGHTER. I
21 WOULD ASK YOUR HONOR TO CONSIDER A MINIMUM SENTENCE FOR MY
22 CLIENT. I WOULD ALSO ASK THE COURT FOR A SPECIFIC FINDING
23 THAT THE DEFENDANT HAS SHOWN THAT NEARIM BLACKWELL HAS BEEN
24 A VICTIM OF CRIMINAL DOMESTIC VIOLENCE AT THE HANDS OF
25 KENNETH SELIM, THE DECEASED IN THIS CASE. THANK YOU, YOUR

SENTENCING HEARING - FEBRUARY 27, 2007

33

1 HONOR.

2 THE COURT: THANK YOU, MA'AM. YES, SOLICITOR?

3 MR. RICHARDSON: YOUR HONOR, SHE MADE A FEW
4 MENTIONS IF I MAY INQUIRE OF THE DOCTOR BRIEFLY?

5 THE COURT: YES, SIR.

6 MR. RICHARDSON: DOCTOR, YOU STATED THAT YOU
7 REVIEWED THE ENTIRE RECORD, CORRECT?

8 DR. LORING: I STATED THAT I REVIEWED DOCUMENTS
9 THAT WERE PROVIDED TO ME BY THE PUBLIC DEFENDER'S OFFICE,
10 YES, SIR.

11 MR. RICHARDSON: DID YOU SEE DOCUMENTATION OF
12 THE DEFENDANT'S PRIOR ARRESTS FOR ASSAULT ON '04, '05, AND
13 TWICE IN '02?

14 DR. LORING: YES, SIR.

15 MR. RICHARDSON: YOU SAW WHERE SHE HAD AN OPEN
16 CASE ON SPOUSAL ASSAULT FROM APRIL OF 2005?

17 DR. LORING: YES, SIR.

18 MR. RICHARDSON: SHE HAD A HARASSMENT AND
19 TRESPASSING CHARGE IN 2001?

20 DR. LORING: YES, SIR. MAY I EXPLAIN MY
21 ANSWER, SIR?

22 THE COURT: LET'S JUST, I'M GOING TO ALLOW THE
23 SOLICITOR TO ---

24 MR. RICHARDSON: YES, SIR, YOUR HONOR.

25 THE COURT: --- ASK THOSE QUESTIONS AND I

SENTENCING HEARING - FEBRUARY 27, 2007

34

1 REALLY DON'T WANT TO GO INTO, THIS TO GO INTO ANY
2 EXTENSIVE CROSS EXAMINATION.

3 MR. RICHARDSON: YES, SIR.

4 THE COURT: THAT'S NOT THE PURPOSE OF THIS SO
5 I'LL BE GLAD FOR YOU TO ASK A COUPLE OF QUESTIONS.

6 MR. RICHARDSON: YOU TALKED ABOUT
7 DISASSOCIATION?

8 DR. LORING: YES, SIR.

9 MR. RICHARDSON: NOT SURE WHAT HAPPENED; IS
10 THAT CORRECT?

11 DR. LORING: I THINK I SAID THAT THERE WERE
12 PARTS OF IT THAT SHE DIDN'T REMEMBER.

13 MR. RICHARDSON: YOU READ THAT SHE GAVE A FALSE
14 IDENTITY?

15 DR. LORING: YES, SIR.

16 MR. RICHARDSON: SHE GAVE A FALSE IDENTITY FOR
17 THE DECEASED?

18 DR. LORING: YES, SIR.

19 MR. RICHARDSON: AND SHE HAD A FALSE STORY?

20 DR. LORING: IN PART, YES, SIR.

21 MR. RICHARDSON: MAINTAINED THAT STORY FOR FIVE
22 DAYS AFTER THE KILLING?

23 DR. LORING: I DON'T KNOW HOW LONG AFTER THE
24 TRAGEDY THAT SHE MAINTAINED THAT. I WAS AWARE THAT, THAT
25 SHE SHARED PARTS OF WHAT SHE REMEMBERED AND ALSO PARTS OF

SENTENCING HEARING - FEBRUARY 27, 2007

35

1 HER FEAR.

2 MR. RICHARDSON: YOU SAID YOU SPOKE WITH
3 WITNESSES?

4 DR. LORING: YES, SIR.

5 MR. RICHARDSON: DID YOU SPEAK WITH A STACY
6 JOHNSON?

7 DR. LORING: NO, SIR. I BELIEVE THAT I READ A
8 STATEMENT BY A NUMBER OF INDIVIDUALS. I BELIEVE I READ
9 HER STATEMENT, SIR.

10 MR. RICHARDSON: STACY IS A MALE.

11 DR. LORING: HIS STATEMENT.

12 MR. RICHARDSON: DID YOU READ WHERE HE
13 INDICATED ---

14 DR. LORING: THANK YOU.

15 MR. RICHARDSON: --- THAT THE DEFENDANT WORE
16 THE PANTS IN THE RELATIONSHIP?

17 DR. LORING: YES, SIR, I REMEMBER READING THAT.

18 MR. RICHARDSON: AND THAT THE DEFENDANT HAD
19 SLAPPED KENNY SELIM BEFORE?

20 DR. LORING: YES, SIR. WE OFTEN FIND THAT IN
21 FAMILY VIOLENCE, THE RESPONSIVENESS.

22 MR. RICHARDSON: THANK YOU.

23 DR. LORING: THANK YOU, SIR.

24 THE COURT: ANYTHING ELSE, SOLICITOR?

25 MR. RICHARDSON: YOUR HONOR, I DIDN'T HEAR

SENTENCING HEARING - FEBRUARY 27, 2007

36

1 ABOUT ANY CONVICTIONS FOR CRIMINAL DOMESTIC VIOLENCE.
2 THERE IS A VIOLENT HISTORY BETWEEN THE TWO OF THEM. YOU
3 SEE ASSAULTS GOING BACK AND FORTH, YOUR HONOR. THE STATE
4 WOULD PUT THIS CASE BEFORE THE COURT, HAS ALLOWED THE
5 DEFENDANT TO PLEAD TO THE LESSOR INCLUDED CHARGE OF
6 VOLUNTARY MANSLAUGHTER. YOU'VE HEARD FROM THE VICTIMS WHO
7 HAVE SUFFERED SUCH A LOSS. YOU'VE HEARD THAT THERE'S NO
8 HISTORY OF DOMESTIC VIOLENCE WHENEVER KENNY WAS WITH MS.
9 JANIE BRIGHT FOR SEVEN YEARS, YOUR HONOR. THE STATE WOULD
10 ASK YOU TO TAKE ALL THAT INTO CONSIDERATION IN SENTENCING.
11 I BELIEVE THE VICTIM'S FAMILY HAS PROPERLY ADDRESSED THE
12 COURT.

13 THE COURT: ALL RIGHT, SIR, THANK YOU.

14 MS. BLAIN-OLDS: YOUR HONOR, IF I MIGHT REBUT
15 JUST ONE, JUST ONE POINT, YOUR HONOR.

16 THE COURT: ALL RIGHT.

17 MS. BLAIN-OLDS: THE PROSECUTOR SAID THAT THERE
18 HAS NEVER BEEN A CONVICTION FOR CRIMINAL DOMESTIC
19 VIOLENCE. THERE IS A, A CONVICTION FOR ASSAULT FIRST
20 CONCERNING THIS CLIENT. THE POLICE DEPARTMENT DID NOT
21 TAKE INTO ACCOUNT THAT THE TWO OF THEM LIVED TOGETHER.
22 YOUR HONOR, ASSAULT ONE AGAINST NEARIM BLACKWELL.

23 THE COURT: THANK YOU, MA'AM.

24 MS. BLAIN-OLDS: YES, SIR. AND, YOUR HONOR,
25 MS. BLACKWELL WOULD LIKE TO ADDRESS THE COURT.

SENTENCING HEARING - FEBRUARY 27, 2007

37

1 THE COURT: YES, MA'AM?

2 DEFENDANT BLACKWELL: SIR, I WOULD JUST LIKE TO
3 SAY THAT I AM VERY SORRY FOR THAT THIS ACCIDENT THAT HAS
4 HAPPENED. REGARDLESS OF THE WAY THINGS WERE WE DID LOVE
5 EACH OTHER AND I JUST KNOW THAT THERE WERE PLENTY OF
6 THINGS THAT JUST WEREN'T CORRECT WITH BOTH OF US AND I'M
7 SORRY. I'M SORRY THAT HE'S GONE AND I'M SORRY FOR
8 EVERYONE'S LOSS.

9 THE COURT: THANK YOU, MA'AM. ALL RIGHT,
10 REGARDING THIS MATTER 2005-GS-26-2015, 2615, THE STATE OF
11 SOUTH CAROLINA COUNTY OF HORRY V. NEARIM GRACE BLACKWELL
12 REGARDING VOLUNTARY MANSLAUGHTER, THE COURT HAS HEARD FROM
13 ALL SIDES OF THIS PARTICULAR ISSUE AND THE STORY HAS BEEN
14 PRESENTED TO THE COURT PROBABLY AS IT REPRESENTS THE
15 RELATIONSHIP THAT WAS EXPERIENCED BY THE DECEASED AND THE
16 DEFENDANT. I TAKE INTO CONSIDERATION EVERYTHING THAT HAS
17 BEEN SAID REGARDING THIS PARTICULAR MATTER.

18 THE SENTENCE OF THE COURT IS FOR VOLUNTARY
19 MANSLAUGHTER THE DEFENDANT IS COMMITTED TO THE STATE
20 DEPARTMENT OF CORRECTIONS FOR A DETERMINATE TERM OF 20
21 YEARS. THE DEFENDANT IS GIVEN CREDIT FOR THE TIME SERVED.
22 THE COURT SETS FORTH THAT THERE IS NO FINDING OF PAROLE
23 ELIGIBILITY PURSUANT TO 16-25-90, THANK YOU VERY MUCH.

24 MR. RICHARDSON: THANK YOU, YOUR HONOR.
25

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED BRENDA R. BABB, OFFICIAL COURT REPORTER THE SOUTH CAROLINA COURT ADMINISTRATION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR HORRY COUNTY, SOUTH CAROLINA.

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

March 18, 2007

Brenda R. Babb
BRENDA R. BABB, YCVR

OFFICIAL REPORTER

WestlawNext

State v. Blackwell-Selim

Supreme Court of South Carolina. March 21, 2011. 392 S.C. 1. 707 S.E.2d 426 (Approx. 5 pages)

Original Image of 707 S.E.2d 426 (PDF)

392 S.C. 1
Supreme Court of South Carolina.The STATE, Respondent,
v.
Nearin BLACKWELL-SELIM, Petitioner.

No. 26948. Submitted March 15, 2011. Decided March 21, 2011.

Synopsis

Background: Defendant was convicted on guilty plea in the Circuit Court, Horry County, Steven H. John, J., of voluntary manslaughter. Her request for early parole eligibility was denied. Defendant appealed. The Court of Appeals, 385 S.C. 394, 684 S.E.2d 208, affirmed. Defendant petitioned for certiorari review.

Holding: The Supreme Court held that trial court was required to make specific findings of fact on record as to whether defendant suffered domestic violence at hands of boyfriend, for purposes of early parole eligibility.

Writ granted; judgment of The Court of Appeals vacated; remanded to Circuit Court.

West Headnotes (6)

Change View

- 1 **Pardon and Parole** Sentence provisions; judge's recommendations
Trial court was required to make specific findings of fact on record as to whether defendant, convicted of voluntary manslaughter of her live-in boyfriend, suffered domestic violence at hands of boyfriend, in considering whether defendant was eligible for early parole after serving one-fourth of 20-year prison sentence. Code 1976, §§ 16-25-20, 16-25-90.

2 Cases that cite this headnote

- 2 **Criminal Law** Scope of Inquiry
Criminal Law Questions of Fact and Findings
In criminal cases, the appellate court sits to review errors of law only and is bound by factual findings of the trial court unless an abuse of discretion is shown.

4 Cases that cite this headnote

- 3 **Criminal Law** Evidence
An appellate court does not reevaluate the facts based on its own view of the preponderance of the evidence, but simply determines whether the trial judge's ruling is supported by any evidence.

3 Cases that cite this headnote

- 4 **Pardon and Parole** Evidence and matters considered
A history of domestic violence committed against the defendant by a household member, as required for the defendant to be eligible for early parole after serving one-fourth of a prison term for a crime against the household member, must be proven by a preponderance of the evidence. Code 1976, §§ 16-25-20, 16-25-90.

1 Case that cites this headnote

- 5 **Pardon and Parole** Evidence and matters considered
Use of the term "credible evidence," with respect to evidence of domestic violence committed against the defendant by a household member, as required for the

SELECTED TOPICS

Criminal Law

Review

Sentence of Non-Parolable Life
ImprisonmentSpecial Appeals Review of the Trial Court
Factual Findings

Secondary Sources

United States Parole Commission
guidelines for federal prisoners61 A.L.R. Fed. 135 (Originally published in
1983)

...This annotation collects and discusses the federal court cases involving the guidelines for parole release determinations promulgated by the United States Board of Parole (hereinafter also variously re...

§ 32:56.Parole

5 Orfield's Criminal Procedure Under the
Federal Rules § 32:56

...Probation is granted by the district court. Parole is granted by the United States Board of Parole. The granting of probation is therefore judicial activity while the granting of parole is not. Neverth...

PAROLE

78 Geo. L.J. 1329

...The purpose of parole is to integrate prisoners into society by allowing them to serve a portion of their sentences outside prison. While on parole, the parolee is subject to the continuing supervisio...

See More Secondary Sources

Briefs

Brief for the United States

1979 WL 199247

Joseph Charles BONANNO, Jr., petitioner, v. United States of America, United States of America, petitioner, v. Hugh J. ADDONIZIO, United States of America, petitioner, v. Thomas J. WHELAN and Thomas M. Flaherty.
Supreme Court of the United States.
January 26, 1979

...The opinion of the court of appeals in No. 78-156 (78-156 Pet. App. 1a-21a) is reported at 573 F.2d 147. The opinion of the district court in Addonizio (78-156 Pet. App. 27a-32a) is not reported. The f...

Brief of Respondents Thomas J.
Whelan and Thomas M. Flaherty

1979 WL 199249

Joseph Charles BONNANO, Jr. Petitioner, v. United States of America, Respondent. United States of America, Petitioner, v. Hugh J. ADDONIZIO, Respondent. United States of America, Petitioner, v. Thomas J. WHELAN and Thomas M. Flaherty, Respondents.
Supreme Court of the United States.
March 01, 1979

...Pursuant to the memorandum directive of this Court, the time for filing the within Brief is March 1, 1979. The United States Constitution, Article I, § 9, Clause 2: "The privilege of the writ of habeas ...

Brief of Jerome N. Frank Legal
Services Organization and the Plaintiff
Class in Childs v. United States Board
of Parole, 511 F.2d 1270 (D.C. Cir.
1974), as Amici Curiae

1978 WL 207282

John B. GREENHOLTZ, Chairman of the Nebraska Board of Parole, et al., Petitioners,

defendant to be eligible for early parole after serving one-fourth of a prison term for a crime against the household member, indicates that the legislature intended the defendant's evidence to be, in fact, trustworthy, not simply plausible. Code 1976, §§ 16-25-20, 16-25-90.

1 Case that cites this headnote

- 6 Pardon and Parole**  Sentence provisions; judge's recommendations
The circuit court must make specific findings in ruling on parole eligibility or ineligibility with respect to a defendant's claim that there was a history of domestic violence at the hands of her victim. Code 1976, §§ 16-25-20, 16-25-90.

5 Cases that cite this headnote

Attorneys and Law Firms

****427.** Appellate Defender M. Celia Robinson, South Carolina Commission on Indigent Defense, of Columbia, for Petitioner.

Attorney General Alan Wilson, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Salley Elliott, Assistant Attorney General Christina J. Catoe, all of Columbia; John Gregory Hembree, 15th Circuit Solicitor's Office, of Conway, for Respondent.

Opinion

PER CURIAM.

***2** Petitioner seeks a writ of certiorari to review the Court of Appeals' decision in *State v. Blackwell-Selim*, 385 S.C. 394, 684 S.E.2d 208 (Cl.App.2009). We grant the petition for a writ of certiorari, dispense with further briefing, vacate the opinion of the Court of Appeals, and remand to the circuit court to make specific findings of fact.

***3 FACTUAL/PROCEDURAL BACKGROUND**

Petitioner pled guilty to voluntary manslaughter in the stabbing death of her live-in boyfriend. She was sentenced to twenty years' imprisonment. During sentencing, petitioner presented evidence seeking to show a history of criminal domestic violence suffered by her at the hands of the decedent, entitling her to early parole eligibility pursuant to S.C.Code Ann. § 16-25-90 (Supp.2010). After sentencing petitioner to twenty years' imprisonment, the plea judge stated, "There is no finding of parole eligibility pursuant to § 16-25-90;" however, he made no specific findings of fact as to why petitioner was ineligible for early parole.

The Court of Appeals affirmed the plea judge's finding as to early parole eligibility. The Court of Appeals concluded the record supported a determination that petitioner failed to produce credible evidence of a history of criminal domestic violence at the hands of the decedent and failed to satisfy the preponderance of the evidence standard.

ISSUE

Did the Court of Appeals err in affirming the plea judge's finding that petitioner was ineligible for early parole?

LAW/ANALYSIS

1 2 3 In criminal cases, the appellate court sits to review errors of law only and is bound by factual findings of the trial court unless an abuse of discretion is shown. *State v. Laney*, 367 S.C. 639, 643, 627 S.E.2d 726, 729 (2006). The appellate court does not ****428** reevaluate the facts based on its own view of the preponderance of the evidence but simply determines whether the trial judge's ruling is supported by any evidence. *State v. Winkler*, 388 S.C. 574, 583, 698 S.E.2d 596, 601 (2010).

4 5 Pursuant to § 16-25-90, a person who is convicted of or pleads guilty to an offense against a household member is eligible for parole after serving one-fourth of his or her prison term if the person presents credible evidence of a history of criminal domestic violence, as defined in S.C.Code Ann. § 16-25-20 (2003), suffered at the hands of the household member. Such a history must be proven by a preponderance ***4** of the evidence. *State v. Grooms*, 343 S.C. 248, 254, 540 S.E.2d 99, 102 (2000). Therefore, mere production of evidence does not automatically result in earlier parole eligibility; instead, the defendant must persuade the judge by presenting proof which leads the trier of fact to find that the existence of the contested fact is more probable than its nonexistence. *Id.* at 253-54, 540

v. INMATES OF THE NEBRASKA PENAL AND CORRECTIONAL COMPLEX, et al., Respondents.
Supreme Court of the United States.
December 11, 1978

...This case presents the questions whether and to what extent the Due Process Clause applies to proceedings to determine whether a prisoner should be released on parole. This case particularly concerns t...

See More Briefs

Trial Court Documents

U.S. v. Rodriguez-Leon

2007 WL 4915230
U.S. v. Rodriguez-Leon
United States District Court, C.D. California.
September 18, 2007

...1. This constitutes the plea agreement between ARTURO RODRIGUEZ-LEON ("defendant") and the United States Attorney's Office for the Central District of California ("the USAO") in the above-captioned cas...

U.S. v. Brown

2001 WL 36117089
U.S. v. Brown
United States District Court, E.D. Texas.
June 29, 2001

...(For Offenses Committed On or After November 1, 1987) THE DEFENDANT: ☐ pleaded guilty to count(s) ☐ pleaded nolo contendere to count(s) ☐ which was accepted by the court. X was found guilty on count(...

United States of America v. Clary

2004 WL 5509706
United States of America v. Clary
United States District Court, N.D. Alabama.
December 14, 2004

...The defendant, TYRONE BERNARD CLARY, was represented by Joe N. Lampley. The defendant pleaded guilty to count one. Accordingly, the defendant is adjudged guilty of the following count, involving the in...

See More Trial Court Documents

S.E.2d at 101-02 (citing 2 *McCormick on Evidence* § 339 (5th ed.1999)). Moreover, use of the term "credible evidence" indicates the legislature intended the defendant's evidence to be, in fact, trustworthy, not simply plausible. *Id.* at 253, 540 S.E.2d at 101. The defendant must persuade the judge her evidence is reliable. *Id.*

6 We find the Court of Appeals erred in reviewing the plea judge's finding petitioner was not eligible for early parole under § 16-25-90 because the plea judge failed to make specific findings of fact to support his ruling. Thus, there was nothing for the Court of Appeals to review. *Winkler*, 388 S.C. at 583, 698 S.E.2d at 601; *Laney*, 367 S.C. at 643, 627 S.E.2d at 729. The circuit court must make specific findings in ruling on parole eligibility or ineligibility under § 16-25-90. See e.g. *Grooms*, 343 S.C. 248, 540 S.E.2d 99. Therefore, we vacate the opinion of the Court of Appeals and remand the matter to the circuit court to make specific findings of fact regarding the ruling that petitioner was not entitled to early parole eligibility pursuant to § 16-25-90.

CONCLUSION

Because the plea judge failed to make specific findings of fact with regard to his ruling that petitioner was not entitled to early parole eligibility pursuant to § 16-25-90, we grant the petition for a writ of certiorari, dispense with further briefing, vacate the Court of Appeals' opinion, and remand the case to circuit court to make such findings.

VACATED and REMANDED.

TOAL, C.J., PLEICONES, BEATTY, and KITTREDGE JJ., concur. HEARN, J., not participating.

Parallel Citations

707 S.E.2d 426

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS

2 COUNTY OF HORRY) (05-GS-26-02615)

3 STATE)

4)

5 VERSUS) TRANSCRIPT OF RECORD

6)

7 NEARIN BLACKWELL-SELIM) May 11, 2011

Conway, S. C.

8)

9

10 B E F O R E:

11 HONORABLE STEVEN H. JOHN, Judge.

12

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

14 BRADLEY COY RICHARDSON, ESQ.

15 ASSISTANT SOLICITOR FOR HORRY COUNTY

ATTORNEY FOR STATE

16 ORRIE E. WEST, ESQ.

PUBLIC DEFENDER FOR HORRY COUNTY

17 RONALD HAZZARD, ESQ.

18 ASSISTANT PUBLIC DEFENDER FOR HORRY COUNTY

ATTORNEYS FOR DEFENDANT

19

20

21

22

23

24 DIXIE COX EUBANK

CIRCUIT COURT REPORTER

25 FIFTEENTH JUDICIAL CIRCUIT

1	<u>I N D E X</u>				
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RD</u>	<u>RC</u>
3	ON RECORD				4
4	MENINA KIDWELL				
5	Mr. Hazzard	20		29	
6	Mr. Richardson		26		
7	CARLOTTA LADYIZUMI ADAMS				
8	Mr. Hazzard	30			
9	Mr. Richardson		35		
10	FRANCES ELIZABETH BLACKWELL				
11	Mr. Hazzard	40			
12	Mr. Richardson		47		
13	DEFENSE'S SUMMATION (HAZZARD)				52
14	STATE'S SUMMATION (RICHARDSON)				59
15	COURT'S RULING				60
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

1	<u>E X H I B I T S</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	D-1	Transcript of Record (2/27/07)		10
4	D-2	List of Charges		10
5	D-3	Criminal/Motor Vehicle Case Detail		10
6	D-4	Middletown Police Dept Record (2/9/02)		10
7	D-5	Middletown Police Dept Record (5/30/02)		10
8	D-6	Middletown Police Dept Record (5/30/02)		10
9	D-7	Middletown Police Dept Record (10/10/02)		10
10	D-8	Middletown Police Dept Record (12/19/02)		11
11	D-9	Middletown Press (2005)		11
12	D-10	Middlesex - Integrated Psychiatric Assessment		11
13		(2 pg.) (4/12/04)		
14	D-11	Middlesex Hospital Record (6/01/04)		11
15	D-12	Middletown Police Dept (1/22/05)		11
16	D-13	Middletown Press (2005) (1/25/05)		11
17	D-14	Affidavit of Donald Blackwell (1/30/07)		11
18	D-15	Affidavit of Pam Wilson (1/27/07)		11
19	D-16	Affidavit of Francis Blackwell (2/08/07)		11
20	D-17	Affidavit of Sandra Leclaire (1/27/07)		11
21	D-18	Defendant's NCIC		17
22				
23				
24				
25				

ON RECORD

4

1 (THE FOLLOWING TAKES PLACE ON MAY 11, 2011.)

2 THE COURT: All right. This is (05-GS-26-02615) the
3 State of South Carolina versus Nearin Blackwell-Selim. We are
4 here today pursuant to the Order of the South Carolina Supreme
5 Court Opinion Number 26948, submitted March 15, 2011, filed
6 March 21, 2011.

7 In that Opinion the South Carolina Supreme Court states
8 that -- and I'll just read from their Opinion -- "We find the
9 Court of Appeals erred in reviewing the Plea Judge's finding.
10 Petition was not eligible for early parole under Section 16-
11 25-90 because the plea Judge failed to make specific findings
12 of fact to support his ruling, thus there was nothing for the
13 Court of Appeals to review. The Circuit Court must make
14 specific findings in ruling on parole eligibility or
15 ineligibility under Section 16-25-90, therefore, we vacate the
16 opinion of the Court of Appeals and remand the matter to the
17 Circuit Court to make specific findings of fact regarding the
18 ruling that Petition was not entitled to early parole
19 eligibility pursuant to Section 16-25-90."

20 Their conclusion is virtually the same, but it says,
21 "Because the plea Judge failed to make specific findings of
22 fact with regard to his ruling that Petitioner was not
23 entitled to early parole eligibility pursuant to Section 16-
24 25-90 we grant the Petition for Writ of Certiorari, dispense
25 with further briefing, vacate the Court of Appeals Opinion,

1 and remand the case to Circuit Court to make such finding."

2 In the original matter before the Court on February 27,
3 2007, the Court stated -- and I am going directly from the
4 Transcript of Record of the Circuit Court Reporter, Brenda R.
5 Babb, in this matter the Court stated, "All right, regarding
6 this matter, (05-GS-26-02015) ..." -- I'm just reading
7 directly -- "... (02615), State of South Carolina, County of
8 Horry, versus Nearin Grace Blackwell regarding voluntary
9 manslaughter, the Court has heard from all sides of this
10 particular issue, and the story has been presented to the
11 Court probably as it represents the relationship that was
12 experienced by the deceased and the Defendant. I take into
13 consideration everything that has been said regarding this
14 particular matter. The sentence of the Court is, for
15 voluntary manslaughter, the Defendant is committed to the
16 State Department of Corrections for a determinate term of
17 twenty years. The Defendant is given credit for time served.
18 The Court sets forth that there is no finding of parole
19 eligibility pursuant to Section 16-25-90. Thank you very
20 much."

21 In reading the Order and Decision of the South Carolina
22 Supreme Court, the purpose of this hearing is for the Circuit
23 Court to make findings, specific findings of fact regarding my
24 ruling that the Petitioner was not entitled to early parole
25 eligibility. I find that to be the only purpose of this

ON RECORD

6

1 hearing. It is not by directions of the South Carolina
2 Supreme Court, nor by Section 16-25-90, and the Appellate
3 Court Rules to conduct a new hearing, to conduct a de novo
4 hearing in this matter. I find specifically that I was
5 directed by the South Carolina Supreme Court to make specific
6 findings on the record as to my previous decision that I
7 rendered on February 27th, 2007.

8 Based upon that, is there anything from the State?

9 MR. RICHARDSON: Your Honor, just as a matter of
10 housekeeping, I believe on our sentencing sheet dated February
11 27, 2009 -- 2007, we have Ms. Blackwell's name spelled
12 N.e.a.r.i.m., middle name Grace, G.r.a.c.e., Blackwell,
13 B.l.a.c.k.w.e.l.l.. Correspondent -- I think we got an Order
14 subsequent to that amending the sentencing sheet to reflect
15 the proper name. I believe that's reflected in the proper
16 Order that the name should be Nearin, N.e.a.r.i.n., middle
17 initial (G) as in Golf, Blackwell, hyphen Selim, is how
18 they've listed at the Department of Corrections. They just
19 wanted to put that in for record-keeping purposes.

20 THE COURT: Well, in their Order the Supreme Court
21 states the Defendant's name as Nearin, N.e.a.r.i.n.,
22 Blackwell, hyphen, Selim.

23 MR. RICHARDSON: Yes sir, Your Honor.

24 THE COURT: All right, so that ---

25 MR. HAZZARD: Your Honor, the Department of Corrections

ON RECORD

7

1 indicates that they list her that way because that's the way
2 it was on the initial sentencing sheet that they received, so
3 we would ask that the name -- it be -- the matter be addressed
4 and have it changed to reflect her actual name.

5 THE COURT: Her name is not Nearin Blackwell-Selim?

6 MR. HAZZARD: No sir, Your Honor.

7 THE COURT: What is her name?

8 MR. HAZZARD: Your Honor, my understanding is that the
9 Defendant's name is Nearin, N.e.a.r.i.n., Grace, Blackwell,
10 B.l.a.c.k.w.e.l.l., that she is not, and was not ever married
11 to Mr. Selim, never held herself out as his wife, and so the
12 hyphenation should not be there, Your Honor, so we ask for the
13 correction of the first name and the removal of the
14 hyphenation.

15 THE COURT: The Court declines to do so. I do not find
16 that that is how the matter was presented, nor that will be a
17 matter that was not presented to this Court in a proper
18 fashion. I do not find it's properly before the Court. The
19 Court declines to do so. We will continue to refer to the
20 Defendant as Nearin Blackwell-Selim.

21 Anything further from the State?

22 MR. RICHARDSON: None at this time, Your Honor.

23 THE COURT: From the Defense?

24 MR. HAZZARD: Your Honor, based upon the court's ruling
25 I would like to place on the record that I became aware of

ON RECORD

8

1 this following the Supreme Court Order of March of this year,
2 and it was my understanding that communication was had between
3 Circuit Public Defender Orrie West and your office regarding
4 whether this was going to be a hearing de novo with regard to
5 16-25-90, or simply a hearing for the Court to flesh out it's
6 bases for denying 16-25-90 back in 2007. It was my
7 understanding that the response given by the Court was it
8 would be a hearing de novo, therefore we have prepared for a
9 hearing de novo. I would ask at this time to have Ms.
10 Blackwell sworn for testimony at this time.

11 THE COURT: All right. I believe that y'all might have
12 mistaken the Court's intention. What I intended was, if y'all
13 had some information that you believe you wanted to present I
14 would be glad for additional matter, new additional matter,
15 for you to present that for whatever purposes it may serve in
16 the appellate record, but that I believe the directions I was
17 given by the South Carolina Supreme Court was to hold a
18 hearing, to place my specific reasons and rationale on the
19 record, not to conduct a de novo hearing. I decline to do so.
20 I will give you the opportunity, if you have new matter, to
21 put that on the record. I will decline you -- decline to give
22 you the opportunity to have Ms. Nearin Blackwell-Selim testify
23 again, or present new information to the Court. She had an
24 opportunity to address the Court as she fully wanted to on
25 February 27, 2007. She did address the Court. I heard from

1 her. I made my decision based upon what I heard from her. I
2 believe the directions by the South Carolina Supreme Court are
3 to give them reasons why I made my decision on February 27th,
4 2007, therefore I decline to give you the opportunity to have
5 Ms. Nearin Blackwell-Selim testify to anything other -- again,
6 I obviously -- I received what she had to say at that time,
7 and will include that in my reasons and rationale.

8 Anything further from the Defense?

9 MR. HAZZARD: Yes sir, Your Honor. In February, 2007,
10 when this matter was heard by the Court, the Transcript of
11 Record refers to a packet of documentation, police incident
12 reports, newspaper reports, hospital records that were
13 submitted to the Court for the Court to review. Does the
14 Court have in it's possession a copy of the Transcript, Your
15 Honor?

16 THE COURT: Of the Transcript of Record. I certainly
17 do.

18 MR. HAZZARD: Not the record on appeal, the actual
19 Transcript of Record.

20 THE COURT: The actual Transcript of Record. I have a
21 copy -- actually both, but I have a copy of the actual
22 Transcript of Record of the matter on February 27, 2007.

23 MR. HAZZARD: Okay. Thanks to the Court's indulgence,
24 Your Honor, the Defense has taken the time to mark certain
25 Defense exhibits, would move them into evidence at this time.

ON RECORD

10

1 At the Court's direction both I and Senior Solicitor Brad
2 Richardson went through the documentation and made sure that
3 these particular documents were referred to as having been
4 handed up to the Court Reporter as consideration at the
5 February, 2007, hearing, and I will read those into the record
6 at this time, Your Honor.

7 THE COURT: Very good, sir.

8 MR. HAZZARD: Okay. First for the record -- and may
9 not be necessary but I have marked a Transcript of Record as
10 Defendant's Exhibit Number 1, for case number (05-GS-26-
11 02615), State of South Carolina versus Nearin G. Blackwell-
12 Selim, date of hearing, February 27th, 2007, Defendant's
13 Exhibit Number 1.

14 Defendant's Exhibit Number 4 is a Supplementary Police
15 Report from the Middletown Connecticut Police Department, date
16 of Report, February 9th, 2002.

17 Defendant's Exhibit Number 5, a Supplementary Report
18 from the Middletown Police Department -- that's Middletown,
19 Connecticut -- date of Report, May 30th of 2002.

20 Another Supplementary Police Report from Middletown
21 Police Department dated May 30th, of 2002, Defendant's Exhibit
22 Number 6.

23 Defendant's Exhibit Number 7, Supplemental Police Report
24 from the Middletown Police Department dated 10 March, 2002,
25 referring to an incident date of December 19th, 2002.

1 Defendant's Exhibit Number 8, Supplemental Police Report
2 of Middletown Police Department, Defendant's Exhibit Number 8,
3 dated December 19th, 2002.

4 Defendant's Exhibit Number 9, a newspaper article from
5 the Middletown, Connecticut Press, dated December 21st of
6 2002.

7 Defendant's Exhibit Number 10, an Integrated Psychiatric
8 Assessment from Dr. Cosentino of Middlesex Hospital, dated
9 April 12, 2004.

10 Defendant's Exhibit Number 11, Medical Record, says
11 Middlesex Final Hospital, dated June 1st, 2004, from Dr.
12 Jeffrey Bernstein, M.D., and all of these medical records
13 relate to Nearin Blackwell, Your Honor.

14 THE COURT: All right. Very good. Is that -- I'm
15 sorry.

16 MR. HAZZARD: Defendant's Exhibit Number 12,
17 Supplemental Report, Middletown Police Department, dated
18 January 22nd, 2005.

19 Defendant's Exhibit Number 14, an Affidavit of Donald
20 Blackwell, dated January 30th, 2007.

21 Defendant's Exhibit Number 15, an Affidavit of Ms. Pam
22 Wilson, dated January the 27th, 2007.

23 Defendant's Exhibit Number 16, an Affidavit of Frances
24 Blackwell, dated February 8th of 2007.

25 And Defendant's Exhibit Number 17, an Affidavit dated

ON RECORD

12

1 January 27th, 2007, Sandra Leclaire.

2 THE COURT: All right. Was that four Affidavits?

3 MR. HAZZARD: Yes sir, Your Honor.

4 THE COURT: All right. Very good.

5 MR. HAZZARD: Okay. There are also a couple of -- one
6 document that -- there's another newspaper article from
7 Middletown Press that I do not see a specific mention of in
8 the Transcript, however, the Prosecutor has been good enough
9 to provide me with the record on appeal, and I note that a
10 copy of that is included in the record on appeal, so I do not
11 know if that would indicate specifically that this was
12 documentation provided by the Clerk of Court, or provided by
13 the Court to the Court of Appeals for it's consideration as
14 part of the Appendix. And that document that I'm referring to
15 is Middletown Press article dated January 25th, 2005, says
16 "Trio Arraigned in Disputes: Three City Residents were
17 arraigned on domestic abuse charges, Middlesex Superior
18 Court", and that's listed here as Defendant's Exhibit Number
19 13.

20 THE COURT: Exhibit 13. All right.

21 MR. HAZZARD: And we would ask that these documents be
22 placed in the record for this hearing.

23 THE COURT: All right, what's the Solicitor's position?

24 MR. RICHARDSON: Your Honor, likewise, I note, I have
25 reviewed the Transcript of Record. I have also reviewed the

1 record on appeal. I don't know how they would have gotten the
2 other newspaper article without it being somehow involved with
3 the case, Your Honor, and I take no exception to that. My
4 position would be the same as I adopted at the time of the
5 hearing back in February, 2007, with regard to all these.

6 THE COURT: And that was.

7 MR. RICHARDSON: With regard to the Affidavits, Your
8 Honor, I basically stated that these were -- they haven't been
9 properly -- that it's not testimony, they are just Affidavits
10 and ---

11 THE COURT: All right, sir. You -- you did object at
12 the time. I just saw that a minute ago in the Transcript of
13 Record, but you objected, and I indicated that I would,
14 despite the State's objection, allow them to be presented.

15 MR. RICHARDSON: Yes sir, Your Honor.

16 THE COURT: All right, sir. Very good.

17 All right. Since those matters are reflected in the
18 Transcript of Record of the Circuit Court Reporter, Brenda R.
19 Babb, as being presented to the Court over the State's
20 objection, I will allow those to be marked in that they are
21 not matters that are anything other than what was presented to
22 the Court at that time, and what I reviewed and made my
23 decision at that point in time, so I will allow those into the
24 -- into the record at this time.

25 Anything further from the Defense?

ON RECORD

14

1 MR. HAZZARD: Yes sir, Your Honor. I've been provided
2 with -- as far as the new matter is concerned I've been
3 provided with a RAP sheet, or NCIC Interstate Identification
4 Index Response with regard to the decedent, Kenneth A. Selim,
5 date of birth, July 13th, 1973, and we would move to have this
6 document, or a copy of this document placed into evidence. I
7 do not know why the NCIC was not provided to Ms. Blackwell's
8 counsel back in 2007, but we definitely think it's meat, and
9 appropriate for the Court to consider, as it should have been
10 presented for the Court's consideration in 2007.

11 THE COURT: All right. What's the State's position?

12 MR. RICHARDSON: Your Honor, I can't say one way or the
13 other. This was not originally my case. I did handle it
14 through disposition. I do see a copy of the victim's NCIC in
15 our record. It would have been our practice to provide that
16 at the appropriate time, even though I don't believe it's
17 required under Discovery, but it would have been -- with it
18 being in the file I assume that it was provided at some point.
19 I don't know why there's an absence of it right now. I did
20 provide it today. I've laid all those matters on there that
21 relate directly to any type of violence, at least the
22 convictions reflected by the police reports.

23 THE COURT: All right. I'll allow you to mark that as
24 new information, again, reiterating, I do not believe that to
25 be the purpose of this hearing, to have a de novo hearing.

1 I'm going to allow you to make it part of the record so that
2 upon further review that could be in the -- in the record, but
3 again, I do not believe that to be the direction of the South
4 Carolina Supreme Court, it being a direction; and I believe it
5 to be correct, that I should give the specific reasons I made
6 my decision on February 27th, 2007.

7 MR. HAZZARD: Okay. And so that I'm clear, the
8 exhibits previously mentioned as being a part of the record on
9 appeal, part of the transcript from February, 2007, those will
10 be considered by the Court as ---

11 THE COURT: I considered them at the -- at the time.
12 All those as reflected -- if we would go through the
13 Transcript of Record they were specifically by the Defendant's
14 counsel at the time, and there was some colloquy that I had
15 with Defense counsel at the point in time where I told her
16 that I was already three-quarters of the way of reading
17 through all the documentation and I did not need for her to
18 read them to me, that I was basically capable of doing that,
19 but I wanted her to make her point, whatever it was, so I --
20 clearly I read them at the time, and took them into
21 consideration at the time, on February 27, 2007, in making my
22 decision that I did on that date, so they are part of the
23 record ---

24 MR. HAZZARD: Yes sir.

25 THE COURT: ---Because they were before the Court, and

ON RECORD

16

1 I did review them on February 27th, 2007.

2 MR. HAZZARD: Okay. With regard to two documents that
3 would be under the category of new documentation, as the Court
4 has considered it, I have marked Defendant's Exhibit Number 2,
5 which is a copy of a Connecticut Department of Corrections
6 Movement Log, and what that basically lays out for the Court
7 is, Mr. Kenneth Selim's time in and out of Connecticut
8 Department of Corrections from February 21st of 2002, through
9 March 9th of 2005. The significance of that to the Defendant,
10 again, had this been truly a de novo hearing, would be to
11 allow Ms. Selim to explain the gaps in instances of abuse.
12 For instance, there's about a year and a half period there
13 where he didn't beat her. Well, he was incarcerated during
14 that time. So as -- under the new theory of new documentation
15 we would move to admit Defendant's Exhibit Number 2, a copy of
16 which has been previously provided to the Prosecutor.

17 THE COURT: I will -- I will allow you, again, to make
18 that part of the record. Again, it is new information, it was
19 not presented to me at the time I made a decision in this
20 matter, and so therefore I will allow you to put it in so it's
21 part of any further review that may be done in the future, but
22 it was not part of my decision on February 27, 2007. It's not
23 being presented nor considered by the Court at that point in
24 time when I made my decision.

25 MR. HAZZARD: Yes sir. The last document, Defendant's

1 Exhibit Number 3, State of Connecticut, Judicial Branch,
2 Criminal Vehicle Conviction Case Detail, is a four-page
3 document printed out as seen on the bottom, May 10th of 2011.
4 It gives Connecticut's listing of Mr. Kenneth Selim's
5 convictions in that State. This would come under new
6 documentation or information. I do understand the Court's
7 ruling in that regard, but I do request to be allowed to make
8 it a part of the record at this time.

9 THE COURT: All right. Thank you. I, again, will
10 allow you to do so, again noting, it's new information, not
11 being the purpose of this hearing, nor it should -- and it
12 obviously shouldn't reflect -- obviously did not review that
13 or use that information, nor had that information before the
14 Court when I made my decision on February 27th, 2007.

15 Anything further from the Defense?

16 MR. HAZZARD: Your Honor, at this time the Defense
17 calls Menina Kidwell to the stand.

18 THE COURT: All right. First, if you could tell me who
19 that person is, so that I have that.

20 MR. HAZZARD: Menina Kidwell is the twenty-one year old
21 daughter of the Defendant, Your Honor.

22 THE COURT: All right. Now that is obviously a person
23 that did not provide any information to the Court on February
24 27, 2007, correct.

25 MR. HAZZARD: That is correct, Your Honor. Based on

ON RECORD

18

1 the Transcript that's my understanding.

2 THE COURT: All right. As with the documentation, I
3 will allow you to present the testimony of this witness,
4 understanding, I do not believe that to be the purpose of this
5 hearing. These are not matters that were before the Court at
6 the time I made my decision on February 27, 2007. I do not
7 think it is proper in accordance with the Rules of our State,
8 nor proper pursuant to the Order of the South Carolina Supreme
9 Court. I think it goes beyond the scope of what we are here
10 about, it goes beyond the bounds of our Court Rules, the
11 Circuit Court Rules, the Appellate Court Rules, but in the
12 interest of justice, and for this record to be as full and
13 complete as it can be for any further review that needs to be
14 done I will allow you to present it, but again, I do not think
15 it is proper.

16 Thank you very much.

17 MR. RICHARDSON: Your Honor ---

18 THE COURT: Yes sir.

19 MR. RICHARDSON: ---If I may inquire the witness's name
20 and the information. I need to run a criminal records check.

21 THE COURT: All right. Very good.

22 If you would, Mr. Hazzard, if you will give the
23 Solicitor the Defendant's (S.I.C.) full name, and you need to
24 give to the Solicitor her date of birth, as well as her Social
25 Security number.

1 (COUNSEL EXCHANGE INFORMATION)

2 THE COURT: All right, Mr. Hazzard ---

3 MR. HAZZARD: Yes sir, Your Honor.

4 THE COURT: ---Before the Solicitor has anybody go do
5 anything else, do you have any other witnesses that -- I'm
6 sorry.

7 Solicitor, could you stop your assistant for just a
8 second.

9 MR. RICHARDSON: Yes sir, Your Honor.

10 THE COURT: Just stop -- stop for one second.

11 Are there any other witnesses that you propose to call
12 that would fall in this category of new people that the Court
13 didn't hear before, that I didn't make my -- base my decision
14 on?

15 MR. HAZZARD: Yes sir, Your Honor, the Defendant's
16 mother, Frances Blackwell, and a friend of the Defendant, Dr.
17 Carlotta Abrams, A.b.r.a.m.s...

18 THE COURT: All right. If you would call them forward
19 so that they can tell the Solicitor their full names, as well
20 as their dates of birth and their Social Security numbers,
21 please.

22 (COUNSEL EXCHANGE INFORMATION)

23 MR. RICHARDSON: Thank you, Your Honor.

24 THE COURT: All right. Very good.

25 All right, Mr. Hazzard, if you want to call your first

MENINA KIDWELL - DIRECT BY HAZZARD

20

1 witness for the purpose of any appellate record I'll be glad
2 for you to do so.

3 MR. HAZZARD: Thank you, Your Honor. The Defense calls
4 Menina Kidwell to the stand.

5 THE COURT: All right. Please come around over here,
6 Ma'am, to be sworn.

7 MENINA KIDWELL, being first duly
8 sworn, testifies as follows:

9 DIRECT-EXAMINATION BY MR. HAZZARD:

10 Q. Okay, Ma'am, you are the daughter of the Defendant in
11 this action, Nearin Blackwell; is that correct?

12 A. Yes.

13 Q. Okay. Ma'am, how old are you?

14 A. Twenty-one.

15 Q. Okay. And when was the last time that you lived under
16 your mother's roof?

17 A. Probably back in 1999.

18 Q. Back in '99.

19 A. Around there.

20 Q. So you were not living with your mother during the time
21 that your mother was dating Mr. Selim; is that correct?

22 A. Yes.

23 Q. Okay. Did you have any interaction -- or put it this
24 way, do you have any knowledge that you can provide this Court
25 with regard to any instances of domestic violence by Mr. Selim

1 against your mother, any direct, personal knowledge? Okay.

2 Do you need me to rephrase the question?

3 A. Yes.

4 Q. All right. When was the last time that you actually
5 laid eyes on your mother before today, Ma'am?

6 A. Around 2001, 2002.

7 Q. Okay. And that was when your mother came and visited
8 in Florida?

9 A. Yes.

10 Q. Okay. So you were never present in the home when Ms.
11 Blackwell and Mr. Selim were cohabitating; is that correct?

12 A. No. Yes.

13 THE COURT: If you could -- Mr. Hazzard, I'm sorry to
14 interrupt. Could you establish how old she was in 1991, and
15 in 2000, 2002, please.

16 Q. Okay. Let's back up. How old were you in 1991, Ma'am?

17 A. 1991.

18 Q. Yes.

19 THE COURT: Nine. Didn't she say the last time you
20 lived with her was 1999?

21 A. Yes. I was about ten years old, nine, ten.

22 Q. Okay. And you -- why did you -- why did you leave your
23 mother's custody when you were nine or ten years old, back in
24 1999?

25 A. Because her ex-boyfriends. It was just a scary place

MENINA KIDWELL - DIRECT BY HAZZARD

22

1 to be with, and it's hard to grow up like that, so I felt it
2 was best to live with my grandmother till my mom got better,
3 and I was able to like, just not be with them, and she met
4 another one.

5 Q. Okay. But be specific. That ex-boyfriend ---

6 A. Yes.

7 Q. ---Was not Mr. Selim?

8 A. No.

9 Q. Okay. Now, during this time ---

10 MR. HAZZARD: And you also -- the Court also wanted to
11 know how old she was in 2001.

12 THE COURT: She said the last time she saw her was
13 2001, 2002.

14 Q. Okay. How old were you in 2001, 2002, Ma'am?

15 A. Eleven, twelve.

16 Q. Okay. Now, from that time, from 2001, 2002, did you
17 have any act -- any interaction with Mr. Kenneth Selim?

18 A. On the phone.

19 Q. On the telephone. Okay. Did you ever have reason to
20 hear conversations between your mother and Mr. Selim during
21 phone calls?

22 A. Yes.

23 Q. Okay. If you would, tell the Court about that.

24 A. There were several times that they would be on the
25 phone. My mom would call because she was scared, and just to

1 talk to somebody, and I would hear him in the background
2 screaming and yelling, threatening. He would be on the phone
3 with me plenty of times, my grandmother.

4 Q. Okay. Well, we are talking about you.

5 A. Yes.

6 Q. Now, you said he would be on the phone or in the
7 background screaming, threatening and yelling. Please be
8 specific with regard to what these threats were.

9 A. Him being angry, and wanting to hurt her. She would
10 call for help. I'm not sure why he did it.

11 Q. Do you recall, or do you have any specific recollection
12 as to what he said, that you heard over the phone?

13 A. If she ever left him he would kill her, he would kill
14 me and my brother, my sister, my grandma.

15 Q. Did he make these threats on just one occasion or more
16 than one occasion?

17 A. More than one occasion.

18 Q. Okay. And you recognized the person in the background,
19 or on the other end of the line as being Kenneth Selim?

20 A. Yes.

21 Q. Okay. And how do you recognize him as such? Were
22 there other instances where you talked to him?

23 A. Oh yes. He wanted to be a father to me. He wanted to
24 adopt me and so I talked to him all the time, and I just -- I
25 know, like his voice in the background.

MENINA KIDWELL - DIRECT BY HAZZARD

24

1 Q. Okay. So you left around '99. Your mother started
2 dating with Mr. Selim 2001. Was there a -- did Mr. Selim come
3 and visit with her in Florida ---

4 A. No.

5 Q. ---In 2001? Okay. He did not come and visit?

6 A. No.

7 Q. Okay. Did you have any interaction with him over the
8 telephone during your mother's visit?

9 A. Yes, he -- yes.

10 Q. Okay. And what, if anything, did he say?

11 A. He would just call and say, like, oh, I love you, da,
12 da, da, talk to your mom.

13 Q. Okay. Now, subsequent to that visit, when your mother
14 returned to Connecticut, were there any instances over the
15 telephone where you could hear threats of violence, or actual
16 violence, again being directed by Mr. Selim against your
17 mother?

18 A. Yes, screaming, arguing.

19 Q. Okay. All right. Can you pinpoint or narrow down what
20 period of time these incidents occurred?

21 A. All the time.

22 Q. Okay. Now, I need you to be as specific as possible
23 when you say all of the time. Let's back up. How often a
24 week or a month or a year would you speak with your mother ---

25 A. At least two times a week, three times a week, at

1 least.

2 Q. Okay. Now, of those on average two or three times a
3 week, tell the Court how many occasions during those telephone
4 calls there would be some type of threats, or threatening
5 violence or acts of violence being perpetrated against your
6 mother by Mr. Selim.

7 A. I would say about eighty percent of the calls were
8 that, because she would call out of fear.

9 Q. Okay. So she would call because of the violence that
10 was being directed toward her, the threats of violence that
11 were being directed toward her by Mr. Selim?

12 A. Yes.

13 Q. Okay. And you specifically heard him in the
14 background. How many occasions did he make these threats? If
15 you could round it for the Court, giving it your best thought
16 in calculation, how many times did you hear him threaten to
17 injure, threaten to kill ---

18 A. Hundreds. I honestly -- it was a weekly -- for years,
19 weeks, days, getting calls, like I cannot tell you how many
20 times I've heard this man say so much things. I cannot tell
21 you. Countless.

22 Q. Now, on the occasions that when he called and he would
23 tell you that he loved you and he wanted to adopt you what was
24 your response to that?

25 A. No.

MENINA KIDWELL - CROSS BY RICHARDSON

26

1 Q. Okay. Did you ever question him as to why he
2 threatened your family, why he threatened your mother on a
3 regular occasion?

4 A. No, not at that time.

5 Q. Okay. At any point in time did you ever question him
6 about that?

7 A. No.

8 Q. Okay.

9 MR. HAZZARD: All right. Thank you. Please answer any
10 questions that the Prosecutor may have.

11 THE COURT: Cross-examination.

12 MR. RICHARDSON: Thank you, Your Honor.

13 CROSS-EXAMINATION BY MR. RICHARDSON:

14 Q. Ms. Kidwell, when you supposedly received these phone
15 calls where were you living?

16 A. Stuart, Florida. Stuart, Florida.

17 Q. Stuart, Florida. That's the lower part of the State or

18 ---

19 A. Martin County.

20 Q. And so you were living in Florida with your
21 grandmother?

22 A. Yes.

23 Q. And your mom was living where?

24 A. Connecticut.

25 Q. She was living in Connecticut. So how many miles away

1 is that? Plane. Plane ride away.

2 A. No idea.

3 Q. Have you ever driven that distance?

4 A. Greyhound.

5 Q. Greyhound. Long trip.

6 A. Oh yeah.

7 Q. Did you ever call 911 when you were hearing these

8 threats?

9 A. No.

10 Q. Did you alert your grandmother?

11 A. Yes.

12 Q. To your knowledge, did your grandmother call 911 when

13 these threats were made?

14 A. No.

15 Q. And this knowledge of these threats, was it in your

16 possession back in 2007, whenever the plea was entered?

17 A. I'm sorry. What?

18 Q. These threats that you say were made over the phone,

19 and you've known about them, you are saying since 2006.

20 A. Yes.

21 Q. Did you ever call the Myrtle Beach Police Department

22 and tell them about these threats that had been made?

23 A. No.

24 Q. Did you ever call Connecticut -- what is it, Middlesex

25 Police Department and tell them, my mom is being threatened by

1 her boyfriend?

2 A. No.

3 Q. Did you come down to testify at the plea hearing back
4 in 2007, February, 2007?

5 A. No.

6 Q. Your mom had an ex-boyfriend that was violent, correct?

7 A. Yes.

8 Q. Were you aware of your mother's seizure disorder?

9 A. Yes.

10 Q. You've just told us Mr. Selim had gotten on you and
11 your grandmother?

12 A. I'm sorry. Repeat that.

13 Q. Did you tell Mr. Hazzard that Mr. Selim jumped on you?

14 A. We've never seen him. I've never met him in person.

15 Q. You never met Mr. Selim?

16 A. Not in person.

17 Q. You've never met him in person?

18 A. No. I did not want to.

19 Q. So it could have been anybody's voice on the other end
20 of the phone. Your mom identified him as Ken Selim.

21 A. He also identified himself as Kenneth Selim.

22 Q. But you never saw him?a

23 A. No.

24 Q. You never personally witnessed any acts of violence by
25 Mr. Selim.

1 A. Not with my eyes.

2 Q. You are just going by what your mom said.

3 A. No. From what I can hear on the phone.

4 Q. But you didn't call 911.

5 A. No.

6 Q. Didn't call the police?

7 A. No.

8 Q. Out of any of the hundred times.

9 A. No.

10 MR. RICHARDSON: Your Honor, I still don't have the
11 NCIC. I would just -- I have no more questions of this
12 witness, subject to the record ---

13 THE COURT: That's fine. If it becomes a necessity
14 to ---

15 MR. RICHARDSON: Subject to crossing on that particular
16 issue.

17 THE COURT: ---Recall the witness regarding that I'll
18 allow you to do that.

19 MR. RICHARDSON: Thank you, Your Honor.

20 THE COURT: All right. Anything else, Mr. Hazzard, on
21 this witness?

22 MR. HAZZARD: No, Your Honor. Well, I would ask this.

23 REDIRECT-EXAMINATION BY MR. HAZZARD:

24 Q. The Prosecutor asked you did you come to the hearing in
25 February of 2007. How old were you at that time, Ma'am?

CARLOTTA LADYIZUMI ADAMS - DIRECT BY HAZZARD

30

1 A. I -- 2007, I was about seventeen years old, and I was
2 not living at home.

3 Q. What do you mean, you were not living at home?

4 A. I was going through a hard time to where I completely
5 cut off the world. I wasn't here to help.

6 Q. Okay. So is it then your testimony you were not aware
7 of the hearing in February of 2007?

8 MR. HAZZARD: Thank you.

9 No further questions for this witness.

10 COURT REPORTER: I'm sorry. I didn't get your answer.

11 A. I wasn't here for it.

12 THE COURT: All right. You may step down, Ma'am.

13 MR. HAZZARD: The Defense calls Dr. Carlotta Abrams to
14 the stand.

15 THE COURT: Please come around and be sworn, Ma'am.

16 CARLOTTA LADYIZUMI ABRAMS, being
17 first duly sworn, testifies as follows:

18 THE COURT: And again, Mr. Hazzard, so that I'm clear,
19 the record is clear, you are, again, proffering this
20 testimony. This is new information, and understanding the
21 Court's ruling that's not the purpose of this hearing, you
22 wanted to make this part of record; is that correct?

23 MR. HAZZARD: That is correct, Your Honor.

24 THE COURT: All right. Very good. All right, you may
25 proceed.

1 DIRECT-EXAMINATION BY MR. HAZZARD:

2 Q. Ma'am, if you would, please spell your middle name of
3 the record.

4 A. L.a.d.y.i.z.u.m.i..

5 Q. Okay. Ma'am, are you an acquaintance of Nearin
6 Blackwell?

7 A. I am her best friend.

8 Q. Okay. And when did you and Ms. Blackwell meet?

9 A. 1986. Her father, Edward Blackwell, was a professor at
10 Wesleyan University when I was a student, and he was a famous
11 jazz musician in Middletown, Connecticut.

12 Q. Okay. And were you friends with Ms. Blackwell from the
13 time you met up until Ms. Blackwell started dating Mr. Selim
14 in 2001?

15 A. Yes, I was.

16 Q. Okay. At some point subsequent to meeting Ms.
17 Blackwell did you cut off your connections and contact with
18 her?

19 A. I cut off my connections and contact with her at
20 approximately 2002.

21 Q. Okay. And why did you cut off your contact with Ms.
22 Blackwell around 2002, Ma'am?

23 A. I was afraid for my own life from Mr. Selim.

24 Q. Okay. If you would, give the Court some information,
25 or give them whatever happened that caused you to be afraid

1 for your own life from Mr. Selim.

2 A. There were phone conversations between myself and Ms.
3 Blackwell where I could hear him in the background threatening
4 her, but also threatening anybody she knew, including me.

5 Q. Okay. And did you take these threats seriously?

6 A. I did.

7 Q. Based on your discussions with Ms. Blackwell did you
8 get the impression that she took these threats seriously?

9 A. Yes, she did.

10 Q. Okay. But yet she never left Mr. Selim?

11 A. She did not.

12 Q. Okay. Did you ever inform Ms. Blackwell -- what was it
13 about Mr. Selim that caused you to take his threats over the
14 telephone to harm Ms. Blackwell's family or friends, or anyone
15 who might try to take her away from him? What -- what about -
16 - what was it about Mr. Selim that caused you to take those
17 threats so seriously?

18 A. Kenneth Ali Selim had been involved with drugs, and
19 with gang, the Twenty Love Gang in Middletown, Connecticut.
20 He -- I also tried to investigate information on him at the
21 Sledging Internet at the time, understanding that his family
22 had some stores in the area. I couldn't find any information
23 on him. I could not find any information about who he was,
24 and I also would hear these threats, and I didn't know --
25 being a scholar of Central Asia, Southeast Asia, these

1 regions, I became scared for -- because of, I guess what I
2 know about -- what I know about domestic violence among these
3 particular communities, and it scared me, scared me.

4 Q. Let me stop you right there. Let me stop you right
5 there, because you did not ever meet Mr. Selim face to face?

6 A. No, but I had heard of him, and I had heard his voice
7 on the phone, and people in Middletown knew who he was. It's
8 not a very big town, so people were aware of his presence. I
9 knew people who lived near him, and the University was close
10 by to where they lived, and so I would hear reports, and I had
11 read reports on the internet about the incidents.

12 Q. Okay. Now I understand you are talking about the
13 reports that you read on the internet from the local
14 newspaper. Those are in the record here.

15 A. Yes.

16 Q. I don't want to discuss what someone else says that
17 they saw.

18 A. Exactly. Sorry. Yes.

19 Q. This is regarding your personal knowledge.

20 Now, in 2002 when you cut off contact -- so basically
21 then for about a year you tried to interact with Ms. Blackwell
22 as per usual while she was dating Mr. Selim; is that correct?

23 A. Yes.

24 Q. Okay. It was in your testimony then that during that
25 particular time period, during telephone conversations with

1 Ms. Blackwell, Mr. Selim made threats that you took very
2 seriously?

3 A. I did.

4 Q. Okay. Now where were you living at that time, 2001,
5 2002?

6 A. I was living in Phoenix, Arizona, but I did travel to
7 the Northeast occasionally where my family lived, so I would
8 be in that area from time to time.

9 Q. Okay. Now you indicated that you have a PhD. You were
10 referring to yourself as Dr. Abrams. Give the Court the
11 benefit of what your degree is in.

12 A. Okay. I have a Bachelor's Degree from Wesleyan
13 University in Middletown, Connecticut in Cultural
14 Anthropology, and Ethnography ---

15 THE COURT: I'm sorry, Mr. Hazzard. Are you attempting
16 to qualify this witness as some type of expert?

17 MR. HAZZARD: No sir, Your Honor. I was just wanted
18 some clarification. Someone referred to as a doctor ---

19 THE COURT: It's an educational degree then.

20 MR. HAZZARD: Yes sir.

21 THE COURT: Is what you are trying to tell me.

22 MR. HAZZARD: Yes sir.

23 A. Yes.

24 THE COURT: Very good. You may proceed.

25 MR. HAZZARD: Thank you, Your Honor.

1 Q. Okay. Now, did you ever meet Mr. Selim face to face?

2 A. No.

3 Q. Okay. During this time period, 2000 to -- 2001/2002,
4 when you were hearing these threats made by Mr. Selim did you
5 ever call the local constabulary, the police, anyone with
6 concerns for your friend's safety?

7 A. No, but I did know a number of people in the area, and
8 I asked them to, you know, watch out, and see if anything
9 would be going on, because I still had connections in the
10 Middletown area, and with the Wesleyan University Community.

11 Q. All right. Okay. All right.

12 MR. HAZZARD: Thank you, Ma'am. No further questions.

13 THE COURT: Cross-examination.

14 CROSS-EXAMINATION BY MR. RICHARDSON:

15 Q. Her father, what was -- you said he was a professor at
16 Wesleyan University?

17 A. Yes sir.

18 Q. What was he a professor of?

19 A. He was a professor of jazz, and a jazz musician
20 performer, who had performed with Ray Charles, Ellis Marcelus,
21 etcetera, famous.

22 Q. And you first met her at -- the Defendant, back in
23 1986, correct?

24 A. Yes sir.

25 Q. So she would have been about twenty years old at the

1 time?

2 A. Yes sir.

3 Q. And you did not really break contact until, when did
4 you say, 2001, 2002?

5 A. Yes sir.

6 Q. Okay. Back in 1994 where were you living?

7 A. In 1994 I was living in Mississippi.

8 Q. And did you maintain close contact with the Defendant
9 the that point?

10 A. Yes sir.

11 Q. You did?

12 A. I saw her.

13 Q. Where was she living at that time?

14 A. She, I believe, was living in Mississippi at that time.

15 Q. Did there ever come a time, to your knowledge, that she
16 lived in West Virginia?

17 A. No sir.

18 Q. Are you aware that she was charged with seven counts of
19 uttering -- forgery, in West Virginia, back in 1994?

20 A. No sir.

21 MR. HAZZARD: Your Honor, I would object with regard to
22 relevance. I'm not sure what this has to do with the
23 application of 16-25-90, which specifically deals with, "If an
24 individual is convicted of an offense, if the alleged victim
25 of that offense is proven to have committed criminal domestic

1 violent acts prior against the defendant", so I'm not really
2 sure ---

3 THE COURT: Well, what you are doing is trying to
4 present what you believe to be credible evidence, correct?

5 MR. HAZZARD: Yes sir.

6 THE COURT: All right. Would not be -- if I were to
7 use this testimony would it not be proper, for the purpose of
8 determining whether or not the evidence is credible, to test
9 the witness's knowledge as to the reliability, the
10 believability, the credibility of the Defendant, and her
11 information?

12 MR. HAZZARD: No. Considering the fact that the
13 witness has testi ---

14 THE COURT: I disagree. I'm going to allow the
15 Solicitor to continue. You may proceed, Solicitor.

16 MR. HAZZARD: Thank you. If I might put it on the
17 record. The witness's testimony ---

18 THE COURT: You have ---

19 MR. HAZZARD: ---Has been that she heard, of her own
20 knowledge ---

21 THE COURT: I appreciate that, but you are also testing
22 this witness's credibility, believability, reliability. That
23 is the purpose -- the crux of any testimony presented. The
24 person that is giving testimony themselves, is to be judged as
25 to their credibility, believability, reliability. That is the

CARLOTTA LADYIZUMI ADAMS - CROSS BY RICHARDSON

38

1 purpose of the cross-examination questions. I am going to
2 allow it.

3 Proceed, Solicitor.

4 MR. RICHARDSON: Thank you, Your Honor.

5 Q. Mr. Hazzard asked about your -- you indicated you had a
6 B.S. in Cultural Anthropology. What's your doctorate in?

7 A. It's in English, Asian American Studies, to be
8 specific.

9 Q. Okay. And you may have said that. I just missed it.
10 I apologize.

11 You were not living in Middlesex, Connecticut. Is it
12 Middlesex or Middle ---

13 A. Middletown, Connecticut. However, my family does live
14 in Connecticut.

15 Q. But you never personally observed any acts of violence?

16 A. No sir.

17 Q. And you were friends with the Defendant back in 1999;
18 is that correct?

19 A. Yes sir.

20 Q. And you heard prior testimony regarding a prior
21 boyfriend that was violent to the Defendant back in '99.

22 A. Yes sir.

23 Q. That was not the victim in this case, correct? That
24 wasn't Mr. Selim?

25 A. No.

1 Q. When was the last time you lived in Middletown,
2 Connecticut?

3 A. I left there in 1988 when I graduated from Wesleyan
4 University.

5 Q. And you have not returned to live there since?

6 A. I have not returned to live there, however, it is my
7 alma mater, so I do return to Middletown, Connecticut upon
8 occasion, and I do know many people there.

9 Q. In 2000 how many times did you go to Middletown,
10 Connecticut?

11 A. Once.

12 Q. And did you get up with the Defendant at that point?

13 A. I believe so. I believe I -- I would see her on a six
14 month -- three, six, twelve month basis, depending on the
15 year, that we knew each other.

16 Q. Every year?

17 A. Yes.

18 MR. RICHARDSON: Your Honor, I have no other questions
19 of this witness.

20 THE COURT: Anything else, Mr. Hazzard?

21 MR. HAZZARD: Nothing from the Defense for this
22 witness, Your Honor.

23 THE COURT: All right. You may step down, Ma'am.
24 Are there any other witnesses?

25 MR. HAZZARD: Yes sir, Your Honor. The Defense would

FRANCES ELIZABETH BLACKWELL - DIRECT BY HAZZARD

40

1 call Frances Blackwell, the Defendant's mother, to the stand,
2 and the Defense also notes that, with regard to Dr. Abrams the
3 Prosecution reserves the right to cross as far as any record
4 that she may have.

5 THE COURT: All right. Very good.

6 All right, Ma'am, if you would come around over here to
7 be sworn.

8 FRANCES ELIZABETH BLACKWELL, being
9 first duly sworn, testifies as follows:

10 THE COURT: All right. And again, Mr. Hazzard, this --
11 you are proffering the testimony of this witness as new
12 evidence in this matter, again, with the understanding that
13 the Court's ruling that was not the purpose of this hearing;
14 is that correct?

15 MR. HAZZARD: That's correct, Your Honor.

16 THE COURT: And apparently the witness indicated to the
17 Clerk, when she was administering the oath, that she is hard
18 of hearing, so if y'all will take that into consideration when
19 you are asking her questions. Thank you.

20 MR. HAZZARD: Yes sir.

21 DIRECT-EXAMINATION BY MR. HAZZARD:

22 Q. Ms. Blackwell, if you will -- I'm sorry -- Ms.
23 Blackwell, if you will, tell us the nature of your
24 relationship to the Defendant, Nearin Blackwell.

25 A. She's my daughter.

1 Q. Okay, Ma'am, and how old are you at the present time?

2 A. I am seventy-seven.

3 Q. And what was the nature of your relationship with your
4 daughter back in 2001 when she started dating Kenneth Selim?

5 A. The relationship was just like a relationship with my
6 daughter. I loved her. She came to visit me in Florida at
7 Mother's Day, and I wanted her to stay a little longer, but at
8 that time she had just met Kenny, and didn't want to stay.
9 She said that she needed to get back because he wanted her to
10 be back.

11 Q. And this is around May of 2001?

12 A. Yes.

13 Q. Okay. And she wanted to stay longer, you wanted her to
14 stay, but she felt she couldn't because Mr. Selim wanted her
15 to come back to Connecticut.

16 A. Yes.

17 Q. You were living in Florida at that time; is that
18 correct?

19 A. Yes.

20 Q. During this time period, 2001 to 2005, you resided in
21 Florida the whole time; is that correct, Ma'am?

22 A. Yes.

23 Q. Okay. Now, did you ever meet Mr. Selim?

24 A. No, I did not, except over the telephone.

25 Q. Okay. And did you ever talk with him directly where he

1 identified himself as Kenneth Selim?

2 A. Yes, I did.

3 Q. If you would, were there ever any instances where you
4 heard physical violence by Mr. Selim directed toward your
5 daughter, or threats of physical violence directed toward your
6 daughter, you or anyone else, by Mr. Selim?

7 A. Yes, I did.

8 Q. And as specifically as you can, please relay those
9 incidents to the Court, Ma'am.

10 A. There were times when I would be on the phone with my
11 daughter and he would be in the background yelling at her,
12 threatening her, threatening to kill her children, you know,
13 and one time he was on the phone with me, cause he always
14 called to ask for money, and he would call me mom, and I
15 really thought that somehow the love would -- would overcome
16 the violence, but it escalated, and he one time even told me,
17 if you send your daughter money I will find her, if she comes
18 to you I'll find you, and you'll have to pay, you know. I was
19 afraid of him. I was afraid for my daughter. I expected to
20 get a phone call any time to say that she had been killed by
21 him. That's what I truly, truly expected to happen to my
22 daughter, but there was nothing I could do to help her. I had
23 to protect my granddaughter.

24 Q. And when you say your granddaughter you mean Menina
25 Kidwell?

1 A. Yes.

2 Q. Okay. And was Menina living with you at that time?

3 A. Yes, she was.

4 Q. Okay. Why -- I guess I'm trying to get some
5 understanding as to the dynamics of Mr. Selim calling on
6 occasion, calling you mom and asking you for money ---

7 A. Uh huh (indicating positive) Yes.

8 Q. ---But then other times being threatening toward you,
9 either directly over the phone, or you could hear in the
10 background.

11 A. Yep.

12 Q. Could you tell in those conversations what was the
13 cause of the threats?

14 A. I think he was just a violent person, and I think
15 sometimes he was trying not to be, but I also think that the
16 more he drank alcohol the more violent he would become, and
17 that's the only thing I could attribute it to. One time it
18 was so bad -- and I told my daughter I was going to call 911,
19 and she started begging me, and pleading me, don't do that,
20 you've just make it worse, you know, so I didn't, you know.

21 Q. To your knowledge, were there instances where your
22 daughter had filed reports against Mr. Selim?

23 A. I'm sorry. I didn't hear that.

24 Q. Do you have any knowledge as to whether your daughter
25 ever filed incident reports against Mr. Selim during their

FRANCES ELIZABETH BLACKWELL - DIRECT BY HAZZARD

44

1 relationship?

2 A. Yes. And one time she even called me from the
3 hospital, and at that time is when he had dragged her down the
4 street and banged her head on the sidewalk. I talked to the
5 doctors, I talked to the nurses there, and they affirmed
6 everything that had happened to her. It was so bad she
7 thought that her daughter that was with me, Menina Kidwell,
8 was three years old, and that's how -- she didn't even
9 remember having other children at that time, and the nurses
10 said that that was -- that was due to the medication that they
11 had given her at the time.

12 All I know is, it was a horrible, horrible five year
13 relationship, and every day I wished that she would be out of
14 it.

15 Q. To your knowledge did your daughter have previous
16 abusive relationships prior to ---

17 A. Yes. Yes, she did. Each one was worse than the other
18 one, but the last one was really worse of all of them.

19 Q. Now, when you say that you have a child, your child,
20 your daughter, and you believe that, as a parent that based on
21 the person they are in a relationship with, that you are going
22 to receive a phone call from the authorities saying that that
23 person she is dating and living with has killed your child ---

24 A. I lived with that for five years, sir.

25 Q. ---Why didn't you do anything about it?

1 A. I didn't know what I could do, I really didn't. I
2 begged her to leave the relationship. I begged her -- all
3 kinds of things, go stay with your cousin, go somewhere, and a
4 few days, or maybe the day of his death she had called me.
5 She was -- had run away, and she was hiding underneath the
6 boardwalk of the beaches somewhere, and she was hoping that he
7 wouldn't find her, and I said, if you make it through the
8 night call me, I will send money for a bus ticket, but
9 circumstances didn't allow for that to happen. I wanted her
10 out of that relationship. I didn't know any other way to help
11 her.

12 Q. Did your daughter ever ask you for help to get out of
13 the relationship?

14 A. At the very end she did. She said, I have to get away,
15 and she was hiding, and she was hoping he wouldn't find her,
16 but he did.

17 Q. And this was after they had moved to Myrtle Beach?

18 A. Yes. Uh huh (**indicating positive**)

19 Q. You never contacted the authorities regarding his
20 constant threats, and his actions toward your daughter?

21 A. What's interesting is that they were only here two
22 weeks, I think, two to three weeks at the most. I'm not sure
23 of the time line. But in Connecticut the authorities were
24 well aware of everything, all of the domestic abuse calls, all
25 of the threats, everything, and here they weren't aware of it,

1 you know, so ---

2 Q. How do you know the police were aware in Connecticut,
3 Ma'am?

4 A. Because it was -- I know because it was in the
5 newspapers, I know because the arresting officers' names were
6 listed. Some of them I knew from growing up with my son, you
7 know. It was not a large town. It was a small college town,
8 and everybody knew everyone. I even had friends of mine and
9 my husband's calling me with their concerns about her because
10 it was always in the newspapers, and it was really, really a
11 bad situation. Everyone was concerned about her, but she's a
12 stubborn person. She didn't want to leave the relationship
13 because she thought somehow he would be the one that would
14 love and cherish her, even with all the domestic violence, and
15 I would tell her, it's not going to get better, it's going to
16 get worse, and it did, and I wish I had found a magic
17 something to have gotten her out of that relationship, but I
18 even prayed, God, help me help her.

19 Q. How old were you in 2001? How old were you ten years
20 ago?

21 A. How old was I in 2001? Oh my God, I don't know. I'll
22 be seventy-eight in June. That's a couple of weeks from now,
23 so you do the math, I can't.

24 Q. Ten years ago you would have been around sixty-eight or
25 sixty.

1 A. There you go. Yes.

2 Q. Did you feel that you were physically in a condition to
3 hop in the car, drive up to Connecticut and, you know, get
4 your child, and protect your child the best ---

5 A. No. I had health issues at the time. I had -- I
6 didn't know I had Pernicious Anemia, and my hemoglobin went
7 down to five, and they didn't know I was going to make it or
8 not, and I had back issues, you know, so to drive would have
9 been excruciatingly painful for me, so I couldn't, and I
10 didn't have a car that would have made the trip anyway, and
11 also finances were a question, you know.

12 MR. HAZZARD: Thank you. Please answer any questions
13 that the Prosecutor or the Court may have.

14 A. Thank you.

15 THE COURT: Solicitor.

16 MR. RICHARDSON: Thank you, Your Honor.

17 CROSS-EXAMINATION BY MR. RICHARDSON:

18 Q. Ms. Blackwell, I'll try and be brief. Your daughter,
19 did she grow up with you, living in the house?

20 A. Can you speak a little clearer?

21 Q. Oh, I'm sorry. Your daughter, did she grow up living
22 in your house?

23 A. My granddaughter.

24 Q. Your daughter.

25 A. What about her?

FRANCES ELIZABETH BLACKWELL - CROSS BY RICHARDSON

48

1 Q. Nearin, did she live with you her entire childhood?

2 A. Yes, she did.

3 Q. Did there ever come a time when she lived with her ---

4 A. You have to look at me to talk to me.

5 Q. Oh, I'm sorry. I apologize. Did there ever come a
6 time when she lived with, I believe it was her Uncle Donald,
7 or cousin Donald that she called uncle?

8 A. Actually she lived with me her whole life. When she
9 would go visit her cousin Donald and his mother it was for a
10 weekend or a week, that was it, and when she -- when she was
11 two years old we went to Morocco, and we were there for two
12 years, so by the time she came back it was time for school,
13 and that was it.

14 Q. So any statements she made to other people about being
15 taken out of her home and living with her Uncle Donald because
16 you were unable to care for her, that would be incorrect,
17 would it?

18 A. That would be incorrect.

19 Q. Your husband was a famous jazz musician?

20 A. Yes.

21 Q. He was well known around Middletown?

22 A. He was well known around the world.

23 Q. He was, I assume, big time musician at a small
24 college ---

25 A. No. He was well known everywhere. He played with

1 great musicians, and he was a great musician himself.

2 Q. And they loved him at Wesleyan, didn't they?

3 A. Yes. Uh huh (indicating positive)

4 Q. Your family was well known in ---

5 A. Yes. Uh huh (indicating positive)

6 Q. Kenny Selim was not from Middletown, correct?

7 Kenny Selim was not from Middletown, correct?

8 A. No. I don't know where he was from. I only knew his
9 mother lived in Texas.

10 Q. So those police officers would have known Ms. Blackwell
11 growing up, correct?

12 A. Yes, they would have. They knew our whole family.

13 Q. And you did not come to testify in 2007, correct?

14 A. I had no idea there was anything going on in 2007.
15 That's when I was going through being really ill.

16 Q. How about in June of 2005, when your daughter was
17 charged?

18 A. I couldn't come then. That's also when I was really
19 ill.

20 Q. Did you ever call Myrtle Beach Police Department?

21 A. I'm sorry.

22 Q. Did you ever call the Myrtle Beach Police Department?

23 A. Yes, I did.

24 Q. You did?

25 A. Yes, I did.

FRANCES ELIZABETH BLACKWELL - CROSS BY RICHARDSON

50

1 Q. Do you remember who you spoke with?

2 A. A detective. I don't know what his name was. I even
3 told him this really surprised me, because I thought they
4 would be calling to tell me that my daughter was dead.

5 Q. You had no idea that your daughter could commit an act
6 of violence?

7 A. Not at that time, no.

8 Q. You were aware that she was previously arrested and
9 convicted for assault.

10 A. I'm sorry.

11 Q. You do know that she was convicted previously for
12 assault.

13 A. Yes, both of them were, out of the same incident, and
14 she was just defending herself, but the law in Connecticut is,
15 if you strike a person, and they strike you, both of you have
16 committed offenses.

17 Q. And you love your daughter, correct? You do love your
18 daughter, correct?

19 A. I love her dearly.

20 Q. And you told Mr. Hazzard you never called 911.

21 A. I never did, because when I told her I was going to it
22 escalated the situation, and she thought it would get worse,
23 and that he would take it out on her if the police were
24 called.

25 Q. How about back in 1999, with her prior boyfriend?

1 A. That, I would call the boyfriend's mother and they
2 would handle it on that end.

3 Q. Was he from Middletown as well?

4 A. I can't ---

5 Q. Was he from Middletown, that prior boyfriend?

6 A. No. They were from Waterbury, Connecticut.

7 Q. But you knew that -- you knew the family?

8 A. I knew the family, Uh huh (*indicating positive*) This
9 is the only relationship she had where I did not know the
10 boyfriend, and I didn't know the family.

11 MR. RICHARDSON: Court's indulgence, Your Honor.

12 THE COURT: Yes sir.

13 MR. RICHARDSON: Your Honor, I have no further
14 questions of this witness.

15 THE COURT: Anything else, Mr. Hazzard.

16 A. Thank you.

17 MR. HAZZARD: Nothing further for this witness, Your
18 Honor.

19 THE COURT: All right.

20 MR. RICHARDSON: And Your Honor, I have looked through
21 the NCIC. There doesn't appear anything that I need to cross-
22 examine these witnesses on.

23 THE COURT: All right, sir. Very good.

24 All right. Further witnesses on behalf of the
25 Defendant.

DEFENSE'S SUMMATION (HAZZARD)

52

1 MR. HAZZARD: No further witnesses on behalf of the
2 Defendant, Your Honor.

3 THE COURT: All right, sir. Any further presentation
4 on behalf of the Defendant?

5 MR. HAZZARD: Yes sir, Your Honor. I would ask, and
6 point out for the record, that in February of 2007, at this
7 sentencing hearing, would ask the Court to also review and
8 consider the testimony of, I believe it was a Ms. Jerry
9 Sanders, as well as Dr. Marty Loring, who also testified, and
10 we would point that out, and a part of -- and that Transcript
11 has been made a part of the record for the purposes of appeal,
12 if necessary.

13 THE COURT: Those were the -- those were the witnesses
14 that testified on her behalf at that time.

15 MR. HAZZARD: That's correct, Your Honor. We simply
16 point that out and ask the Court to consider that since we are
17 obviously here for a determination on 16-25-90.

18 Your Honor, in looking at 16-25-90, obviously it says
19 that the Defendant in this case has to present credible
20 evidence of a history of criminal domestic violence as defined
21 in 16-25-20, and that this criminal domestic violence was
22 suffered at the hands of the household member in question,
23 that being Mr. Kenneth Selim. And in looking at State versus
24 Grooms, South Carolina Supreme Court case, November of 2000,
25 343 S.C. 248, 540 S.E. 2d. 99, State versus Grooms says that,

1 you know, the Defendant, in this case Ms. Blackwell, has to
2 present credible evidence, and that it has to be to a
3 preponderance that this history of criminal domestic violence
4 does indeed exist, and in ~~Grooms~~ they define credible evidence
5 as evidence that is worthy of belief, trustworthy evidence,
6 with trustworthy being defined as worthy of trust, dependable
7 and reliable.

8 Now, in February of 2007 this Court was presented with
9 documentation regarding a February 9, 2002 Incident Police
10 Report that indicates that Ms. Blackwell was beaten outside of
11 a location called the Pizza Bella, that Mr. Selim was
12 subsequently arrested for that, subsequently convicted of that
13 offense.

14 December 19th of 2002, Middletown Police Department
15 document presented to the Court back in '07, indicated that
16 Ms. Blackwell taken to the hospital, the police go there, her
17 injuries are so severe that they felt the need to document
18 them, pictures of abrasions on her lower inner lip, redness
19 and bruising on her left upper arm, lacerations on her right
20 inner arm, and a laceration on her lower back. That is an
21 incident for which Mr. Selim spent a year in prison regarding
22 that matter, Your Honor, and I would point out also that all
23 of the evidence that has been presented, both in 2007 and
24 today, to my knowledge, indicate that from 2001 through the
25 time of his death Mr. Selim and Ms. Blackwell were co-

DEFENSE'S SUMMATION (HAZZARD)

54

1 habitating, thus falling within the rubric and the number of
2 the domestic violence statute.

3 In May of 2002. Documentation presented to the Court in
4 2007 regarding the Defendant -- or not the Defendant -- Mr.
5 Selim having beaten a gentleman by the name of Ray Parmley in
6 Ms. Blackwell's presence -- and the telling thing about that
7 document, I'm sure why it was presented back in '07, is that
8 the police officer who wrote the report -- and all of these
9 are police documents, not something written by Ms. Blackwell
10 to any of her family or friends, the police officer who wrote
11 the report indicates he requested that Ms. Blackwell give him
12 a statement against Mr. Selim, and she indicates at that time
13 that she would not, she would tell them the truth as to what
14 would happen, but she would not swear out a formal statement
15 because she had done so before and had suffered physical
16 retribution and reprisal at the hands of Mr. Selim as a
17 result, and that she would not do that again.

18 A hospital report from Dr. Cosentino, dated April 12th
19 of 2004, at Middlesex Hospital, again, not any document from
20 Ms. Blackwell to any of her family or friends, indicates that
21 Ms. Blackwell showed up at the hospital because she was out of
22 her epilepsy medication and her injuries to her face were
23 severe enough that the doctor felt the need to put that in the
24 report, even though her purpose for going to the hospital was
25 because she was out of her epilepsy medications. He puts in

1 the report that was submitted to this Court in '07 that she
2 had facial bruising that appeared to be approximately three
3 days old, that based on his, Dr. Cosentino's prior dealings
4 with her that he knew of the history of physical abuse,
5 domestic violence perpetrated by Mr. Selim against Ms.
6 Blackwell.

7 Also provided to the Court in the '07, a record from the
8 Middlesex Hospital dated June 1st of 2004 indicating that Ms.
9 Blackwell was at the hospital with injuries consistent with
10 domestic abuse. And it also states that her ophthalmologist,
11 Elizabeth Rocco, had previously had knowledge of this abuse.

12 And in January 22nd of 2005, that is the one incident
13 where both Ms. Blackwell and Mr. Selim were arrested when she
14 defended herself, literally defended herself with a grate off
15 of the bottom of a refrigerator. You know, he's on top of her
16 and she takes it and she hits him with it, but again, as seems
17 to happen to her, anytime she fights back she ends up getting
18 arrested as well, and she is, in fact, arrested as is he, and
19 he did serve time for that. Her charges either -- nothing
20 ever happened to their charges because they ended up moving to
21 South Carolina. I don't know if they are still technically
22 pending against her, or whether they were subsequently
23 dropped, but she did not go to court because another document
24 that was presented to the Court in the 2007 hearing, which I
25 do not see a record of now, is a statement from Mr. Selim to

DEFENSE'S SUMMATION (HAZZARD)

56

1 Connecticut's version of the Victim's Advocate -- because this
2 is like a cross warrant thing -- asking that Ms. Blackwell's
3 charges be dismissed, and claiming that because of his drunken
4 rages is what caused the problem to begin with.

5 Your Honor, I've also provided to the Court, and the
6 Court has been good enough to look at the Connecticut
7 Department of Corrections list with regard to movement of
8 individuals -- if the Court would bear with me one second,
9 Your Honor -- I apologize -- you will note, Your Honor, that
10 Mr. Selim again served time in prison on at least three
11 different occasions for incidents that match up specifically
12 to the dates in these Incident Reports that have been provided
13 to the Court, because I believe in February, 2007, looking at
14 the Transcript, one of the issues was that there supposedly
15 was not any proven conviction, that the Incident Reports, for
16 some reason, did not speak for themselves, and did not deal
17 with or tie into a conviction. There are three different
18 instances, at least, right off the top of my head, where his
19 actions against Ms. Blackwell led to him being incarcerated in
20 the Connecticut Department of Corrections.

21 Your Honor, we really can't -- and this is all based on
22 what was provided to the Court in 2007. With regard to the
23 documentation, the police reports, the incident reports, I do
24 not know of any greater or more compelling evidence that we
25 can submit to the Court, and I will, under the guise of -- and

1 under the area of new information, stretch the Court's
2 patience for one more minute, and in coming in on this case,
3 you know, four years after the fact, and having no knowledge
4 of it, I got to look at some of the documentation contained,
5 and apparently prior trial counsel, Ms. Blain-Olds, had asked
6 the Defendant to write out a statement, and I want to put part
7 of that in the record under new evidence. It is not a self-
8 serving statement, really. It's just one that I think goes to
9 her state of mind.

10 THE COURT: I'm sorry. This is something that you had
11 in the Public Defender's file; is that correct?

12 MR. HAZZARD: Apparently so, Your Honor.

13 THE COURT: All right.

14 MR. HAZZARD: Okay.

15 THE COURT: It was never presented at any point in
16 time, nor was the Court made aware of this document at any
17 point in time.

18 MR. HAZZARD: No sir, Your Honor.

19 THE COURT: And it's not been given to the Solicitor,
20 even as we stand here at this point in time?

21 MR. HAZZARD: I do not know if Ms. Blain-Olds provided
22 this to the Prosecutor ---

23 THE COURT: You have no information that the Solicitor
24 has this information?

25 MR. HAZZARD: No sir, not at the present time.

DEFENSE'S SUMMATION (HAZZARD)

58

1 THE COURT: All right. Very good. Again, under the
2 allowance that the Court gave you to submit new information
3 that was never presented to the Court, nor the basis of my
4 decision on February 27, 2007, and in an effort to allow you
5 to proffer the information that you wanted to in this hearing
6 I'll allow you to do so. You may continue.

7 MR. HAZZARD: Thank you, Your Honor. Defense greatly
8 appreciates that.

9 This is an undated document in the handwriting of Nearin
10 Selim, and it says, in the pertinent part, "Met Kenny. About
11 five months after we got together he got abusive. We both
12 fought, but he and I knew we didn't have nobody else. I was
13 told how to act, be, and dress. To avoid arguments I called
14 it damage control. I would do what he asked. We'd fight. He
15 would cheat, I would cheat, but we would always come back. I
16 don't know, connection. At the time neither one of us could
17 live without each other. I knew that it didn't matter how
18 long we were apart, he would always find me, and I would
19 always take him back. He had no one else, and no matter how
20 much he would hurt me, or we would fight, I knew he would
21 sober up, and so would I, and he would be back to the person
22 he was before the drugs and booze took over. When we were
23 both sober is when he was the man I fell in love with, not the
24 man who scared me, or that I fought with. I had quit doing
25 drugs, although at some points like, I'm not sure, five or so

1 maybe, I slipped and got high. Why, I don't know. I guess to
2 forget. But I kept drinking, not as heavily, but I did. You
3 see, Kenny knew all about my past, my brothers, etcetera, and
4 he loved me anyway. He used to say, who else would love
5 damaged goods like me the way he does. And I'm sure most of
6 the times I deserved what I got, because I wasn't doing or
7 being correct with what he wanted. He was very jealous, and
8 add booze and drugs, he got evil, but he was the only one who
9 could hurt me. No one else would put their hands on me, not
10 in front of Kenny."

11 Your Honor, the Defense has nothing else.

12 THE COURT: Very good.

13 MR. RICHARDSON: Your Honor, nothing we've heard today
14 has changed one thing from the prior findings of the Court.
15 There are two instances on that NCIC that could possibly be
16 linked as where the Defendant was a victim of some assault,
17 and in at least one there was mutual combat by her own
18 witness's testimony.

19 The witnesses who testified today said they never even
20 came into contact with Mr. Selim, they had no direct
21 knowledge, heard nothing. There's testimony that, with regard
22 to those police reports that we see that have not been bedded,
23 have not been -- no one has taken the stand to testify that
24 has personal knowledge on those reports, Your Honor.

25 The Defendant's family was very well known in town, knew

COURT'S RULING

60

1 everybody, the police would know the Defendant. I put to the
2 Court, there would be a reason why these -- put Mr. Selim in
3 any bad light. Additionally, they shouldn't be taken -- they
4 shouldn't be given any account whatsoever as they've not been
5 sworn, bedded, whatever. Affidavits are nice, but if someone
6 wants to testify in court the way to do it is to come and be
7 sworn, Your Honor. There's been nothing to change that would
8 satisfy the Rule showing a history of domestic violence. Has
9 she been through domestic violence before? Yes, in '99 she
10 had a boyfriend that was very abusive. Her own daughter said
11 that. Nobody else witnessed anything else, Your Honor.

12 Thank you.

13 THE COURT: All right. All right. In this particular
14 matter the Court took the guilty plea of the Defendant to the
15 charge of voluntary manslaughter. At the time of the plea
16 detailed facts of this case were stated by the Solicitor. The
17 Defendant was aware of the crime of voluntary manslaughter and
18 what the State must prove to convict someone beyond a
19 reasonable doubt of the crime of involuntary manslaughter.
20 The Defendant had been charged with the crime of murder. A
21 true-bill by the Horry County Grand Jury having been rendered
22 on that crime on July 28, 2005.

23 The Defendant agreed with, and admitted the facts of
24 this case as stated by the Solicitor at the time that she pled
25 guilty to the crime of voluntary manslaughter. I thereafter,

COURT'S RULING

61

1 after accepting the guilty plea of the Defendant to the crime
2 of voluntary manslaughter, I allowed the Defense time, and
3 delayed the sentencing hearing at that time to allow the
4 Defense to collect information, and to present that
5 information to me at a later date. That later date was
6 February 27th, 2007, at which time the Defense presented the
7 information as reflected by the Transcript of Record,
8 testimony of the witnesses, the Defendant, certain
9 documentation that was made. The Solicitor made a short
10 statement as to the facts, referring back to the detailed
11 statement of facts that had been given at the time of the
12 acceptance of the guilty plea. A short rendition of those
13 facts is reflected in the Transcript of Record.

14 In this particular matter the South Carolina Supreme
15 Court, pursuant to it's Order submitted March 15, 2011, filed
16 March 21, 2011, stated that because the plea Judge failed to
17 make specific findings of fact with regard to his ruling that
18 Petitioner was not entitled to early parole eligibility
19 pursuant to 16-25-90, we grant the Petition for Writ of
20 Certiorari, dispense with further briefing, vacate the Court
21 of Appeals Opinion, and remand the case to the Circuit Court
22 to make such finding.

23 In this same Decision the South Carolina Supreme Court
24 stated that, pursuant to 16-25-90 a person who is convicted
25 of, of pleads guilty to an offense against a household member

COURT'S RULING

62

1 is eligible for parole after serving one-fourth of his or her
2 prison term if the person presents credible evidence of a
3 history of criminal domestic violence as defined in South
4 Carolina Code 16-25-20 suffered at the hands of the household
5 member. Such a history must be proven by a preponderance of
6 the evidence, therefore, mere production of the evidence does
7 not automatically result in earlier parole eligibility.
8 Instead, the Defendant must persuade the Judge by presenting
9 proof which leads the trier of facts to find that the
10 existence of the contested fact is more probable than it's
11 non-existence. Moreover, the use of the term of credible
12 evidence indicates that the Legislature intended the
13 defendant's evidence to be, in fact, trustworthy, not simply
14 plausible. The defendant must persuade the Judge her evidence
15 is reliable, again, by the preponderance of the evidence
16 standing.

17 I took into consideration the facts of this case, how
18 the crime occurred, the criminal record of the defendant, the
19 medical examiner's report in this particular case, I took the
20 facts as presented by the Defense, record of the victim, the
21 matters that were presented. The -- in the Transcript of
22 Record there was a brief statement by the Solicitor that the
23 Defendant stabbed her common law husband, life-in boyfriend,
24 cohabitation for some time, in the chest. He died as a result
25 of that stab wound. The State read in the -- referring back

COURT'S RULING

63

1 to the previous plea -- read into the report -- read into --
2 should have been the record -- the report of the medical
3 examiner who stated that a stab wound to the abdomen, a
4 downward motion, left to right, front to back, which is
5 contradictory to the statement that had been produced by the
6 Defendant.

7 I took into consideration the law of voluntary
8 manslaughter, what is required by the State of South Carolina
9 to prove a defendant guilty beyond a reasonable doubt, the
10 facts stated by the Solicitor, those being admitted, under
11 oath by the Defendant. Again, hearing all the matters
12 presented by the Defense, based upon my evaluation of the
13 evidence, my personal observations, the mannerism, the tenor
14 of voice, how the matters were stated to the Court, the
15 personal observations of the Trial Judge, I used this
16 information to judge the credibility, the believability, and
17 the reliability of the matters presented by the Defense, and
18 also the matters presented by the State. I took all the facts
19 for and against the Defendant into consideration, first in my
20 sentence for the crime of voluntary manslaughter, which
21 carries a sentence of anywhere between two to thirty years in
22 arriving at my sentence of twenty years, more than the
23 minimum, less than the maximum. I took all those matters into
24 consideration in my decision, that based upon the
25 preponderance of the evidence standard, and the matters that

COURT'S RULING

64

1 were in the record, as presented, that there should be no
2 finding of parole eligibility pursuant to 16-25-90. I found
3 at that time to be the proper sentence and finding by this
4 Court on February 27, 2007, and I, again, reaffirm, and find
5 that to be correct.

6 I found the evidence presented by the State, in fact, to
7 be more trustworthy, more plausible, more reliable than that
8 presented by the Defendant. Again, taking all the matters
9 into consideration, I take all the matters that were given by
10 the Defendant in arriving at my sentence. I stated that the
11 purpose of this hearing was to state the Court's position in a
12 more full and complete manner as indicated by the Supreme
13 Court Decision. I have not only stated the facts I relied
14 upon as presented by the State at the original guilty plea,
15 but also based upon, as I must, the personal observations that
16 this Court made, again, of all the witnesses presented by the
17 Defense.

18 Notwithstanding this, as far as the -- or in addition to
19 that, the new information that was presented, while I do not
20 feel it is proper I did allow the Defense to proffer it so
21 that it is part of the appellate record. I do not find
22 specifically that to be the purpose for which this matter was
23 resubmitted to the Court to conduct a de novo hearing, but to
24 give decisions why I made my decision on February 27, 2007.
25 Even using the new information I will state for the record,

COURT'S RULING

65

1 that does not change my decision in any shape, manner or form.
2 I believe the proper sentence in this matter is, and was,
3 twenty years, with no finding of parole eligibility. I have
4 found the matters presented by the State to be more credible
5 and more believable. I have had the opportunity to observe
6 the witnesses, judge their credibility, and not just read
7 their words in the record. The Defendant has not carried her
8 burden of proof by the standard of preponderance of the
9 evidence. I have weighed the evidence as indicated earlier.
10 I am not persuaded by her evidence, nor do I find her evidence
11 to be credible or believable. Such is the ruling of the Court
12 in this matter.

13 Thank you very much.

14 MR. RICHARDSON: Thank you, Your Honor.

15 -----END OF REQUESTED TRANSCRIPT OF RECORD-----
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF COURT REPORTER

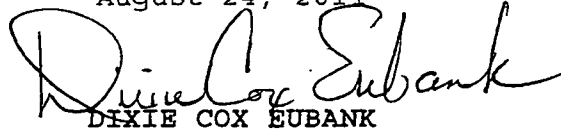
66

C E R T I F I C A T E

I, the undersigned, DIXIE COX EUBANK, Official Court Reporter for the Fifteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the HEARING of the captioned case, relative to appeal, in the COURT OF GENERAL SESSIONS for HORRY COUNTY, SOUTH CAROLINA, on the 11th day of May, 2011.

I DO FURTHER CERTIFY that I am neither of kin, counsel nor interest to any party hereto.

August 24, 2011



DIXIE COX EUBANK

CIRCUIT COURT REPORTER

FIFTEENTH JUDICIAL CIRCUIT

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF HORRY)

Nearim Blackwell-Selim 320359
 Full name and prison number (if any) of Applicant.

13

6066

v.)

APPLICATION FOR)

State of South Carolina)

POST-CONVICTION RELIEF)

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legible 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 Camille Graham Corr. Inst., Columbia, SC
2. Name and location of Court which imposed sentence Horry County Gen. Sess.
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2005-GS-26-2615, Voluntary Manslaughter
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) February 27, 2007 - 20 years
 - (b) _____

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty yes
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals
- ii. S.C. Court of Appeals
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Dismissed
- ii. Dismissed - Affirmed
- iii. _____
- (c) the date of each such result:
- i. September 15, 2009
- ii. October 24, 2012
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Counsel
- (b) _____
- (c) _____

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

- (a) I should have been tried under 16-25-90
- (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? yes
- (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)? yes
- (d) any other petitions, motions or applications in this or any other Court? yes

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. Writ of Certiorari
- ii. _____
- iii. _____
- iv. _____

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

- i. S.C. Supreme Court, Columbia, SC
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. Vacated and Remanded
- ii. _____
- iii. _____

- iv. _____
- (d) the date of each such disposition:
- i. March 21, 2011
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- 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?
- yes
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. To state specific fact on finding of eligibility v.
- ii. ineligibility 16-2590
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. Of evidence old and new
- 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) My family testified in 2011 - victim threatening my family
- (b) Missing evidence from Clerk of Court and Public
- (c) Defenders Offices - Victim Statement
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? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

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

- (a) the name and address of each attorney who represented you:
- i. Barbara Blain - Olds - Horry County Public Defender
 - ii. M. Celia Robinson, Robert Pachak - Indigent Defense
 - iii. Ronald Hazzard - Horry County Public Defender
- (b) the proceedings at which each such attorney represented you:
- i. Sentencing
 - ii. Appeal (Direct) - Second Appeal
 - iii. Writ of Certiorari

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

Parole Eligibility, reduced sentence or time served

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

NO

STATE OF SOUTH CAROLINA)

County of Horry)

13 VERIFICATION

60060

I, N. Blackwell-Selim, 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.

Nearin Blackwell-Selim

SWORN to and subscribed before me this 30th
day of August, 2013.

Urbis K. Padgett

Notary Public

(L.S.)

My Commission Expires: 08/25/2015

CLERK OF COURT
13 SEP -5 PM 3:09
CLERK OF COURT

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

13

6066

I, N. Blackwell-Selim, 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.

Nearin Blackwell-Selim
Applicant

SWORN or affirmed to and subscribed before me this
30th day of August, 2013.

Vicki R. Padgett
Notary Public

My Commission Expires: 08/25/2015

CLERK OF COURT
13 SEP -5 PM 3:09

The South Carolina Court of Appeals upheld Judge John's ruling on Sept. 15, 2009. State v. Blackwell-Selim, 385 S.C. 394, 684 S.E.2d 208 (Ct. App. 2009). The Court of Appeals denied Applicant's petition for rehearing on October 22, 2009, but the South Carolina Supreme Court granted Applicant's petition for writ of certiorari. The Supreme Court reversed the Court of Appeals on March 15, 2011, remanding to the circuit court to make specific findings of fact with regard to the parole eligibility ruling. State v. Blackwell-Selim, 392 S.C. 1, 4, 707 S.E.2d 426, 428 (2011).

Applicant appeared before Judge John again on May 11, 2011. Ronald W. Hazzard represented Applicant at that hearing. Judge John again found Applicant was not entitled to parole eligibility under the statute. Applicant filed a timely notice of appeal from that ruling, and Robert M. Pachak, Esquire, of the Office of Appellate Defense perfected the appeal. The Court of Appeals affirmed Judge John's ruling on October 24, 2012. State v. Blackwell-Selim, Op. No. 2012-UP-566 (S.C. Ct. App. filed October 24, 2012).

II.

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

1. "Ineffective Counsel"
 - a. "I should have been tried under 16-25-90"

Applicant states the relief she seeks is "Parole Eligibility, reduced sentence or time served."

Any claims not specifically enumerated in the application or amendments thereto will be opposed by Respondent at the evidentiary hearing. All amendments should be made well in advance of hearing and should be filed in compliance with Rule 11, SCRCP.

Attached to this return and incorporated herein are the records of the Horry County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, and the appellate records. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegation of ineffective assistance of plea counsel is without merit. 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, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of plea counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process" that the plea proceedings "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes plea counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. Id. at 117, 386 S.E.2d at 625. First, the Applicant must prove plea counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, plea 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. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show 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, 59 (1985).

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

IV.

To the extent Applicant challenges her parole eligibility pursuant to S.C. Code Ann. § 16-25-90, Respondent submits that issue has already been decided on direct appeal. Post-conviction relief "is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction." S.C. Code Ann. § 17-27-20(b); see also Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) ("It is uniformly held that an application for post-conviction relief is not a substitute for an appeal."). Applicant's allegations regarding her parole eligibility were raised and ruled upon in her direct appeal. Therefore, Respondent requests

these allegations be dismissed pursuant to Rule 12(b)(6), SCRCF.

V.

Respondent denies each and every allegation not hereinbefore expressly admitted, qualified, or explained.

VI.

WHEREFORE, having made its return, Respondent requests an evidentiary hearing be held on those issues so requiring one.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

JOSHUA L. THOMAS
Assistant Attorney General
S.C. Bar No. 100777

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

June 6, 2014

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
NEARIM BLACKWELL-SELIM, #320359)
Applicant,)
vs)
STATE OF SOUTH CAROLINA,)
Respondent.)

IN THE COURT OF COMMON PLEAS

2013-CP-26-6066

AFFIDAVIT OF SERVICE BY MAIL

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

Daniel A. Selwa, II, Esquire
1053 London St., Suite A
Myrtle Beach, SC 29577

DATED this 6TH day of June, 2014.


Norma Bigbee, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA) **TRANSCRIPT OF RECORD**
COUNTY OF HORRY) CASE NO.: 2013-CP-26-6066
PCR HEARING

October 29, 2014

BEFORE: The Honorable John C. Hayes

NEARIM BLACKWELL-SELIM,

Petitioner,

vs.

THE STATE OF SOUTH CAROLINA,

Respondent.

APPEARANCES:

Joshua Thomas, Esq.
Attorneys for the Respondent.

Daniel Selwa, Esq.
Attorneys for the Petitioner.

Official Court Reporter
Natalie Dahl, RPR

 **ORIGINAL**

I N D E X

WITNESS

PAGE

NEARIM BLACKWELL-SELIM

Direct Examination by Mr. Selwa..... 4
Cross-Examination by Mr. Thomas..... 15

BARBARA BLAIN OLDS

Direct Examination by Mr. Thomas..... 18
Cross-Examination by Mr. Selwa..... 24

E X H I B I T S.

STATE'S EXHIBIT

MARKED

ADMITTED

1

21

22

CALL OF THE CASE

P R O C E E D I N G S

1
2 MR. THOMAS: Next case is Nearim Blackwell-Selim
3 versus the State of South Carolina, 2013-CP-26-6066.
4 She was indicted in July of 2005 for murder,
5 represented on that charge by Barbara Olds. She pled
6 guilty on January 4, 2007 to voluntary manslaughter.
7 Judge John withheld sentencing until February 27,
8 2007, at which time he sentenced her to 20 years for
9 the voluntary manslaughter and denied parole
10 eligibility under the Battered Spouse Exception for
11 parole eligibility. An appeal was filed by Ms. Celia
12 Robinson at the Office of Appellant Defense. The
13 first appeal the Supreme Court eventually remanded it
14 to Judge John to make factual findings about his
15 denial of parole eligibility, and that was done on --
16 well, she reappeared before Judge John on May 11,
17 2011. He then, again, denied parole eligibility.
18 That was appealed again, and that appeal was affirmed
19 and the remitter sent on November 9, 2012, filed this
20 PCR September 2013 alleging ineffective assistance of
21 counsel. She is represented by Daniel Selwa, and the
22 State is ready to proceed.

23 MR. SELWA: I would like to call Ms. Blackwell to
24 the stand.

25 (NEARIM BLACKWELL-SELIM, having been duly

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 sworn, testified as follows:)

2 THE WITNESS: Nearim Grace Blackwell,
3 B-L-A-C-K-W-E-L-L.

4 DIRECT-EXAMINATION

5 BY MR. SELWA:

6 Q You are present today because you are claiming
7 that your counsel was ineffective; is that correct?

8 A Yes, sir.

9 Q All right. And can you tell the Court -- give
10 the Court a brief synopsis of what transpired in your
11 case up to this point.

12 A I'm not understanding what has transpired up to
13 this point with my case.

14 Q Tell the Court --

15 A Why I felt it was ineffective?

16 Q Yes.

17 A Okay. The reasons I feel that it was ineffective
18 was, first off, when I had signed the plea, I wasn't
19 informed that Ms. Olds had taken a job with the City of
20 Conway. I was not informed of that until after I
21 signed the plea. I wouldn't have signed the plea had I
22 known.

23 Q And because she had taken a job with Conway --
24 and that is the State, essentially -- did you feel
25 there was a conflict?

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 A I thought there was a conflict, not only there,
2 but I also would have -- had I not signed that plea --
3 without knowing she had taken a job with the City of
4 Conway, I would have gotten another opportunity with a
5 different lawyer and probably -- I feel that I would
6 have gotten probably a better shot. I also feel that
7 when I came back in 2011, when Mr. Hazard had to enter
8 everything into evidence that wasn't apparently entered
9 into evidence, that that also showed me that that was
10 ineffective.

11 Q So when you speak about that, you were talking
12 about the appeals?

13 A Yes. I was talking about everything that was
14 given for evidence on my behalf. I apologize,
15 Mr. Hazard had to enter it as Exhibit No. 1, Exhibit
16 No. 2, Exhibit No. 3. None of that was done with my
17 case when I was with Ms. Olds. Also, Judge John made a
18 statement of, Do we have to hear all of this, I have
19 this in front of me. At that point, I felt that his
20 decision had already been made.

21 Q What was the purpose of this evidence being
22 entered into the record; you pled guilty?

23 A The purpose was to show that I had been
24 domestically abused. I went through five years with
25 this man off and on. I put him in prison twice. He

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 beat me so bad that I had blood clots on three corners
2 of my brain. I became epileptic because of the
3 beatings. Unbeknownst to me, my children were on the
4 phone when he was beating me. I put him in prison for
5 cutting my back up with a box cutter. There was a
6 statement that was presented that had stated when he
7 was drunk or high, he would beat me, and at the time he
8 died, the alcohol was .235.

9 Q That was the major issue behind your case. You
10 were pleading guilty that the event happened, but you
11 are saying, basically, that you were forced to do this
12 because of the domestic violence?

13 A I was forced to protect myself.

14 Q And the mitigation and requirement to present
15 facts that you actually were a victim of domestic
16 violence to this degree required your attorney to have
17 testimony to those specific situations; is that
18 correct?

19 A Yes, sir.

20 Q And wouldn't you agree that most of those
21 domestic violence situations are between two people,
22 normally not other people around in those instances,
23 correct?

24 A Are you saying the domestic issues happened when
25 there was nobody was there to witness it?

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 Q Correct.

2 A Yes. There were plenty of issues that were not
3 witnessed, but there were also just as many that were
4 witnessed.

5 Q And you had witnesses of those incidents?

6 A Yes, I did. I did have statements that were sent
7 by witnesses, but there was also his own statement that
8 was sent from the superior court. He wrote himself
9 that -- he stated when he was drunk or high, he would
10 beat me and that I needed to protect myself, that I was
11 not a violent person. My way of avoiding fighting was
12 leaving. I would constantly leave, but he always
13 seemed to find me.

14 Q And your attorney, at that point, did she present
15 any evidence of those specific acts of domestic
16 violence or any proof that those acts actually
17 occurred?

18 A It was presented, but it was not put into
19 evidence.

20 Q Can you explain to the Court what that means?
21 What did she do there?

22 A It was more of a conversation. It wasn't put
23 into evidence as this is Defense Exhibit No. 1, this is
24 what was stated by this police officer, this is what
25 was stated by this physician at the hospital, this is

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 what was stated by this person who witnessed this, this
2 is Defense Exhibit No. 1, 2 or 3. Nothing was put into
3 evidence.

4 Q Did any attorney throughout this process do that
5 for you?

6 A Attorney Ronald Hazard from the Horry County
7 Public Defender's Office, yes, he did.

8 Q When did he do that?

9 A In 2011, after I already had been sentenced.

10 Q And what was he representing you for at that
11 point?

12 A He was representing me for my writ of cert that I
13 had won in the supreme court.

14 Q To readdress the same issue?

15 A Yes, sir.

16 Q And he actually was able to present that
17 evidence?

18 A It was presented as evidence, but also said that
19 it was new evidence, but it wasn't.

20 Q And the Court opined they couldn't consider new
21 evidence; is that correct?

22 A Yes. He made some comment of -- I can't even
23 remember the word he used.

24 Q "He," you are talking about the judge?

25 A The judge.

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 Q Judge John?

2 A Yes.

3 Q And had Judge John made a decision about your
4 appeal or that decision as to the mitigation of those
5 charges at that point?

6 A Judge John was, I believe, ordered by the supreme
7 court to state facts as to a reason as to why I was not
8 eligible for parole, and he stated that it was -- it
9 was not credible nor believable; that is opinion. I
10 stated fact upon time after time after time of me
11 putting this man in prison, the dates,
12 hospitalizations; those are facts. Stating that it is
13 not credible nor believable, that is an opinion. I
14 feel that he did not do what the supreme court asked
15 him to do.

16 Q So he made the same decision, he just supported
17 his decision with facts, correct?

18 A He didn't support it with facts, he supported it
19 with his opinion.

20 Q And the evidence that Mr. Hazard presented --

21 A Was fact.

22 Q Was fact. But Judge John ruled that that was new
23 evidence, correct?

24 A Yes.

25 Q And what evidence was that? Can you enlighten

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 the Court as to what you are speaking of there?

2 A Evidence stating from -- sorry, Dr. Bernstein,
3 Elizabeth Rogo (phonetic), there was evidence --

4 Q What was her testimony in summary?

5 A Her testimony was that all of my injuries and the
6 blood clots that were on three-quarters of my brain
7 were due to being beaten, and that she had witnessed
8 this for two years with the same man, and that at this
9 time I was not able to make an arrest -- get an arrest
10 made because of the fact that I had said that I had it
11 from a seizure, but she had been treating me for over
12 two years. Dr. Jeffrey Bernstein, there also was
13 presented -- oh, God -- his arrest that he had spent a
14 year in prison for slicing me open with a box cutter.

15 There was his very own statement that was sent
16 from the superior court in Connecticut that stated
17 when he was drunk or high, he would beat me, and at
18 the time of his death, his alcohol level was .235.

19 Q Did anybody else testify on your behalf?

20 A My mother and daughter.

21 Q Of the domestic violence that they witnessed or
22 knew of?

23 A Yes. My daughter, Anita Kidwell; my mother,
24 Frances Blackwell, and my lifetime friend, Dr. Carlotta
25 Abram.

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 Q So you had four or five witnesses testifying when
2 Ronald Hazard was presenting this evidence as to the
3 domestic violence that you suffered?

4 A Yes, sir.

5 Q And your trial attorney didn't do any of that; is
6 that correct?

7 A No.

8 Q Did you ask her to do that?

9 A I had asked her to also subpoena the officers
10 during the arrest. None of their statements that were
11 over the arrest that had put me in prison, they were
12 not subpoenaed, their statements. They were not able
13 to send statements unless they were subpoenaed, that
14 was never done. His psychological record was never
15 subpoenaed, which would have helped me. The only
16 people that were there at that point in time, my mother
17 had been asked, from what I understand, to come, but
18 she was so ill she wasn't able to make it.

19 Q How old was your mother at that point?

20 A She's 81 now, so at that point she would have
21 been 71, and she's been very ill.

22 Q All of these people that testified, all of this
23 evidence came into the record through Mr. Hazard,
24 though, correct?

25 A Yes, other than the police officers and his

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 psychological record.

2 Q Okay. And as we stated earlier, Judge John would
3 not consider that because he felt that that was new
4 evidence; is that correct?

5 A Yes.

6 Q Do you think that if he had considered that
7 evidence that was admitted at that time, that his
8 decision would have been different based on what he
9 could have considered?

10 A I believe if I had all of that evidence in hand
11 at the time of my sentencing that, yes, my sentence
12 would have been different. Yes, I do.

13 Q And what was your sentence?

14 A My sentence was 20 years, no parole eligibility,
15 due to 16-25-90, which is the Battered Women's Law.

16 Q Where are you at with your sentence at this
17 point?

18 A I am actually at almost ten years.

19 Q So the failure of the admission of this evidence
20 has caused you to not be eligible for parole?

21 A Yes, sir.

22 Q And, presumably, had that been admitted and you
23 were able to be paroled, you would have gotten out a
24 lot earlier than you --

25 A I believe so. Also, I believe on my sentencing

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 sheet it was written "no parole eligible due to
2 16-25-90," but if I had won, like I did, if I went
3 before another judge, they wouldn't have given that to
4 me either.

5 Q And you feel that the conduct of your attorney
6 during that phase of your trial -- or guilty plea, that
7 prejudiced you in your situation?

8 A Yes, I do believe that. I also was notified by
9 CASA, Citizens Against Spousal Abuse, that she was
10 going to be working with the attorney to help me with
11 my case, and that never ever happened either. I feel
12 that if you are going to speak with another attorney to
13 help with my case, then obviously my case, my charge,
14 was not something that you were able to handle on your
15 own, so, therefore, this was not something that you
16 could do.

17 Q During her representation of you, your trial
18 attorney, did you notice -- was she actively practicing
19 in private practice at that point?

20 A Did I notice? No. I wasn't told.

21 Q Let me rephrase that. When were you aware that
22 she took a job with the City of Conway?

23 A After I signed the plea and returned back to J.
24 Reuben Long. About a week later she dropped all of her
25 other cases, but kept mine and took mine to sentencing.

NEARIM BLACKWELL-SELIM -DIRECT EXAMINATION

1 Q Do you feel like she could have spent more time
2 on your case?

3 A I feel that she could have notified me, because I
4 believe that when you take a job of that stature, you
5 would have at least known and said I will give you 30
6 days prior, and you could have told me, and then I
7 would have never signed that plea. I would have asked
8 for another attorney.

9 Q Do you feel like she was preoccupied with
10 wrapping her business up that she wasn't able to give
11 you --

12 MR. THOMAS: Objection, that calls for
13 speculation.

14 THE COURT: I sustain the objection.

15 Q (MR. SELWA) Is there any other claims that you wish
16 to bring before the Court as to your PCR?

17 A At this moment, I'm just -- I've been overwhelmed
18 because a lot of people have died in my family. I just
19 feel that I would have had a better opportunity to have
20 been -- I would have been able to present better if all
21 of the evidence was available at that time. I feel
22 that if they had his psychological record, they could
23 see the type of person that he truly was, because he
24 truly was an evil person. If the officers that were
25 involved in the time that I sent this man to prison

NEARIM BLACKWELL-SELIM - CROSS-EXAMINATION

1 could have sent their statements, that would have
2 helped me greatly and I wouldn't have received 20
3 years.

4 MR. SELWA: No further questions. Answer any
5 questions the Attorney General's Office may have for
6 you.

7 CROSS-EXAMINATION

8 BY MR. THOMAS:

9 Q How many meetings did you have with your attorney
10 before you pled guilty?

11 A I believe I had -- I was there about two years.
12 I would say in two years I probably had about five, six
13 meetings with her. There are some that I don't
14 remember because for the first couple of months I was
15 not aware of much.

16 Q And during those meetings, did you have an
17 opportunity to discuss with her what the evidence was
18 that the State had against you?

19 A Yes, I did discuss with her a lot of evidence,
20 not that the State had against me, but the evidence I
21 had to back up my claim.

22 Q So you basically had an opportunity to give her
23 your version of your relationship with the victim?

24 A Not only my version, but the municipal in
25 Connecticut, the hospital and witnesses. Dr. Marty

NEARIM BLACKWELL-SELIM - CROSS-EXAMINATION

1 Loring (phonetic) had been hired to go to not only
2 assess me as a battered woman, but she hired people to
3 go and get witness statements from Connecticut in
4 conjunction with the Horry County Department of Public
5 Defender's.

6 Q And Dr. Loring testified at your first mitigation
7 hearing?

8 A My trial, you mean?

9 Q Well, you pled guilty.

10 A Yeah.

11 Q You pled guilty one day, and then you came back
12 for sentencing?

13 A Yes, that is when she testified. It was
14 February 27th.

15 Q And I think you also had a family friend,
16 Ms. Sanders, who was there and testified?

17 A She was like my mother. She raised me from birth
18 -- well, six months to four years old. She recently
19 passed.

20 Q And you had a lot of documentation of your prior
21 instances with the victim, didn't you?

22 A Yes, sir.

23 Q And Ms. Olds gave that to Judge John at that
24 first sentencing hearing?

25 A No, at the second sentencing hearing.

NEARIM BLACKWELL-SELIM - CROSS-EXAMINATION

1 Q But she didn't enter it into evidence, is what
2 you are saying?

3 A She didn't enter it into evidence at my
4 sentencing. When I signed the plea, that was
5 January 4th, and I came back on February 27th, that was
6 my sentencing. That is the time she handed him the
7 packet, and nothing was ever entered into evidence.

8 MR. THOMAS: That is all I have.

9 MR. SELWA: No redirect.

10 THE COURT: You may step down. Thank you.
11 Anything else?

12 MR. SELWA: Nothing further at this time, Your
13 Honor.

14 THE COURT: I haven't read the return yet, so
15 this may be answered, but this is the first time I've
16 had a situation like this. I think I know where I'll
17 end up, so we'll have it on the record. This
18 post-conviction relief application was not brought
19 within one year of her sentencing. The matter went up
20 on appeal and sent back for -- on the mitigation. The
21 Supreme Court ruled on that on 10/24 of 2012, and the
22 application was filed less than a year later, 11
23 months later, so there really is no issue about -- the
24 State doesn't take a position that you can't attack
25 the plea itself, even though that is not what the

BARBARA BLAIN OLDS - DIRECT EXAMINATION

1 relief is that she asked for?

2 MR. THOMAS: No, Your Honor. It was filed -- I
3 believe the remitter from the final appellant opinion
4 was November 9, 2012, and then this was filed
5 September 5, 2013, so it is timely from that.

6 THE COURT: Yeah. Okay. All right. Any witness
7 for the State?

8 MR. THOMAS: The State calls Ms. Olds to the
9 stand.

10 (BARBARA BLAIN OLDS, having been duly sworn,
11 testified as follows:)

12 THE CLERK: State your name and spell your last.

13 THE WITNESS: Barbara Blain Olds, B-L-A-I-N,
14 O-L-D-S.

15 DIRECT-EXAMINATION

16 BY MR. THOMAS:

17 Q Ms. Olds, give us a brief overview of your
18 experiences practicing law at the time you took this
19 case.

20 A I had graduated from law school in 2001, and
21 became a member of the Bar in 2001. I had previously
22 worked as a prosecutor for the 15th Judicial Circuit
23 approximately two years and had worked with the local
24 Department of Social Services as their attorney in
25 child abuse and neglect cases for another -- for

BARBARA BLAIN OLDS - DIRECT EXAMINATION

1 approximately three years. I was with the Public
2 Defender's Office for just over two years, and as
3 testified to already, the sentencing part of
4 Ms. Blackwell's hearing was just before I left the
5 Public Defender's Office.

6 Q So were you still with the Public Defender's
7 Office throughout your representation of her?

8 A I was.

9 Q At that point, had you already sort of agreed to
10 take this job -- what is your current job? What job
11 did you take with the city?

12 A At that time, I took a job as Assistant City
13 Administrator.

14 Q And do you feel like you had any conflict with
15 your criminal cases at that point?

16 A No.

17 Q Back up to your representation, Ms. Olds, how did
18 you come to be involved?

19 A I was assigned her case as an assistant public
20 defender.

21 Q Did you file the standard Rule 5 Brady motions?

22 A I have no memory of what was filed.

23 Q Let me ask you this. Did you -- you got evidence
24 from the State, I guess, in this case? They provided
25 you with evidence?

BARBARA BLAIN OLDS - DIRECT EXAMINATION

1 A Yes.

2 Q And did you have a chance to review that with
3 Ms. Blackwell?

4 A Yes, I did.

5 Q And could you give us a brief overview of what
6 the State's theory of the case was, what their evidence
7 showed?

8 A Generally, that Ms. Blackwell had ended her
9 husband's life, I believe, with a knife.

10 Q How many meetings did you have with her?

11 A I don't know.

12 Q Can you give us a ballpark number? Did you feel
13 like you were sufficiently prepared to go forward with
14 this case?

15 A I thought so at the time.

16 Q Let's talk about your meetings with her.
17 Obviously, there's been a lot of evidence that she's
18 discussed about prior instances with the victim; did
19 you get all of that from her? Did you find that
20 through your own investigation? How did you come into
21 possession of that evidence?

22 A By her information, and then trying to get it
23 from the appropriate sources where she had lived with
24 him in various other places.

25 Q And, if you could, to the best of your

BARBARA BLAIN OLDS - DIRECT EXAMINATION

1 recollection, do you recall what -- sort of what your
2 theory was for the mitigation, what evidence you were
3 going to present? Walk us through the mitigation
4 sentencing for us.

5 A I'll try. I believe that Ms. Blackwell was, in
6 fact, reacting to a pattern of abuse. I tried to
7 prepare information that would bring that forward to
8 the Court so that 16-25-90, I believe, would be
9 invoked. With the limited resources that the Public
10 Defender's Office has, financial resources, we were
11 able to have an expert in this Battered Syndrome come
12 to meet with Ms. Blackwell to assess her and to testify
13 at her plea. We gathered as many actual documents from
14 former states in which she lived to show that there, in
15 fact, was a pattern of abuse.

16 MR. THOMAS: May I approach the witness?

17 THE COURT: Yes.

18 (State's Exhibit 1 marked.)

19 Q (MR. THOMAS) I'm showing you what is marked for
20 identification as State's 1. Do you recognize that
21 packet of documents I've handed you?

22 A I do.

23 Q And could you tell us what that is?

24 A These are a series of reports from the police
25 department. I think there is a newspaper clipping,

BARBARA BLAIN OLDS - DIRECT EXAMINATION

1 statements from various officials in and around
2 Middleton -- where Ms. Blackwell and her husband had
3 lived -- showing a pattern of violence, most of the
4 time involving her at his hand, and at least one
5 instance when he was arrested for having acting
6 violently towards a third person.

7 Q Is that the same information you presented to
8 Judge John at the sentencing hearing?

9 A I believe so.

10 MR. THOMAS: Your Honor, I move to enter State's
11 Exhibit No. 1.

12 MR. SELWA: I'm sorry, no objection.

13 THE COURT: In without objection, State's 1.

14 (State's Exhibit 1 admitted.)

15 Q (MR. THOMAS) All of that stuff -- you actually gave
16 that to Judge John at the sentencing hearing, didn't
17 you?

18 A I believe I did.

19 Q And so he had an opportunity to review all of the
20 documentation before he made his decision?

21 A Whether or not he actually reviewed it, I can't
22 say. He could have taken the time to do it.

23 Q You didn't enter it into evidence? You didn't
24 say, I would like to mark this as Exhibit whatever,
25 whatever?

BARBARA BLAIN OLDS - DIRECT EXAMINATION

1 A I don't remember.

2 Q Do you recall handing him a packet of information
3 at that point?

4 A Frankly, no, I don't.

5 MR. THOMAS: May I approach, Your Honor?

6 THE COURT: Yes.

7 Q (MR. THOMAS) I'll show you Page 14 of the
8 transcript.

9 THE COURT: Which date?

10 MR. THOMAS: February 27, 2007 transcript.

11 Q (MR. THOMAS) I'll ask you to read quietly to
12 yourself Lines 16 --

13 THE COURT: What page?

14 MR. THOMAS: 14, Lines 16 through 22.

15 Q (MR. THOMAS) Read that to yourself.

16 A (Witness complied.) I read it.

17 Q Does that refresh your recollection whether you
18 handed up the documents to Judge John?

19 A I'm more than certain that I did.

20 Q And so he had all of the documentation. Judge
21 John also heard from a family friend, I believe?

22 A He did.

23 Q And the doctor who assessed her for Battered
24 Spouse Syndrome?

25 A Yes, she did.

BARBARA BLAIN OLDS - CROSS-EXAMINATION

1 Q Did you talk to Ms. Blackwell's -- any of her
2 family members before the sentencing hearing?

3 A I believe I did.

4 Q But --

5 A I don't have a firm recollection.

6 Q So do you recall why they didn't testify at the
7 sentencing hearing, why you didn't call them as
8 witnesses?

9 A I remember that Ms. Blackwell's mother was unable
10 to be here because of her health. I know that a person
11 in her family wrote an affidavit, and that is the
12 extent of my memory.

13 MR. THOMAS: Thank you. That is all I have.

14 CROSS-EXAMINATION

15 BY MR. SELWA:

16 Q Ms. Olds, I have a couple of questions for you.
17 Do you feel like you could have done a better job on
18 her case with the mitigation part of that?

19 A I'm sure I could have.

20 Q Do you feel like the absence of the entry of that
21 evidence into the record hurt her case?

22 A Quite possibly.

23 Q Had the judge been able to consider that, do you
24 think the judge's decision might have been different?

25 A It may very well have been different.

BARBARA BLAIN OLDS - CROSS-EXAMINATION

1 Q And if that had been admitted into evidence at
2 that point, the judge would have been able to make a
3 decision based on that evidence at that time, correct?

4 A I'm sorry, I don't understand your question.

5 Q He would have been able to make a decision based
6 on that evidence at that time, correct?

7 A Yes, he could have.

8 Q Are you familiar with the appeal and what
9 happened at the appeal?

10 A Very, very vaguely. I received a packet just in
11 the last day or so, and I've thumbed through the
12 information, but I'm not totally familiar.

13 Q Were you present when Mr. Hazard followed up that
14 sentencing hearing?

15 A I was not.

16 Q Are you aware now that he presented and moved
17 into evidence that packet for which you handed up to
18 the Court?

19 A Yes, I heard that this morning.

20 Q Are you aware that the judge would not consider
21 that because he considered it new evidence?

22 A I understand that from what I've heard this
23 morning.

24 Q Based on that packet that you prepared, and went
25 through great lengths to prepare, had it been admitted,

BARBARA BLAIN OLDS - CROSS-EXAMINATION

1 do you think that she would have been able to invoke
2 that statute that would provide that she would be
3 granted parole eligibility?

4 A I certainly would have hoped so.

5 MR. SELWA: Thank you.

6 MR. THOMAS: No redirect examination.

7 THE COURT: I appreciate your time. Thank you.

8 You can be excused. Anything else from the State?

9 MR. THOMAS: Nothing else.

10 THE COURT: Mr. Selwa?

11 MR. SELWA: No, sir.

12 THE COURT: All right. I'll take it under
13 advisement. I do have one question about application.
14 The relief she seeks seems to be only as to her
15 sentence, not as to her plea. She says, clearly, what
16 you seek is parole eligibility, reduced sentence or
17 time served; is that still what she is seeking, or to
18 set aside the guilty plea?

19 MR. SELWA: Not to set aside the plea, just to
20 invoke the statute for parole eligibility.

21 MR. THOMAS: No objection to that, Your Honor. I
22 would note that that is res judicata this morning.

23 THE COURT: Okay.

24 (Whereupon, the proceedings concluded.)
25

1 CERTIFICATE OF REPORTER
2

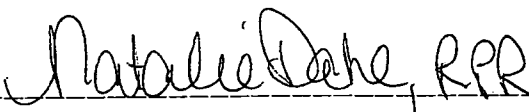
3 State of South Carolina)

4 County of Horry)
5

6 I, Natalie Dahl, Official Court Reporter for the
7 State of South Carolina, do hereby certify that the
8 foregoing is a true, accurate and complete Transcript
9 of Record of the proceedings had and evidence
10 introduced in the captioned case, relative to appeal,
11 for Horry County, South Carolina, on the 29th day of
12 October, 2014.

13 I do further certify that I am neither of kin,
14 counsel, nor interest to any party hereto.
15

16 January 28, 2015
17

18 
19 _____

20 Natalie Dahl, RPR

21 Court Reporter
22
23
24
25

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
Nearim Blackwell-Selim,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

C.A. No.: 2013-CP-26-6066

ORDER

This is a Post-Conviction Relief Proceeding

HORRY COUNTY
14 NOV 17 PM 12:59
CLERK OF COURT

Application filed Application for post-conviction relief (PCR) on September 5, 2013.

The undersigned heard this case on October 29, 2014. Daniel Selwa, II, Esquire, represented the Applicant. The State was represented by Josh Thomas, Esquire.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Horry County Clerk of Court. In July 2005, the Horry County Grand Jury indicted Applicant for murder (2005-GS-26-2615). Barbara Blain-Olds, Esquire, represented Applicant. On January 4, 2007, Applicant appeared before the Honorable Steven H. John and pled guilty to voluntary manslaughter. Judge John deferred sentencing to February 27, 2007, at which time she was sentenced to twenty (20) years and denied parole eligibility pursuant to S.C. Code Ann. §16-25-90.¹

¹ "Notwithstanding any provision of Chapters 12 and 21 of Title 24, and notwithstanding any other provision of law, an inmate who was convicted of, or plead guilty or nolo contendere to, an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate at the time he pled guilty to, nolo contendere to, or was convicted of an offense against the household member, or in post-conviction proceedings pertaining to the plea or conviction, presented credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member. This section shall not affect the provisions of Section 17-27-45."

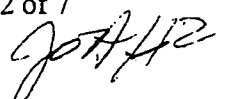
Je [Signature]

Applicant filed a timely notice of appeal challenging Judge John's finding regarding parole eligibility, and M. Celia Robinson, Esquire, of the Office of Appellate Defense, perfected the appeal. The South Carolina Court of Appeals upheld Judge John's ruling on September 15, 2009. *State v. Blackwell-Selim*, 385 S.C. 394, 648 S.E.2d 208 (Ct. App. 2009). The Court of Appeals denied Applicant's petition for rehearing on October 22, 2009, but the South Carolina Supreme Court granted Applicant's petition for writ of certiorari. The Supreme Court reversed the Court of Appeals on March 15, 2011, remanding to the circuit court to make specific findings of fact with regard to the parole eligibility ruling. *State v. Blackwell-Selim*, 392 S.C. 1, 4, 707 S.E.2d 426, 428 (2011).

Applicant appeared before Judge John again on May 11, 2011. Ronald W. Hazzard represented Applicant at that hearing. Judge John again found Applicant was not entitled to parole eligibility under the statute. Applicant filed a timely notice of appeal from that ruling, and Robert M. Pachak, Esquire, of the Office of Appellate Defense perfected the appeal. The Court of Appeals affirmed Judge John's ruling on October 24, 2012. (2012 WL 10862830).

In her appeal, the Court of Appeals observed that Applicant "does not challenge the evidence originally presented at the first sentencing hearing" or "the merits of the ruling based on the original evidence." See 2012 WL 10862830.

The undersigned finds that the opinion of the Court of Appeals closes the door on her current complaint. At her first opportunity to challenge the evidence from her first sentencing hearing by the sentencing judge, she did not raise any issue of concern as to the evidence or lack of evidence considered by the Court. Even in light of this, the undersigned has addressed Applicant's current application.



In her Application, Applicant alleges she is being held in custody unlawfully for the following reason:

1. "Ineffective Counsel"
 - a. "I should have been tried under 16-25-90"

Applicant states the relief she seeks is "Parole eligibility, reduced sentence or time served."

By her testimony, as discussed herein below her complaint as to trial counsel's representation is that while certain records were handed to the trial judge at her sentencing hearing these were not introduced as exhibits.

Applicant also claims trial counsel had a conflict of interest at the time she represented Applicant as trial counsel had, prior to the date of Applicant's plea, accepted a job with the City of Conway. Trial counsel substantiates this fact. Applicant's case was prosecuted by the Myrtle Beach Police department, not the Conway Police Department. The job taken by trial counsel was an administrative job with the City of Conway and not a job connected to the Conway Police Department or the Conway City prosecutorial authority. At her hearing, Applicant presented absolutely no evidence that she was prejudiced by trial counsel's alleged conflict. Additionally as touched on further below, trial counsel provided effective assistance of counsel.

Finally as to the conflict issue, it is time barred as Applicant testified she discovered the alleged conflict "about a week" after her plea (January 4, 2007). There is no merit to Applicant's claim of a conflict of interest of trial counsel.

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*, 80 L.Ed.2d 674. 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 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.E. at 117-18, 386 S.E.2d at 625. With respect to guilty plea trial counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, she would not have pled guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

As stated below, Applicant challenges the trial court's ruling relative to her parole eligibility pursuant to S.C. Code Ann. § 16-25-90. This issue has already been visited and decided on direct appeal. See WL 10867830.

Post-conviction relief "is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction." S.C. Code Ann. § 17-27-20(b); see also *Simmons v. State*, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) ("It is

uniformly held that an application for post-conviction relief is not a substitute for an appeal."). As stated above, Applicant's allegations regarding her parole eligibility were raised and ruled upon in her direct appeal.

Applicant's chief complaint is that the trial judge should have found that she is eligible for parole pursuant to Section 16-25-90, S.C. Code of Laws, 1976, as amended. Applicant argues that trial counsel was ineffective in not submitting certain records into evidence as exhibits even though these records were handed to the trial judge who acknowledged at least partial review of same (February 27, 2007 Transcript p. 14 LL 20-22 and May 11, 2011 Transcript p. 15 LL 14-23).

The records at issue were placed into evidence at the post-conviction relief hearing. They are a packet of police reports and attachments from Middletown Police Department, Middletown, Connecticut.

The Middletown record consists of reports, at least eight, of instances of police involvement with Applicant and the victim between February 9, 2002 (one report of the incident had 2001 as the year) through June of 2004 and four affidavits, the affidavits of her cousin, Donald Blackwell, a Sandra Leclaire, Pam Wilson, and Francis Blackwell.²

The affidavits state Applicant's relationship with the victim was an abusive relationship. The police reports support the averment of the affidavits. Judge John, the trial judge, had these in his possession at the sentencing hearing of February 22, 2007 and the hearing on remand May 11, 2011. The trial judge stated on the record at the May 11, 2011 hearing that he had "read the records" and took them into consideration in his ruling of February 27, 2007 and stated the

² The packet also contained two articles from the middletownpress.com.

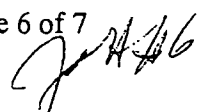
Middletown packet was "part of the record." (May 11, 2011, Transcript p. 15 L 7 through p. 16 L 1).

Based on the above, Applicant has failed to carry her burden of proof on her claim of ineffective assistance of counsel for failure to produce for the court the Middletown records and affidavits. Whether there were marked as exhibits or not they were reviewed and relied on by the trial judge. (May 11, 2011 Transcript p. 15 L 7 through p. 16 L 1).

Even if the court were to find trial counsel ineffective for not making the records and affidavits exhibits at the February 27, 2007 hearing; which it does not, Applicant was not prejudiced thereby. The trial judge held the records and reviewed them. Review of the transcript of the sentencing hearing of February 27, 2007 reveals that most, if not all of the incidents from the Middletown record were orally presented to the trial judge by trial counsel. Trial counsel also referenced the affidavits and their averments (February 27, 2007 Transcript p. 16 L 3 through p. 17 L 5).

In addition to other records and affidavits trial counsel called as a witness at the February 27, 2007 hearing Applicant's cousin, Jerri Marie Sanders. Ms. Sanders testified that she knew Applicant to be a battered woman. Ms. Sanders also testified Applicant was remorseful.

Trial counsel also called, on Applicant's behalf, Dr. Marty Loring, a forensic consultant, an expert witness, and a mitigation specialist (February 27, 2007 Transcript p. 17 LL 14-22). Dr. Loring testified as to her research and preparation for testifying on behalf Applicant. Dr. Loring testified extensively as to Applicant's traumatic and abusive upbringing in a dysfunctional family. Dr. Loring opined that Applicant suffers from post-traumatic stress disorder (February 27, 2007 Transcript p. 29 LL 4-6). Dr. Loring testified that Applicant's recall at to the event in which the victim was murdered she has limited recall, but does "remember feeling panic, feeling



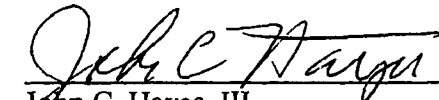
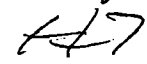
that this would be the time that she dies" (February 27, 2007 Transcript p. 28 L 17 through p. 29 L 3).

Applicant has failed to prove the allegations of ineffective assistance of counsel and also failed to prove any prejudice resulting from trial counsel's failure to have the Middletown records and affidavits marked as trial exhibits. Additionally, the issue Applicant now presents to the court has been ruled on, adversely to her, by the Court of Appeals. (2012 WL 10862830).

Wherefore, Applicant's Application for Post-Conviction Relief is denied and dismissed with prejudice.

Applicant is hereby placed on notice that any petition for certiorari to the South Carolina Supreme Court must be filed within thirty (30) days. See Appellate Court Rules 203, 206, and 227(b).

IT IS SO ORDERED.


John C. Hayes, III
Presiding Judge 

November 16th, 2014
Conway, South Carolina

WITNESSES

DILORENZO/MBPD

DOCKET NO. 2005-GS-26-2615

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY

TERM 77565 1

COURT OF GENERAL SESSIONS

JULY TERM 2005

THE STATE

VS.

Nearim Grace Blackwell O/F

CDR: 0116 16-03-0010, 0020

Myrtle Beach, SC 29577

DOA: 06-04-05

SSN [REDACTED] DOB [REDACTED]

ACTION OF GRAND JURY

Barbara Blain-Olds

Attorney

Foreman of Grand Jury

VERDICT

INDICTMENT FOR:
MURDER

ORIGINAL

Foreman of Petit Jury

J. GREGORY HEMBRÉE, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on July 28, 2005, the Grand Jurors of Horry County present upon their oath:

MURDER

(CDR: 0116 16-03-0010, 0020)

That Nearim Grace Blackwell did in Horry County on or about June 3, 2005, willfully, feloniously, and intentionally kill the victim, Kenneth Ali Selim, with malice aforethought, either express or implied, by means of stabbing the victim in the chest, and the victim did die as a proximate result thereof on or about June 3, 2005, in violation of Section 16-03-0010, S. C. 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.


SOLICITOR