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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. Supreme Court

Appeal from Greenville County

Letitia H. Verdin, Circuit Court Judge

WILLIE JAMES POOLE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000088

APPENDIX

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1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF GREENVILLE) COURT OF GENERAL SESSIONS
) No. 2009 GS 23 5747
) 2011 GS 23 6269A

3
 4 STATE OF SOUTH CAROLINA)
 5 versus) TRANSCRIPT OF RECORD
 6)
 7 WILLIE POOLE)
 8 Defendant)

9 Greenville, South Carolina
 10 January 17, 2012

11
 12 B E F O R E :
 13 HONORABLE ROBIN STILWELL, Judge

14 For the State: J. MUNSON, Esq.
 15 Solicitor
 16 For the Defendant: T. SULLIVAN, Esq.
 17 Reporter Present: MARY DIGIROLAMO
 18

19
 20
 21 HARRIET P. BENNETT
 22 Reporter, S. C. Court Administration
 23 46 Regency Oaks Drive
 24 Summerville, S. C. 29485
 25

1 (The within matter came before the Court for hear-
2 ing on January 17, 2012)

3 THE COURT: Okay, it looks like first up on the
4 docket we have the State versus Willie Poole, Indictments
5 2009 GS 23 5747 and 2011 6269 Alpha.

6 One Indictment is for assault and battery with intent
7 to kill and one for murder and possession of a weapon
8 during the commission of a violent crime.

9 Counsel, do we have any matters that we need to take
10 up before we begin the selection of a jury in this case?

11 MR. SULLIVAN: Yes, sir.

12 THE COURT: All right.

13 MR. SULLIVAN: Counsel would like to address the Court
14 concerning counsel.

15 THE COURT: Okay. All right, Mr. Poole, I'll be happy
16 to hear from you.

17 DEFENDANT: Yes. First of all I've been charged with
18 murder and I've had him for the last three years -- for
19 five years really.

20 THE COURT: Okay.

21 DEFENDANT: So for five years he's talked to me about
22 it and then the armed robbery case which is on top of the
23 murder, and for five years he's argued with me and nothing
24 has been accomplished on my case.

25 I need someone who will help me with my case.

1 THE COURT: Okay..

2 DEFENDANT: So far, nothing. I need to know what's
3 going on.

4 THE COURT: Okay, anything else?

5 DEFENDANT: No.

6 THE COURT: Okay. Mr. Sullivan, you, of course, are
7 an officer of the Court, so I will ask you, have you ade-
8 quately prepared for the trial of this case?

9 MR. SULLIVAN: I think I have, Your Honor.

10 THE COURT: Have you taken the opportunity to discuss
11 this matter with Mr. Poole as much as necessary?

12 MR. SULLIVAN: I feel that I have. I have been through
13 all of the discovery with Mr. Poole and we've talked about
14 it. He says he knows details about how he wants it to be
15 handled; how he wants things to be examined.

16 We again met a couple of weeks ago and went through all
17 the discovery and everything to make sure we were prepared
18 on all of it.

19 He knew it was on the trial docket today, and I met
20 with him this morning. I thought we had everything covered
21 when we went through it again. I don't know what else I
22 can do.

23 He is obviously not happy with me, as he said.

24 THE COURT: Okay.

25 MR. SULLIVAN: When I met with him this morning we

1 discussed a plea offer. (Portion not audible on disc)
2 I've been to the scene. I don't know what else I can do.

3 He says he'd rather not have me. He says I'm not
4 doing a good job; that I didn't do a good job with his
5 armed robbery trial, so he would not trust me with his mur-
6 der case.

7 THE COURT: All right. So, given that -- I hear you
8 say you have already represented him in a trial for the
9 armed robbery. Was that in the Greenville County Gen-
10 eral Sessions Court?

11 MR. SULLIVAN: Yes, sir. All of this happened --
12 he was arrested in January of 2009 for the murder, and
13 while in custody he told them about the armed robbery he
14 had done in the past.

15 He was then charged with the armed robbery. He
16 was the alleged driver, and he had a CoDefendant who was
17 his cousin who testified and got a deal.

18 There was also a third party as well and he was asked
19 to help them.

20 I represented him in the armed robbery case. He
21 was tried in front of Judge Miller and received twenty-three
22 or twenty-five years -- I believe twenty-five years.

23 THE COURT: All right. Good enough.

24 All right, Mr. Poole, under the Constitution you are
25 entitled to have an attorney representing you. If you

1 can't afford counsel, counsel will be appointed to represent
2 you, as I presume was done in this case.

3 Now, under the Constitution you are entitled to the
4 representation, not necessarily to representation of your
5 choosing. Okay?

6 Oftentimes, it comes about that I relieve those
7 attorneys of their responsibilities for representation of a
8 client for various reasons, but in this instance I don't have
9 significant justification to relieve Mr. Sullivan as
10 counsel.

11 Now, if you want to -- if you want to, you can forego
12 representation by Mr. Sullivan in this matter; that is, you
13 can elect to proceed on your own pro se and you can try
14 your case this week on your own.

15 I will have Mr. Sullivan sit by as stand-by counsel to
16 help you and advise you on any legal matters that you may
17 have or that you may have questions about, and to give you
18 any necessary advice during the conduct of the trial and
19 the jury selection process.

20 So at this point I will give you that option. You may
21 continue with Mr. Sullivan or you may proceed pro se and
22 I will continue to have him stand by for you in this trial.
23 as counsel.

24 DEFENDANT: Just so the Court hears me, I don't want
25 him as counsel.

1 If I have to make a choice -- whatever you do, I really
2 need someone else but I will proceed either with someone
3 else but without him.

4 THE COURT: Okay. Here's what I'm going to do, Mr.
5 Sullivan. I'm going to ask you to just stay present as
6 stand by counsel in the matter for the Defendant. Okay?

7 MR. SULLIVAN: Yes, sir.

8 THE COURT: And, Mr. Poole, any other issues you need
9 to put on the record before we pick a jury, sir?

10 DEFENDANT: Yes, sir. I want to (inaudible).

11 THE COURT: What? Pardon?

12 DEFENDANT: I want to object to the form of the In-
13 dictment.

14 THE COURT: Okay. On what grounds?

15 DEFENDANT: On the ground that they haven't stated
16 the case right. First of all, that it is wrong in that
17 16 3 620 has been repealed and (portion not audible).

18 THE COURT: Okay.

19 MR. SULLIVAN: Judge, on the assault and battery with
20 intent to kill, that has been changed in the new Act.

21 They are trying him on a statute that no longer is
22 in existence. And I explained that to Mr. Poole.

23 Also, the sentences have been altered. It was twenty
24 years under the old statute instead of thirty years.

25 DEFENDANT: That's the ground of the objection.

1 The assault and battery with intent to kill has been
2 changed to attempted murder. That no longer exists.

3 THE COURT: Okay, Mr. Poole, I understand the grounds
4 for your objection, and I would respectfully deny your
5 motion at this time.

6 Is there anything in addition?

7 MR. SULLIVAN: Judge, we discussed -- he asked me
8 several months ago, and he's been brought up several
9 times since the armed robbery and we've talked about
10 this -- he asked me about the armed robbery trial;
11 about the jury trial as against a bench trial.

12 I told him the rule it was governed by, 14 B, that
13 it can be waived, and I don't know if he is going to
14 proceed that way, whether he will have you hear the
15 case and make the determination.

16 THE COURT: Okay. Mr. Poole, do you wish to proceed
17 that way?

18 DEFENDANT: I'm not sure. I think so.

19 THE COURT: You do?

20 MR. SULLIVAN: You are waiving your right to a jury trial
21 and you want the Judge to hear the case?

22 He would hear all the evidence that the jury would
23 have heard and he would find you either guilty or not
24 guilty. I've told you that.

25 DEFENDANT: Yes.

1 MR. SULLIVAN: Judge, the other motion that I have
2 made concerns what looks to be a healing gunshot wound, an
3 entry and exit wound, and we don't know when it happened.
4 The alleged victim never saw anything. (Portion not aud-
5 ible on disc)

6 There would be some testimony that would be highly
7 prejudicial to Mr. Poole's case, and I made a motion to
8 sever that action and proceed only on the murder case, or
9 only on the assault and battery with intent to kill case.

10 THE COURT: Okay, is the -- is that shot, the older
11 entrance and exit wound, something from the assault and bat-
12 tery with intent to kill, or is it something that is separate
13 and distinct?

14 DEFENDANT: That is separate.

15 THE COURT: Is there anything you wish to put on the
16 record . . .

17 MR. SULLIVAN: That is separate from the murder.
18 The bullet was never recovered.

19 THE COURT: Is there something you wish to put
20 into the record which you think would be relevant to the
21 two Indictments?

22 SOLICITOR: The healing gunshot wound is the subject
23 of the assault and battery with intent to kill Indictment,
24 Your Honor.

25 THE COURT: Okay.

1 So your motion essentially is to sever the murder
2 from the assault and battery with intent to kill?

3 MR. SULLIVAN: Yes, Judge.

4 THE COURT: All right.

5 SOLICITOR: Your Honor, there is evidence that it is
6 not separate.

7 (Portion not audible)

8 MR. SULLIVAN: This was done prior to the murder
9 case -- at some time that was prior to the murder
10 case, Judge. The statements are contradictory.

11 (Portion not audible)

12 THE COURT: All right. Give me a minute.

13 (Brief pause in the proceeding)

14 THE COURT: Here is the distinction in my mind
15 about how that evidence -- about what significance
16 that evidence would have and whether it is preju-
17 dicial or not, or based on whether it is a jury trial
18 or not a jury trial.

19 So let me go ahead and ask -- let's resolve the
20 issue of whether it's a jury or a non-jury trial. If
21 you have a jury trial the jury would determine what
22 the facts in the case are.

23 If it is not a jury trial, then I would be the
24 one to determine the facts.

25 So we need to resolve at the time with you, sir,

1 the issue of jury versus non-jury trial first.

2 Does the State have an objection to going on
3 a non-jury status? To going forward through the
4 Court on a non-jury status?

5 SOLICITOR: No, sir, Your Honor.

6 THE COURT: Okay. All right, Mr. Poole, would
7 you raise your right hand for me?

8 (Defendant sworn by the Court)

9 THE COURT: You do recognize that under the
10 Constitution you have a right to a jury trial?

11 DEFENDANT: Yes, sir.

12 THE COURT: And you recognize that if you were
13 to have a jury trial twelve of your peers would be
14 impaneled, and I know you've gone through this be-
15 fore? I just need to make sure it's on the record.

16 DEFENDANT: Yes.

17 THE COURT: And do you understand the State
18 would have the burden of proving you guilty beyond a
19 reasonable doubt to a jury of twelve of your peers?
20 Do you understand that?

21 DEFENDANT: Yes.

22 THE COURT: And have all your responses been
23 yes, sir?

24 DEFENDANT: Yes.

25 THE COURT: All right, this Court Reporter

1 actually needs to take it down, so you need to speak
2 up. Okay?

3 DEFENDANT: Yes.

4 THE COURT: Now, do you understand that in that pro-
5 ceeding the jurors would be the finders of the facts, that
6 the twelve people would have to agree on the facts and agree
7 on whether the State has met the burden of proving
8 each and every element of the offenses beyond a rea-
9 sonable doubt.

10 Do you understand that? Is that a yes?

11 DEFENDANT: Yes, sir.

12 THE COURT: Now, if we try it non-jury, then you
13 waive that jury right, and what happens is that I
14 will be not only the finder of the law but also the
15 finder of the facts, and I will make the determina-
16 tion of whether the State in fact has met its burden
17 of proving each and every element of the offenses
18 against you, and I will also be tasked with imposing
19 any sentence if there is a conviction.

20 Do you understand that?

21 (No audible response)

22 THE COURT: Is that a yes?

23 DEFENDANT: Yes.

24 THE COURT: Okay. Now, do you want to waive
25 your right to a jury trial, sir?

1 THE DEFENDANT: With a jury I've got to convince
2 twelve but with you I just have to convince one.
3 (Portion not audible) We went through all this
4 about two months ago.

5 THE COURT: Mr. Poole, you've got some difficult
6 decisions to make. I realize that it is your life,
7 and I realize you are taking this very seriously, as
8 well you should.

9 I don't envy you the task of having to make the
10 decision, frankly.

11 You have made a motion to proceed without Mr.
12 Sullivan as well.

13 DEFENDANT: I need some time to think about what
14 I'm doing. Then I wanted to proceed without him.

15 THE COURT: And that's what I want you to do.
16 You have these decisions to make.

17 I also happen to know from having spoken to the
18 attorneys that there are some offers on the table,
19 but I don't know if you have considered them or you
20 have not considered them.

21 This is what I'm going to do.

22 DEFENDANT: I haven't had no offers.

23 THE COURT: Well, then perhaps you need to talk
24 to Mr. Sullivan again about it, and I'm going to
25 bring you back out in fifteen minutes. Okay? In

1 fifteen minutes.

2 DEFENDANT: Okay.

3 THE COURT: And you've got some hard decisions
4 to make, no doubt about it. They are going to be
5 hard in half an hour, going to be hard in an hour.
6 They're going to be hard in a day; going to be hard
7 tomorrow.

8 So you might as well go ahead and make a decis-
9 ion. Get off the pot and make a decision that is
10 relevant to your case. I'm going to give you fif-
11 teen minutes and then I'll come back out.

12 DEFENDANT: I need to know about offers.

13 THE COURT: I want you to talk to Mr. Sullivan.
14 Okay? Talk to him. As of right now, as of right
15 this second if I remember correctly, I granted your
16 motion to excuse Mr. Sullivan from representing you.

17 DEFENDANT: Then that means I have to represent
18 myself.

19 THE COURT: Perhaps, but I want you to talk
20 to him. We're going to revisit all of these issues
21 and I will go through them one by one. Okay?

22 That is, counsel and jury versus non-jury, and
23 to the extent that any offers have been put on the
24 table I will let you talk to him about that as well.
25 Okay?

1 So in fifteen minutes we're going to come back
2 in and I'm going to ask you the questions and get a
3 direct response from you on all of the questions.

4 Then what we're going to do is we're either
5 going to start a trial by selecting a jury or we'll
6 go ahead and start it by my listening to the evi-
7 dence and the witnesses. Okay?

8 So I'll give you fifteen minutes. You can talk
9 to him.

10 DEFENDANT: I'll go with him.

11 THE COURT: So you want Mr. Sullivan to repre-
12 sent you?

13 DEFENDANT: Yes.

14 THE COURT: You want him to represent you?

15 DEFENDANT: Yes, I do.

16 THE COURT: Okay. Now that you've made that
17 decision, I want you to talk to him for ten minutes.
18 Okay?

19 MR. SULLIVAN: Judge, I would like to put on
20 the record that there was an offer made and we have
21 discussed that.

22 DEFENDANT: I would like to talk to him about
23 that.

24 THE COURT: Okay. Ten minutes.

25 (Whereupon, the Court took a brief recess,

1 after which the matter resumed)

2 (Discussion at the bench between counsel and the
3 Court off the record)

4 THE COURT: Okay. Do you have the paperwork?

5 SOLICITOR: Yes, Your Honor. This is 2009 GS 23
6 5747, The State versus Willie James Poole, Indictment
7 for murder and possession of a weapon during the com-
8 mission of a violent crime.

9 He's pleading to possession of a weapon during
10 commission of a violent crime and manslaughter.

11 It is a true bill.

12 THE COURT: Okay. Please swear him again.

13 (Defendant sworn by Clerk for purposes of the
14 proceeding)

15 THE COURT: Mr. Sullivan, have you had the op-
16 portunity to discuss with Mr. Poole his constitu-
17 tional rights and the ramifications of this plea?

18 MR. SULLIVAN: I have, Your Honor.

19 THE COURT: Okay.

20 MR. SULLIVAN: And he tells me that he wishes
21 to enter this plea.

22 THE COURT: And you have had an opportunity to
23 investigate the charges and the allegations of this
24 case, sir?

25 MR. SULLIVAN: I have, Your Honor. The case

1 could go either way. He could be convicted of murder
2 if he goes to trial. He has made this decision him-
3 self.

4 THE COURT: And you have had the opportunity to
5 engage in discovery and go through the discovery
6 with Mr. Poole?

7 MR. SULLIVAN: I have, Your Honor. I think he
8 is fully familiar with the State's case against him.

9 THE COURT: And do you agree with his decision
10 to waive his rights today and plead guilty?

11 MR. SULLIVAN: It was a very, very hard decision
12 but in view of the weight of the evidence, together
13 with the fact that no one can predict the outcome, I
14 think it is the right thing for him to do, and
15 especially considering that he is under a twenty-five
16 year sentence for armed robbery.

17 He's been in jail on these charges since January
18 20 of 2009. He has not been out on bond since then.

19 THE COURT: Okay.

20 MR. SULLIVAN: I think the bond was half a mil-
21 lion dollars.

22 THE COURT: Okay. Good enough.

23 Mr. Poole, I'm going to ask you a series of
24 questions. Some of the questions I ask you I may
25 have already gone over with you today, so to the

1 extent that I repeat myself or being redundant I
2 apologize to you. Okay?

3 Just as we've talked about before when you re-
4 sponded to my questions, if you would do it clearly
5 and verbally because the Court Reporter needs to
6 take it down. It is very difficult for her to ascer-
7 tain what a head nod would be. Please answer in
8 the affirmative or negative. Okay?

9 DEFENDANT: Yes, sir.

10 THE COURT: You do recognize that you have a
11 right to a jury trial in this case?

12 DEFENDANT: Yes, sir.

13 THE COURT: And you recognize that in that trial
14 the State would have the burden of proving you guilty
15 beyond a reasonable doubt to that jury of the
16 twelve of your peers?

17 DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that they would
19 have the burden of proving each and every element of
20 the offense beyond a reasonable doubt?

21 DEFENDANT: Yes, sir.

22 THE COURT: And you also understand that before
23 this we have talked about your waiving a jury trial
24 and proceeding just on a bench trial where I would
25 hear the case?

1 DEFENDANT: Yes, sir.

2 THE COURT: You recall that discussion?

3 DEFENDANT: Yes.

4 THE COURT: And you realize that even in that
5 event the State would still retain the burden of prov-
6 ing each and every element beyond a reasonable doubt.
7 Do you understand that?

8 DEFENDANT: Yes, sir.

9 THE COURT: Now, in that proceeding you would
10 not have the burden of proving yourself innocent. Under
11 the Constitution you have the right to remain silent,
12 which means you wouldn't be required to say or to do or
13 prove anything to the jury; that the State would at
14 all times retain the burden of proof. Do you under-
15 stand?

16 DEFENDANT: Yes.

17 THE COURT: Now, in a trial, whether it be a
18 jury trial or a non-jury trial, you would have the
19 right to waive your right to remain silent if you
20 wanted to; that you could take the stand and you
21 could present your own testimony and tell the jury
22 your side of the story.

23 You could also present evidence and witnesses,
24 you could present legal defenses to the charges that
25 were brought against you.

1 You could also cross examine any of the State's
2 witnesses, including all of those persons who may be
3 testifying against you and accusing you of this crime.
4 Do you understand that?

5 DEFENDANT: Yes, sir.

6 THE COURT: Do you wish to waive those rights and
7 plead guilty today?

8 DEFENDANT: Yes, sir.

9 THE COURT: All right. For voluntary manslaughter
10 do you understand you could receive up to thirty years
11 incarceration, sir?

12 DEFENDANT: Yes, sir.

13 THE COURT: And do you understand that that crime
14 is classified as most violent and most serious?

15 DEFENDANT: Yes, sir.

16 THE COURT: And you understand that because it
17 is classified as violent it affects the manner and
18 method by which you do your time in the Department
19 of Corrections?

20 DEFENDANT: Yes, sir.

21 THE COURT: And you also understand that it could
22 affect the percentage of time you do on the sentence?

23 DEFENDANT: Yes, sir.

24 THE COURT: Do you understand that because it is
25 classified as most serious it is a strike under the

1 State's two strike-three strike law?

2 DEFENDANT: Yes, sir.

3 THE COURT: And you understand that because it is a
4 strike, if at a later date and time you receive another
5 strike for most serious or serious -- at a later date
6 and time you could potentially be subject to a sen-
7 tence of life without possibility of parole?

8 DEFENDANT: Yes, sir.

9 THE COURT: Knowing all of that, how do you wish to
10 plead to voluntary manslaughter, sir?

11 DEFENDANT: Guilty.

12 THE COURT: On the possession of a weapon during
13 the commission of a violent crime do you recognize you
14 could receive up to five years incarceration?

15 DEFENDANT: Yes, sir.

16 THE COURT: And do you understand that that could
17 be consecutive and in addition to the thirty years for
18 the voluntary manslaughter?

19 DEFENDANT: Yes, sir.

20 THE COURT: And how do you wish to plead to
21 that?

22 DEFENDANT: Guilty.

23 THE COURT: Has anyone forced you, threatened or
24 made you plead guilty?

25 DEFENDANT: No.

1 THE COURT: Are you pleading guilty of your own
2 free will today?

3 DEFENDANT: Yes, sir.

4 THE COURT: Are you under the influence of any
5 drugs or alcohol today?

6 DEFENDANT: No, sir.

7 THE COURT: And do you suffer from any mental sick-
8 ness that would affect your ability to understand what
9 -- to understand and appreciate what we're doing here
10 today?

11 DEFENDANT: No.

12 THE COURT: Now, I know originally you made a
13 motion to have Mr. Sullivan relieved. I know you've
14 had the opportunity to talk to him and you have come
15 to a decision.

16 As you stand here right now are you satisfied
17 with Mr. Sullivan's services?

18 DEFENDANT: Yes, sir, as I stand here now.

19 THE COURT: And any dissatisfaction you may have
20 had you put on the record before we started today?

21 DEFENDANT: Yes.

22 THE COURT: Anything in addition you want to
23 say with respect to Mr. Sullivan's services?

24 DEFENDANT: No.

25 THE COURT: Have you understood all of the

1 questions and explanations I have given you today?

2 DEFENDANT: Yes, sir.

3 THE COURT: All right. You've got ten days to appeal
4 your sentence.

5 Solicitor?

6 SOLICITOR: May it please the Court, Your Honor?

7 If I could go back just a little bit to the -- as to
8 any negotiations?

9 I did on January 6 of this year have Mr. Poole
10 served with notice of intent to seek life without parole.
11 For the purpose of this plea, I am withdrawing that mo-
12 tion. Also the outstanding indictment for assault and
13 battery with intent to kill will be dismissed, and
14 I have handed that paperwork in today.

15 As to the facts, Your Honor, on January 9th of
16 2009 Taleva Allen, who was thirty-one years old at the
17 time, had a four year old daughter. She sort of went
18 missing.

19 She was living with her mother who is in the
20 Courtroom, as many of her family members are. Her
21 mother began trying to find her, called in a miss-
22 ing person report, and nobody could find her.

23 On January 11th of 2009 the car Taleva had been
24 driving around in was found behind a church here in
25 Greenville County. The pastor of that church is in

1 the Courtroom as well to testify about finding the
2 car.

3 Then in the early afternoon of January 12, a
4 Monday, two guys on dirt bikes found Taleva's body in
5 the woods off of Lakeside Road in Greenville County.
6 An autopsy revealed that she died as a result of
7 three gunshot wounds to the chest. One went in around
8 her left shoulder. The other two went in close to
9 the middle of her chest, and those three projectiles
10 were recovered from the right side of Taleva Allen's
11 chest.

12 No weapon was recovered. The officers then
13 started trying to trace Taleva's steps that night. The
14 last time she was seen alive was with the Defendant.
15 The Defendant was driving the car that was found behind
16 the church. Taleva was in the passenger seat and
17 was having a conversation with a lady that Taleva had met
18 in prison who would have testified as well.

19 She would testify that she was having to --
20 that Taleva was having to justify herself to the Defen-
21 dant. Taleva was asking the witness to confirm that
22 Taleva was not a lesbian; that Taleva talked about
23 the Defendant while she was in prison.

24 Eventually the witness became tired of that and
25 asked them to leave.

1 So the last time she was seen alive is with the
2 Defendant, and the Defendant is driving the car that
3 was found behind the church.

4 In the early morning hours of Saturday -- of
5 Saturday the 10th -- between four and five A.M. a
6 witness would testify the Defendant got back to his
7 house after being gone all day Friday.

8 He got back to his house, got out of the ve-
9 hicle Taleva had been driving and came into the house.
10 He was in an agitated state, was nervous. He moved a
11 love seat in front of the door and laid on the floor
12 face down.

13 He refused to talk about anything until about
14 thirty minutes later, and in that conversation he
15 did tell a witness that he had become angry at Taleva
16 while they were riding around in that car in the area
17 where the body was found; that she was in an intoxi-
18 cated state and was urinating on herself; that he got
19 mad and pulled out a gun and that he shot her.

20 He told that witness, however, that he missed her
21 or that he just grazed her and the bullet went into
22 the passenger side door.

23 Certainly it's the State's theory that it wasn't
24 grazing when there were three shots that killed her.
25 Other witnesses would be available and are here to

1 testify that they have seen the Defendant with a black
2 twenty-two caliber pistol, and twenty-two caliber is
3 what killed Taleva.

4 Black gun with a brown handle -- that gun was
5 never found. We have witnesses who would testify that
6 on Friday night he was seen with that black twenty-two
7 and that he had sort of went on the run after Taleva's
8 body was found; that he left his house, was staying
9 in different hotels.

10 That he even had a fellow come pick him up from
11 a hotel, and when this fellow came to pick the Defen-
12 dant up the Defendant got in the back of the witness'
13 van and it so happened a trooper pulled them over.

14 As soon as the blue lights came on, the Defendant
15 began yelling at this witness, don't try to set me up;
16 don't try to set me up; things of that nature.

17 So certainly it is a hard circumstantial case
18 but I'm confident he's the one that did it. I am
19 confident also that it is absolutely in the best inter-
20 est of the State to accept this plea, and we would ask
21 certainly that you accept it.

22 Thank you.

23 At the appropriate time, Your Honor, I'm sure
24 Taleva's mother would like to address the Court.

25 THE COURT: Mr. Poole, I recognize that you may

1 take exception to and disagree with some of the par-
2 ticulars of that factual scenario, and I know some
3 of it may be speculation and conjectural, but this is
4 the force of it -- did you shoot and kill the victim?

5 DEFENDANT: No.

6 THE COURT: You did not?

7 DEFENDANT: No, I did not. First of all, that
8 car did not come to my house.

9 THE COURT: You don't have to tell me any more.
10 Okay, we'll go to a trial.

11 DEFENDANT: No, we don't have a trial.

12 THE COURT: We have to now because you didn't
13 plead guilty; you denied that you killed her.

14 Because you denied it, you will have to have a
15 trial.

16 DEFENDANT: I did it. I did it. I did it.

17 THE COURT: Mr. Poole, . . .

18 DEFENDANT: I did it. I'm not going to a trial.
19 I did not. I can't go through with a trial.

20 THE COURT: Mr. Poole, I don't want you to say
21 it just because you think I want to hear it. I want
22 to be fair to you.

23 DEFENDANT: Okay, I did it.

24 THE COURT: Are you sure?

25 DEFENDANT: Positive.

1 THE COURT: I will ask you this, do you feel like
2 I'm pressuring you or coercing you or making you in
3 any way plead guilty?

4 DEFENDANT: No, sir.

5 THE COURT: I'm telling you that we can have a
6 trial on it so I don't want you to feel pressure from
7 the Court or anybody in that regard.

8 DEFENDANT: No.

9 THE COURT: Okay, Mr. Poole, you are standing
10 here under oath right now, and you are stating that
11 you did shoot and kill her?

12 DEFENDANT: Yes, sir.

13 THE COURT: All right. Before I accept the plea,
14 I want to hear from the victim's mother.

15 SOLICITOR: Okay. Mrs. Allen.

16 THE COURT: Maam, I'll be happy to hear from you.
17 If you would, please, state your name into the record
18 before you begin to speak.

19 MRS. ALLEN: Your Honor, I am Ethel Allen, and
20 I am Taleva Allen's mother.

21 At this plea I would ask that the Court not
22 lower the sentence. We have -- this family has gone
23 for years with this abuse and his promise to kill
24 her, and he promised her that he would kill us if she
25 didn't believe him and stay quiet.

1 He also beat her in front of her child and dared
2 her child to tell me what had happened. She was scared
3 to tell us what happened. She protected him because
4 she was scared that he was going to kill us. She knew
5 his capabilities, Your Honor. She was aware of
6 his capabilities.

7 Any witnesses that don't come forward they won't
8 come forward because they are aware of his capabili-
9 ties, but he promised that he was going to kill her.
10 He promised us he would kill me and the baby.

11 I'm asking you to make him pay separately from
12 the robbery for what he has done. Your Honor, please
13 make him pay for what he has done because he has bragged
14 that he would do this and get away with it.

15 I told Greenville County --when she went miss-
16 ing, I told Greenville County exactly where to find
17 her because he had taken her before and beat her in
18 that same spot.

19 I told Greenville County exactly where to find
20 her because I thought she might have been laying down
21 there wounded.

22 My daughters and I went there to try to find her
23 and the reason we didn't go down in there was because
24 it had been raining and we were scared we were going
25 to get stuck in the mud, but if we had gone down there

1 we would have found her ourselves because we knew
2 exactly where to find her because that was his spot
3 to take her and beat her.

4 So I'm asking you, please, sir, to give him ad-
5 ditional time for her murder separately.

6 Thank you, Your Honor.

7 THE COURT: Thank you, Mrs. Allen. I appreciate
8 your being here. Ladies and gentlemen, I appreciate
9 your being here.

10 I extend my condolences to you. I'm sorry for
11 what happened.

12 Mr. Sullivan? Anything else?

13 MR. SULLIVAN: Yes, sir, Judge. This isn't in-
14 tended to try to lessen what happened. There is no
15 way anything said could do that, but he's doing twenty-
16 five on the armed robbery. That was done earlier on
17 the day that this happened.

18 (Portion not audible)

19 I think he has made what is a wise choice on his
20 part. He's thirty-some years old now. He has this
21 child and I think another one living with its mother.

22 I would ask you to consider running these con-
23 current with the sentence he's already under. He's
24 certainly going to be an older man when he gets out.

25 So far he's been a model prisoner. He was actually

1 working (inaudible) until they transported him on
2 Thursday so I could have more time with him.

3 (Portion of statement of Mr. Sullivan not aud-
4 ible on cassette)

5 THE COURT: All right. Mr. Poole, I would be
6 happy to hear from you if there is anything you'd
7 like to tell me.

8 DEFENDANT: I'd like to say that I apologize to
9 the momma. There's a lot of things that haven't been
10 said here, but I apologize. I'm not the man I want to be.

11 THE COURT: Mr. Poole, I haven't accepted the
12 plea yet, and I want to ask you one more time --
13 did you commit this crime?

14 DEFENDANT: I plead guilty.

15 THE COURT: Do you want me to accept this plea,
16 sir?

17 DEFENDANT: Yes.

18 THE COURT: All right. Ms. Allen, again I want to
19 extend my condolences to you and your family.

20 Sentencing is a difficult thing to do but I have
21 to do it. I have to weigh a lot of competing factors.
22 I want you to know that there is no sentence I can
23 possibly extend to Mr. Poole that would compensate
24 for the loss you have experienced, and there is no
25 sentence I could possibly give him that would take

1 away the grief you are experiencing or give you any
2 type of closure, or any type of vindication at this
3 time.

4 A lot of times I give -- when I extend a sen-
5 tence I tell the victims and the victims' families
6 I am simply a mortal man and all I can do is give
7 a sentence under the law.

8 Please don't look for closure or vindication from
9 the sentence. Okay? That has to come from your look
10 to your Lord. Look to your Lord for that comfort
11 but please don't look to a sentence for that com-
12 fort.

13 I'm going to do in part what you say but not
14 entirely what you have asked me to do. Okay?

15 Don't think for a second that I haven't heard
16 you or that I don't understand and appreciate your
17 grief. It is not a reflection on what I heard you say
18 at all. Okay? Just understand that there are other
19 things that I must consider other than your entreaties
20 to me.

21 I've heard what you said and I thank you for
22 that. Make no mistake about it, I do intend to give
23 a sentence that is punitive to Mr. Poole.

24 Mr. Poole, the sentence of the Court is -- how
25 long has he been in, first of all?

1 SOLICITOR: He's been in since January 20 of 2009.

2 THE COURT: Since January 20 ...

3 SOLICITOR: Of 2009.

4 THE COURT: Okay. So nearly three years.

5 SOLICITOR: That's right.

6 THE COURT: All right, on the voluntary manslaughter,
7 the sentence of the Court is that you be committed
8 to the Department of Corrections for a period of thirty
9 years. Credit for time served since January 20 of
10 2009.

11 For possession of a weapon during the commission
12 of a violent crime, the sentence of the Court is five
13 years. Credit for time served since January 20, 2009.

14 That is consecutive to the time you are currently
15 serving and to the voluntary manslaughter.

16 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

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CERTIFICATE

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I, HARRIET P. BENNETT, Official Court Reporter for South Carolina Court Administration, do hereby certify that the foregoing Transcript of Record was prepared from the records of Mary DiGirolamo to the best of my ability, having been heard in the Court of General Sessions for Greenville County on January 17, 2012.

FURTHER, I certify that I am neither of kin nor counsel to any party to this matter, nor do I have any interest in the case.

February 11, 2014

Harriet P. Bennett

FORM 5

STATE OF SOUTH CAROLINA)
County of Greenville)

IN THE COURT OF COMMON PLEAS

William James Poole 290914)
Full name and prison number (if any) of Applicant)

2013-CP-23- 02904

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
MAY 22 P 37

v.)
State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention Lee Correctional Institution, South Carolina Department of Corrections.
2. Name and location of Court which imposed sentence Greenville County Court of General Sessions, Greenville, South Carolina
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2009-GS-23-5747

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

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

- (a) January 17, 2012 / 30 yrs 5 yrs time served
- (b) _____
- (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty ✓
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A

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

yes

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

(a) the name of each Court to which you appealed:

- i. SOUTH CAROLINA COURT OF APPEALS
- ii. N/A
- iii. N/A

(b) the result in each such Court to which you appealed:

- i. DISMISSING THE NOTICE OF APPEAL AND THE REMITTURE ABOUT LOWER COURT JUDGEMENT
- ii. N/A
- iii. N/A

(c) the date of each such result:

- i. FILED WRITA FROM S.C. APPEALS JUNE 14, 2012 DISMISSING APPEAL &
- ii. AUGUST 13, 2012 REMITTURE, REMITTING TO LOWER COURT JUDGEMENT
- iii. N/A

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

- i. COUNSEL ASSERTED THAT NO ISSUES WERE RAISED DURING GUILTY PLEA
- ii. _____
- iii. _____

9. If you answered No to (7), state your reasons for not so appealing:

- (a) _____

- (b) _____
- (c) _____

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

- (a) Ineffective Assistance of Counsel in Violation of 6th Amend.
- (b) Due process violation
- (c) Subject matter Jurisdiction

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

- (a) involuntary Plea Failed to Withdraw Plea Amongst other failures Failure to investigate, failed to have prepare for plea, failure to contact witnesses.
- (b) Abandonment
- (c) Invalid indictment and Plea

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

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

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

- (a) the specific nature thereof:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - iv. N/A
- (b) the name and location of the Court in which each was filed:
 - i. N/A
 - ii. N/A
 - iii. N/A

iv. n/a

(c) the disposition thereof:

i. n/a

ii. n/a

iii. n/a

iv. n/a

(d) the date of each such disposition:

i. n/a

ii. n/a

iii. n/a

iv. n/a

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

i. n/a

ii. n/a

iii. n/a

iv. n/a

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

n/a

n/a

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

(a) which grounds have been presented:

i. n/a

ii. n/a

iii. n/a

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

i. n/a

ii. n/a

iii. n/a

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

- (a) Not yet ripe for review
- (b) N/A
- (c) N/A

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

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

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

- (a) the name and address of each attorney who represented you:
 - i. Timothy Sullivan, Esq.
305 E. North St. Ste. 123, Greenville, S.C. 29602
 - ii. Robert Michael Dudek - Div. of Appellate Defense
P.O. Box 11589, Columbia, S.C. 29211-1589
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Plea, and Sentencing
 - ii. Direct Appeal
 - iii. N/A

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

Resentencing, or Convictions be reversed and
remanded back to permit Applicant A New trial
OR Vacate Plea.

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

Yes

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Lee)

VERIFICATION

I, Willie James Pate, 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.

Willie James Pate

SWORN to and subscribed before me this 8 day of May, 2013.

Maurice W. Miller (L.S.)
Notary Public

My Commission Expires: 3/8/2020

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

I, Willie James Postle, 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.

Willie James Postle
Applicant

SWORN or affirmed to and subscribed before me this
2 day of May, 2013

Maureen White
Notary Public

My Commission Expires: 3/8/2020

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Willie James Poole,)
 S.C.D.C. No. 270914,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2013-CP-23-2904

RETURN

In response to the post-conviction relief application filed May 22, 2013, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the December 2009 term of General Sessions for murder (2009-GS-23-5747, count 1) and possession of a weapon during commission of a violent crime (2009-GS-23-5747, count 2). C. Timothy Sullivan, Esquire represented the Applicant.

On January 16, 2012, the Applicant pled guilty to voluntary manslaughter and possession of a weapon during commission of a violent crime. The Honorable Robin B. Stilwell sentenced the Applicant to concurrent terms of thirty years for voluntary manslaughter and five years for possession of a weapon during commission of a violent crime.

A notice of appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. By order filed June 14, 2012, the Court of Appeals dismissed the appeal based on the

Applicant's failure to provide a written explanation as to what issues could be reviewed. See Rule 203(d)(1)(B)(iv), SCACR. The remitter was sent on August 13, 2012.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, and the appellate records. The guilty plea transcript will be forwarded upon receipt.

II.

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

1. Ineffective assistance of counsel:
 - a. Failure to withdraw plea.
 - b. Failure to investigate.
 - c. Failure to prepare for plea.
 - d. Failure to contact witnesses.
2. Due process violation.
3. Subject matter jurisdiction.
4. Involuntary guilty plea.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983).

IV.

The Applicant's assertion that his guilty plea was involuntary is without merit. In post-

conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy

between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248.

V.

As to the other allegations in the application, the Respondent argues it cannot address these allegations because they are too vague. The Uniform Post-Conviction Procedure Act requires the Applicant to "specifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50 (2003). These allegations are so vague that it is impossible for the Respondent to respond.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

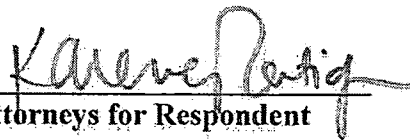
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

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

By: 
Attorneys for Respondent

JAWSON
December 2, 2013

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	
COUNTY OF GREENVILLE)	Case No(s) : 2013CP2302904
)	
Willie James Poole,)	
)	
Applicant,)	
)	
-VS-)	TRANSCRIPT OF RECORD
)	
State of South Carolina,)	
)	
Respondent.)	
)	

October 21, 2014
 Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

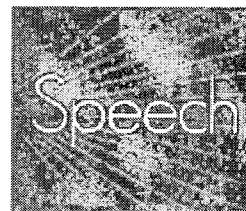
A P P E A R A N C E S:

KAREN RATIGAN, Esquire
 Attorney for the State

MILLS ARIAIL, Esquire
 Attorney for the Applicant

Teresa B. Johnson
 Certified Verbatim Reporter
 P.O. Box 2812
 Greenville, S.C. 29602

Records are
 taken and
 produced via



CAT 7™

I N D E XDIRECT CROSS REDIRECT RECROSS

Willie Poole

by Mr. Mills 5

by Ms. Ratigan 23

Antonio Jones

by Mr. Mills 28

by Ms. Ratigan 33

Timothy Sullivan

by Ms. Ratigan 34

by Mr. Mills 41

Certificate of Reporter 49

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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APPLICANT EXHIBITS

A-1	Letter	17	17
A-2	Statement	18	18
A-3	Letter	22	22
A-4	Visitor Log	23	23

RESPONDENT EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

Remarks

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25**P R O C E E D I N G S**

(WHEREUPON, the proceedings begin on the 21st day of October, 2014 at approximately 9:47 a.m.)

THE COURT: Mr. Ariail and Ms. Ratigan, will y'all approach for just a moment?

(WHEREUPON, a bench conference is held off the record.)

MS. RATIGAN: May it please the Court?

THE COURT: Yes, ma'am.

MS. RATIGAN: This is the case of Willie Poole versus the State of South Carolina. Your Honor will notice there are actually two of Mr. Poole's cases on the docket. The one we're going to proceed upon first is the docket number 2013-CP-23-2904. That was a guilty plea case. On that case, Mr. Poole was indicted for Murder and Possession of a Weapon during the Commission of a Violent Crime. He was represented on these charges by Mr. Sullivan.

On January 16th of 2012, he pled guilty to the reduced charge of Voluntary Manslaughter and also to the weapons charge. Judge Stillwell sentenced him to 30 years for Voluntary Manslaughter and five years for Possession of a Weapon during the Commission of a Violent Crime.

1 **THE COURT:** All right. Mr. Ariail?

2 **MR. ARIAIL:** Thank you, Your Honor. We're
3 ready to proceed. I'll call Mr. Poole to the
4 stand as my first witness.

5 **THE COURT:** All right. Sir, if you would,
6 come forward and be sworn please.

7 **WILLIE POOLE**

8 having first been duly sworn, testifies as follows:

9 **THE CLERK:** Thank you. Please state your
10 full name for the record.

11 **THE WITNESS:** Willie James Poole.

12 **THE CLERK:** Thank you. You may be seated.

13 **DIRECT EXAMINATION**

14 **BY MR. ARIAIL:**

15 **Q** Mr. Poole, I want to start off and get a
16 little background in regards to your case. You've got
17 -- the one we're concentrating on right now is a
18 guilty plea that you were represented by Mr. Sullivan
19 in regards to -- the cases we're talking about are
20 the Murder charge and the Possession of a Weapon
21 during the Commission of a Violent Crime. You
22 remember those charges?

23 **A** Well, I remember the murder charge. But the
24 possession charge, that wasn't part of the plea
25 agreement.

1 Q We'll get into that. I just want to get a
2 little background first. First of all, you were
3 represented by Mr. Sullivan on these two charges,
4 correct?

5 A Right.

6 Q It says that you were indicted in December
7 of 2009. Okay. Now before that, before you were
8 indicted, you, I guess, were appointed Mr. Sullivan
9 as your attorney, correct?

10 A Yes, sir.

11 Q Okay. So do you remember the exact date you
12 were appointed him or when you knew he was your
13 attorney?

14 A Well, I don't remember the exact date
15 because at first, he was going through to an illness.
16 So I ain't even seen him for about a year.

17 Q Okay. Let's go back. I want to recreate
18 exactly what you discussed with him in regards to it.
19 So you got, I guess, these arrest warrants. You were
20 picked up. I guess in this case, were you already
21 incarcerated at the time for other charges?

22 A For the murder?

23 Q For the murder charge.

24 A Uh-huh.

25 Q So you got these. You get appointed Mr.

1 Sullivan.

2 A Uh-huh.

3 Q How long after you get appointed did you
4 talk to him? When was the first time?

5 A Probably about a year and some change
6 later.

7 Q Okay. Did you speak with anybody at the
8 Public Defender's Office?

9 A Nope.

10 Q Okay. So he was appointed to you and it
11 took about a year, is that what you're saying?

12 A I think he was sick or something. Cancer.
13 He had cancer or something.

14 Q Did you send him any letters, get any
15 correspondence from him?

16 A Didn't get no correspondence.

17 Q Did you get discovery from him?

18 A I got discovery towards the end from his
19 investigator.

20 Q Who is his investigator?

21 A I think, uh, J.C. somebody.

22 Q Okay. So you got the discovery. Then you
23 discussed -- I guess at some point in time, you
24 reviewed it and then you had a discussion with Mr.
25 Sullivan about it, correct?

1 **A** You talking about the murder, right?

2 **Q** Right. We're going to separate them. You've
3 got -- this is the murder and the possession of the
4 weapon, okay?

5 **A** All right. During that time -- with the
6 murder, we never did talk face-to-face about that. I
7 had went to trial for the armed robbery. When I got
8 found guilty of the armed robbery, then he said he
9 was going to come to Kirkland and we was going to
10 discuss the murder case. But he never did come to
11 Kirkland. That's what I got the evidence showing that
12 he never did come to Kirkland. He sent me discovery.
13 He sent me discovery that Thursday. That Monday, I
14 went for the guilty plea.

15 **Q** And you are saying the guilty plea you had
16 on January 16th, 2012?

17 **A** Yes, sir.

18 **Q** You didn't get your discovery until the
19 week before?

20 **A** I got it -- I got it that Thursday. That
21 Thursday. And then that Monday, I went for the guilty
22 plea.

23 **Q** But you came in. You had already been --
24 you were on the trial docket, correct?

25 **A** Talking about for the, uh, --

1 **Q** For the plea.

2 **A** When I went in, no, I'm not for sure.

3 **Q** You remember coming in. Have you got -- I
4 guess it was in front of -- and from my records, what
5 I have, it looks like it was in front of Judge
6 Stillwell, correct?

7 **A** Yes, sir.

8 **Q** So Judge Stillwell went through and asked
9 you several questions during this hearing on -- it
10 looks like it took place on January 17th.

11 **A** Yes, sir.

12 **Q** Okay. Now, you got on the trial docket. Had
13 you discussed with Mr. Sullivan at any time before
14 that a plea offer?

15 **A** No, sir. We never discussed no plea offer.

16 **Q** Never received a plea offer?

17 **A** Never received one.

18 **Q** So the first communication you're saying
19 you had with Mr. Sullivan was Thursday before you
20 pled guilty?

21 **A** Yes, sir.

22 **Q** And what I want to make sure is you talked
23 to him on the armed robbery case that it happened
24 before?

25 **A** Well, we had -- it was at the county. We

1 had talked about how we were going to go with the
2 armed robbery probably like three times for like 15
3 minutes a piece. 15, 20, I'll say 30 minutes a piece.

4 Q Okay. But that was for the armed robbery.
5 Nothing in regards to the murder charge.

6 A We never did discuss the murder.

7 Q Okay.

8 A He said he want to keep it separate. I went
9 to talk to him about the murder. He said, no, we're
10 going to do one at a time. We're going to do the
11 armed robbery. Then we'll later discuss the murder.
12 But we never did discuss the murder.

13 Q Okay. So you came up on January 17th,
14 decided at some point during this plea hearing to
15 plead guilty, right?

16 A We never did decide. I really didn't -- you
17 know, he said he didn't contact nobody. He said he
18 couldn't get in touch with nobody.

19 Q I'm going to go through that. But at some
20 point, you pled guilty, right?

21 A Yes.

22 Q So Judge Verdin has the transcript and can
23 go back and see what happened during this. But now, I
24 want to go back. You pled guilty. And you are saying
25 in your application that it was involuntary and

1 shouldn't have done it. Now, what I want to go back
2 and understand and what I need Judge Verdin to
3 understand from you is why you believe it was
4 involuntary. What did he not do that he should have
5 done or put you in a position that you had to plead
6 guilty and didn't want to?

7 **A** Well, I did not want to admit guilty from
8 the beginning. I told him I wanted to do an Alford
9 plea. He said the solicitor wouldn't go with that
10 plea. With him being my lawyer, of course, I don't
11 know of any other options. I am not a lawyer.
12 Though I don't know what else to do.

13 **Q** Right.

14 **A** So I went in there. When they asked me
15 again did you commit the crime, I said no, I didn't
16 do no murder. So then they went on down. When they
17 went on down with it, I was like, I ain't know what
18 else to do. I was stuck. I was just left without no
19 help.

20 **Q** Okay. So you were stuck and at that point
21 during the plea hearing, you said you were going to
22 plead guilty, right? You said no off of the
23 beginning, said I didn't do this?

24 **A** Cause I ain't want to go to trial. I know
25 I ain't have no evidence to back me.

1 **Q** Okay. So when you say you didn't have
2 evidence to back you, did you discuss with Mr.
3 Sullivan any evidence that, whatever helped him
4 defend you or he could put up during trial?

5 **A** Yes, sir. I have a letter. I hand wrote
6 it. It's right here.

7 **Q** Okay. So you got a letter?

8 **A** Yes, sir.

9 **Q** What is that -- if you can -- I'm going to
10 make it an exhibit but if you can kind of summarize
11 what you said in that letter.

12 **A** It was basically -- the letter was
13 basically asking him to subpoena these witnesses, to
14 go over the medical records and all of that stuff,
15 basically just give me a tight case. I wanted to go
16 to trial.

17 **Q** I guess I need a little more information in
18 regards to that. What specifically were you asking
19 him to investigate that you don't believe he did.

20 **A** He didn't do nothing. He didn't
21 investigate the witnesses that would've shown that I
22 was in another place at another time.

23 **Q** Okay. So you have got certain witnesses.
24 And one of those witnesses, I believe, is Andrea
25 Crossman, is that right?

1 **A** Uh-huh.

2 **Q** Okay. Now did you tell him about Andrea
3 Crossman?

4 **A** Yes. I told him I had an affidavit that
5 she wrote. He never did -- as a matter of fact, he
6 had that before I went to the plea.

7 **Q** Did you produce this affidavit to him?

8 **A** Yes. He had a copy of it.

9 **Q** Was he aware -- what did he say to you,
10 what conversations did you have in regards to him
11 about Andrea Crossman?

12 **A** I told him that -- is in that letter to. I
13 told him that she had wrote two affidavits stating,
14 talking about the crime.

15 **Q** Uh-huh.

16 **A** Didn't get no response.

17 **Q** When you say -- what did you tell him that
18 she was going to testify at trial?

19 **A** She was going to testify that I didn't tell
20 her that I had killed the victim.

21 **Q** Now Ms. Allen was the victim, correct?

22 **A** Uh-huh.

23 **Q** And there was a question as to whether or
24 not you made a statement to Mrs. Crossman or
25 acknowledged that you had killed her, correct?

1 **A** Correct.

2 **Q** Okay. Did you tell Mr. -- I guess part of
3 this was that Ms. Crossman was going to say you
4 didn't say that?

5 **A** Correct.

6 **Q** Did he go talk to her?

7 **A** No.

8 **Q** Did he call her as a witness?

9 **A** No.

10 **Q** Did he tell you why?

11 **A** No.

12 **Q** Okay. Now where is Ms. Crossman -- have
13 you talked to Ms. Crossman recently?

14 **A** No.

15 **Q** Okay. I tried to get Ms. Crossman here.
16 Do you know where she is or a location other than
17 that?

18 **A** She should be at home.

19 **Q** Okay, now Ms. Crossman is one witness. The
20 other witness is your -- I think you have got a -- is
21 it your brother, Mr. Jones?

22 **A** (Nods head.)

23 **Q** Okay. Mr. Jones, did you tell -- Antonio
24 Jones, he is in the Department of Corrections,
25 correct?

1 **A** Uh-huh.

2 **Q** Did you tell Mr. Sullivan about what Mr.
3 Jones is going to testify to?

4 **A** No, I didn't tell him -- I didn't tell him
5 what he was going to testify. He never did come talk
6 to me. That's what I'm saying we never did talk.

7 **Q** But you sent him a letter, correct? And
8 that is the letter you have got right there?

9 **A** Uh-huh.

10 **Q** Did you say in that letter I want you to
11 talk to Mr. Jones. He is going to tell you where I
12 was that night or any of that information?

13 **A** I told him to subpoena him. I did not tell
14 him what he was going to testify to.

15 **Q** Okay. Tell me what Mr. Jones was going to
16 be able to testify to what you believed he was going
17 to say that would have helped you in this case?

18 **A** You know, we were together around 10:00 to
19 12:00. He came to the house. The dude, Tim, you
20 know, he was a smoker. Antonio wanted his car, to
21 use his car. He would've let them know that I was at
22 home at the time.

23 **Q** Okay. Mr. Jones was going to let you know
24 you were at home?

25 **A** Uh-huh.

1 **Q** At that time that this murder happened?

2 **A** I really don't know what time the murder
3 happened to be honest with you.

4 **Q** Right. But at some point in time, you were
5 at home is what you were trying to get out of that.
6 You're saying Mr. Jones is going to be able to
7 testify to that?

8 **A** Uh-huh.

9 **Q** Now did you tell him about this?

10 **A** He will testify that I was at home also.
11 He was there. As a matter of fact, Andrea was the
12 one that answered the phone that night. Andrea was
13 the one answer the phone when Ms. Evelyn called when
14 she was asking the whereabouts of her daughter.

15 **Q** Okay. I guess -- you provided this
16 information, these witnesses for him to be able to
17 review, correct?

18 **A** Uh-huh.

19 **Q** Now, this was a circumstantial case,
20 correct?

21 **A** Correct.

22 **Q** There were no direct eye witnesses that
23 said you were there?

24 **A** They didn't even have no gunshot residue on
25 me, no nothing, no fingerprints.

1 Q No gunshot residue. They had a car.

2 A Her daughter had the HIV virus. I don't
3 even have no AIDS.

4 Q Okay. These witnesses, you specifically
5 told them in that letter -- I'm going to mark it as
6 Exhibit 1 if I can.

7 A That is what I really want him to pull. To
8 show that I did not have no AIDS. To make it a solid
9 case. He wouldn't do it.

10 (WHEREUPON, Applicant's Exhibits 1 is marked for
11 identification purposes.)

12 BY MR. ARIAIL:

13 Q Is this the letter that you sent to Mr.
14 Sullivan right there?

15 A (Nods head.)

16 MR. ARIAIL: Your Honor, I have marked
17 this. It's not dated but it has -- actually it
18 is, 11/18/2010. It is a letter from Mr.
19 Sullivan to Mr. Poole. If I can move this into
20 evidence as Exhibit 1.

21 MS. RATIGAN: No objection, Your Honor.

22 THE COURT: All right. It will be so
23 entered.

24 (WHEREUPON, Applicant's Exhibit 1 is admitted
25 into the record.)

1 **(WHEREUPON, Applicant's Exhibit 2 is marked for**
2 **identification purposes.)**

3 **BY MR. ARIAIL:**

4 **Q** Tell me if you recognize that document.
5 Did you have a copy of that document?

6 **A** Uh-huh.

7 **Q** Okay. Did you give that document to Mr.
8 Poole -- Mr. Sullivan?

9 **A** Yes, sir.

10 **Q** What is that document?

11 **A** That is the affidavit that Andrea wrote a
12 statement that I didn't ever tell her that I shot and
13 killed her.

14 **Q** And you gave it to him before the guilty
15 plea?

16 **A** Yes, sir.

17 **MR. ARIAIL:** Your Honor, I move this in as
18 Exhibit 2.

19 **THE COURT:** Any objection to that?

20 **MS. RATIGAN:** I have already looked at it.
21 No objection, Your Honor.

22 **THE COURT:** All right. It is so entered.

23 **(WHEREUPON, Applicant's Exhibit 2 is admitted**
24 **into the record.)**

25 **BY MR. ARIAIL:**

1 **Q** Now we have gone through some other issues.
2 I guess my main question in this is are you saying
3 you felt pressured into pleading guilty because Mr.
4 Sullivan had done what needed to be done to review
5 the case and investigate your case?

6 **A** Yes, sir.

7 **Q** Okay. Would you, I guess, let me see if I
8 can state it the right way. If he had investigated
9 all of those things, would you have pled guilty?

10 **A** No, sir. I would have took the trial.

11 **Q** Okay. Now, you had never gotten a plea
12 offer from him, I guess, at any time?

13 **A** No, sir.

14 **Q** Had you -- when y'all came up on January
15 16th, did you discuss the evidence and go over it at
16 any time?

17 **A** No, sir. He was trying to get me basically
18 to plead.

19 **Q** Okay.

20 **A** He told me he had an open -- how did he say
21 -- he said -- he said he can reduce murder to
22 voluntary manslaughter. We never discussed nothing
23 about no consecutive or nothing. He said concurrent
24 sentences.

25 **Q** What he got for you was a reduction for

1 murder to manslaughter, correct? Okay. We have gone
2 through -- I think you told me you had some other
3 issues you wanted to raise in regards to the warrants
4 and indictments were not valid.

5 **A** That dealt with the --

6 **Q** Life without parole notice that you got?

7 **A** The assault and battery charge that had a
8 murder statute on the back. I had objected to it.

9 **Q** Did you discuss that with him?

10 **A** Yes, sir.

11 **Q** What was his response to that?

12 **A** He said -- at the time, I was arguing with
13 them and trying to get them off the case. We really
14 just didn't go through it really. We was trying to
15 get them off the case.

16 **Q** Did you ever ask him after the plea once
17 you were sentenced to withdraw the plea?

18 **A** No. No, I asked for -- I told him to
19 appeal it.

20 **Q** Okay. And he appealed it, correct?

21 **A** Yes.

22 **Q** And that appeal was denied, I guess.

23 Correct?

24 **A** Yes.

25 **Q** Okay.

1 **A** You know, my main thing is I don't know the
2 law. That is what he is there for, to help me with.
3 I don't really know, which I don't know now.

4 **Q** You've got some other documents in front of
5 you, do you want to make --

6 **A** That's the one when I was at Kirkland, he
7 did not come to see me. That is the one when he was
8 saying about the plea.

9 **Q** Tell me what this document is right here?

10 **A** That document is saying where the solicitor
11 wouldn't go with the plea, an Alford plea. They
12 basically made me admit guilt.

13 **Q** You want to put that as part of the
14 evidence too?

15 **A** Uh-huh.

16 **Q** Do you recognize this document here?

17 **A** Uh-huh.

18 **Q** How did you get that document?

19 **A** I got it from Mr. Sullivan.

20 **Q** When did you get it? After your plea?

21 **A** Yes, sir.

22 **Q** And it says it was done January 19th, 2012?

23 **A** Yes, sir.

24 **Q** Okay. It is in regards to, I guess, the
25 Alford plea and I guess your discussion with him, is

1 that correct?

2 **A** Yes, sir.

3 **MR. ARIAIL:** Your Honor, I would move this
4 into evidence as Exhibit 3.

5 **MS. RATIGAN:** I have no objection, Your
6 Honor.

7 **THE COURT:** All right then. It is so
8 entered.

9 **(WHEREUPON, Applicant's Exhibit 3 is marked for**
10 **identification and admitted into the record.)**

11 **BY MR. ARIAIL:**

12 **Q** Tell me what that document is right there.

13 **A** That is a copy of all of the visitors that
14 came to see me from 2011 when I was at Kirkland to
15 2012.

16 **Q** Okay. How did you get that document?

17 **A** From the institution.

18 **Q** From which institution?

19 **A** I got it from Kirkland.

20 **Q** Kirkland. Where are you right now?

21 **A** I'm at Perry now.

22 **Q** Perry now. How long ago did you get that
23 document?

24 **A** I got it probably about a week ago.

25 **Q** Okay. They sent it to you at Perry?

1 **A** Yes, sir.

2 **Q** This shows the visitors that you had in the
3 Department of Corrections since May 2, 2011?

4 **A** Yes, sir.

5 **MR. ARIAIL:** Your Honor, I would move this
6 into evidence as Exhibit Number 4.

7 **THE COURT:** Any objection?

8 **MS. RATIGAN:** I would, Your Honor. I would
9 object based on lack of authentication. There
10 is really no way of looking at that printout and
11 telling who generated it, when and for what
12 purpose.

13 **THE COURT:** Well, I will allow it for what
14 it is worth.

15 **MR. ARIAIL:** Thank you, Your Honor.

16 **(WHEREUPON,** Applicant's Exhibit 4 is marked for
17 identification and admitted into the record.)

18 **MR. ARIAIL:** Your Honor, I have no further
19 questions.

20 **MS. RATIGAN:** All right.

21 Yes, ma'am.

22 **CROSS-EXAMINATION**

23 **BY MS. RATIGAN:**

24 **Q** So Mr. Sullivan represented you on the
25 other armed robbery charges?

1 **A** On the murder and the armed robbery.

2 **Q** That's what I'm saying and he also
3 represented you on the armed robbery. When y'all
4 would need to talk about the armed robbery, would you
5 also talk about the murder charge?

6 **A** I tried to talk to him about it but he said
7 he wanted to keep them separate. He would not ever
8 discuss it.

9 **Q** And your testimony today is you never
10 really talked about the murder case?

11 **A** No.

12 **Q** Okay. Your testimony is that the Thursday
13 before the plea is when you got discovery for the
14 murder?

15 **A** Yes, sir. I mean, yes, ma'am.

16 **Q** And did you review that discovery with Mr.
17 Sullivan's investigator?

18 **A** No.

19 **Q** Okay. Did you ever review it with Mr.
20 Sullivan?

21 **A** He sent that discovery through the mail.

22 **Q** Okay. I thought you said you got this
23 discovery from his investigator, J.C.

24 **A** That was for the armed robbery or
25 Greenville County.

1 **Q** Okay. You got the discovery in the mail
2 about a week before the plea?

3 **A** (Nods head.)

4 **Q** Did you ever tell Mr. Sullivan your version
5 of what had happened with the victim?

6 **A** We never got to discuss it.

7 **Q** Okay. So how did you -- let me strike
8 that. You really only had a meeting with Mr.
9 Sullivan the day of the plea, is that what you're
10 saying?

11 **A** Basically.

12 **Q** Okay. What did you talk about during that
13 plea, the day of the plea? What did you talk about?

14 **A** I told him I wanted to do an Alford plea.
15 I had asked him did he do any investigation towards
16 the murder. He said he couldn't get in contact with
17 nobody. I asked him, I said did you ever get in
18 contact with Treece. That's part of the plea that I
19 had subpoenaed. He said I cannot get in contact with
20 him. I said I want to enter in Alford plea. He said
21 the solicitor ain't going to go with that.

22 **Q** So instead of going to trial, you wanted to
23 try to get an Alford plea instead?

24 **A** No. I wanted to go to trial. But because
25 he didn't do an investigation, I wanted to get a

1 negotiated agreement.

2 Q Your testimony is that if Mr. Sullivan had
3 talked to all of these witnesses, you would have been
4 comfortable going to trial?

5 A Uh-huh.

6 Q But your testimony is that since he didn't
7 do that, you want to do an Alford plea so you would
8 not have to admit guilt?

9 A No. Because he didn't do an investigation,
10 I did not want to go in there and just --

11 Q Listen to what I am saying. Your testimony
12 is that since he did not do the investigation you
13 wanted, you felt like he could not go to trial. At
14 that point, you wanted to try and get an Alford plea?

15 A Not the investigation "you" wanted, the
16 investigation the Sixth Amendment requires him to do.

17 Q Okay. What I am asking you is you had
18 letters sent to him asking him to do certain things.

19 A Uh-huh.

20 Q Your testimony is he did not do those
21 things.

22 A (Nods head.)

23 Q By the time you pled guilty you already had
24 the armed robbery trial, is that correct?

25 A Yes.

1 **Q** And you also charged with the Assault and
2 Battery with Intent to Kill charge?

3 **A** That came out of nowhere.

4 **Q** Okay, but you also were charged with that,
5 yes?

6 **A** (Nods head.)

7 **Q** And that was dismissed as a part of the
8 guilty plea, correct?

9 **A** Correct.

10 **Q** And you also served with the State's notice
11 of intent to seek life without parole?

12 **A** Uh-huh.

13 **Q** And that was also dismissed as part of this
14 guilty plea?

15 **A** Uh-huh.

16 **Q** Okay. At the end of the day, didn't you
17 admit to Judge Stillwell that you were guilty of this
18 murder?

19 **A** I didn't want to.

20 **Q** But you did, correct?

21 **A** Yes..

22 **MS. RATIGAN:** That's all I have, Your
23 Honor.

24 **THE COURT:** All right. Anything else?

25 **MR. ARIAIL:** Nothing further, Your Honor.

1 **THE COURT:** All right. Sir, you can step
2 down.

3 **MR. ARIAIL:** Your Honor, I have got one
4 brief witness, Mr. Antonio Jones.

5 **THE COURT:** Okay. Sir, if you will, come
6 forward and be sworn please.

7 **ANTONIO JONES**

8 having first been duly sworn, testifies as follows:

9 **THE CLERK:** Thank you. Please state your
10 full name for the record.

11 **THE WITNESS:** Antonio Jones.

12 **THE CLERK:** Thank you. You may be seated.

13 **DIRECT EXAMINATION**

14 **BY MR. ARIAIL:**

15 **Q** Mr. Jones, tell me how you are related to
16 Mr. Poole.

17 **A** That's my brother.

18 **Q** Now, are you currently in the Department of
19 Corrections?

20 **A** Yes, sir.

21 **Q** How long are you there for?

22 **A** Seven years.

23 **Q** Seven years? Okay. What do you serving --
24 what are the charges right now you are serving?

25 **A** Crack.

1 **Q** Okay.

2 **A** Distribution of crack cocaine.

3 **Q** Mr. Poole and you, I guess, are brothers.

4 He wanted -- I called you here today in regards to he
5 pled guilty of voluntary manslaughter. Are you aware
6 of that?

7 **A** (Nods head.)

8 **Q** Now, the night of the alleged -- when he
9 was involved in that, been alleged in that, he said
10 he saw you. Do you remember seeing him that night?

11 **A** I remember seeing him on Guess Street.

12 **Q** Now, where were you on Guess Street?

13 **A** I was at a party.

14 **Q** Who were you with?

15 **A** Lisa.

16 **Q** What kind of -- how did you see him at that
17 party?

18 **A** He pulled up. I had talked to him that day
19 but he pulled up.

20 **Q** What time of night was that?

21 **A** About 10:30, 11:00, 12:00. Somewhere along
22 there. It was late.

23 **Q** How long did he stay there?

24 **A** About an hour, 30 minutes, 45 minutes.
25 Somewhere in there.

1 Q Was he by himself?

2 A Yes. From what I seen, he was by himself.

3 Q What kind of car did he have?

4 A A blue car. Dark car.

5 Q Okay.

6 A It might have been dark purple. I don't
7 know.

8 Q So you stay -- did you talk to him while he
9 was there?

10 A Yeah.

11 Q What did y'all talk about?

12 A I was trying to get some pot.

13 Q Okay.

14 A That's what we talked about. I was supposed
15 to get back up with him.

16 Q Okay.

17 A He told me I needed to get a car from
18 School Teacher.

19 Q He told you to get a car from --

20 A No. I needed -- I need it, I needed a car.
21 I was with Lisa. I needed a car. Me and Lisa was
22 arguing. I asked him if he would take me to School
23 Teacher and get a car.

24 Q Would he do that?

25 A Yeah, he did.

1 **Q** He took you. Where was that, I guess the
2 School Teacher's car?

3 **A** School Teacher is a crackhead. It is like
4 going towards Easley.

5 **Q** Okay. So how long did it take y'all to get
6 there?

7 **A** 10 or 15 minutes, something like that.

8 **Q** So when you went to get the car, did you go
9 back to the party?

10 **A** No. We split it up. We split up. I
11 called him. He never answered the phone.

12 **Q** Okay. What time of night do you think when
13 you dropped them off -- he dropped you off?

14 **A** He dropped me off. About 12:00.

15 **Q** 12:00?

16 **A** 1:00?. I don't know what time it was. Do
17 you know what I mean?

18 **Q** Okay. So sometime in the area you saw him
19 and he split up. You don't know where he went after
20 that?

21 **A** I mean, I know he went home.

22 **Q** How do you know he went home?

23 **A** I seen the car that he was in in front of
24 his house. Did I see him in the house, no, I did not
25 see him in the house. I did see the car that he was

1 driving.

2 Q What kind of car was that?

3 A It was a dark color car. I don't know what
4 kind of car it was.

5 Q Did you talk to him at any time that night?

6 A He said he wasn't coming back out.

7 Q So you talked to him?

8 A I talked to him later on that night but he
9 said he wasn't coming back out.

10 Q When did you talk to him after y'all split
11 up?

12 A 30 minutes. About 30 or 40 minutes after
13 we split up.

14 Q Did you ever see him with Ms. Allen at any
15 time?

16 A No.

17 Q Not that night?

18 A Not that night.

19 Q Okay. When is the next time you saw him
20 after that?

21 A Two days later.

22 Q Okay. Did you have any discussions with
23 him during those few days? Did you talk on the
24 telephone or anything like that?

25 A He called and talked. We were really

1 talking about nothing.

2 Q He wasn't upset about anything?

3 A No.

4 Q Wasn't worried, didn't have any issues,
5 didn't tell you anything?

6 A No.

7 MR. ARIAIL: Your Honor, I have no further
8 questions.

9 THE COURT: All right. Ms. Ratigan?

10 MS. RATIGAN: Thank you. Just briefly.

11 **CROSS-EXAMINATION**

12 **BY MS. RATIGAN:**

13 Q So you were with your brother for maybe an
14 hour that night?

15 A Yes ma'am.

16 Q And you didn't see him for a couple of days
17 after that?

18 A Yes, for a couple of days.

19 Q And how do you remember says it has been
20 more than five years, how do you remember that you
21 were together that night?

22 A I mean, I remember the days we were
23 together.

24 Q Okay.

25 A Whenever we are together, I just remember.

1 **Q** And you eventually found out that your
2 brother was charged with Ms. Allen's murder?

3 **A** Yeah.

4 **Q** Did you ever contact his lawyer to try and
5 say that you know where he was that night?

6 **A** No.

7 **MS. RATIGAN:** That's all I have, Your
8 Honor.

9 **MR. ARIAIL:** Nothing further, Your Honor.

10 **THE COURT:** All right, Sir. You can step
11 down.

12 **MR. ARIAIL:** And that is our case in
13 regards to the guilty plea involving voluntary
14 manslaughter.

15 **MS. RATIGAN:** Okay. And was Mr. Jones is
16 -- we will call Mr. Sullivan.

17 **THE COURT:** Okay.

18 **TIMOTHY SULLIVAN**

19 having first been duly sworn, testifies as follows:

20 **THE CLERK:** Thank you. Please state your
21 full name for the record.

22 **THE WITNESS:** I will. C. Timothy Sullivan.

23 **THE CLERK:** Thank you. You may be seated.

24 **DIRECT EXAMINATION**

25 **BY MS. RATIGAN:**

1 **Q** Mr. Sullivan, do you recall representing
2 Mr. Poole on this murder charge?

3 **A** Yes, I do.

4 **Q** And did you represent him on any other
5 charges?

6 **A** Armed robbery. The murder first.

7 **Q** And did you file the usual discovery
8 motions with the state?

9 **A** I did.

10 **Q** On this murder charge? Did you receive the
11 discovery materials?

12 **A** On both the armed robbery and the murder.

13 **Q** Would you have sent a copy of the discovery
14 materials for the murder to Mr. Poole?

15 **A** Sure. I always do that. You can't apprise
16 them of their rights unless they know what the case
17 against them is.

18 **Q** Okay. Mr. Poole has testified that he
19 received those materials about a week before the plea
20 in this case. Do you recall when you would have sent
21 those materials?

22 **A** As soon as I got them. He had them way
23 before that. He was arrested on January 9 of '09.
24 The trial for the armed robbery was April 26 of '11.
25 So that was over two years. During that time, we

C. Timothy Sullivan - Direct Examination by Ms. Ratigan

1 talked about both cases.

2 Q When you discussed the murder case, did he
3 tell you his version of what had happened that night?

4 A He told me different stories and some
5 people that might could help. I never could find
6 them. The Andrea Crossman thing, I don't remember
7 that. Obviously, I had it.

8 Q Let me back up just a little bit. Did Mr.
9 Poole give you a list of witnesses he wanted you to
10 contact?

11 A He gave me some names.

12 Q Were you able to contact these people?

13 A No. I went out to the house and to the
14 place that he was living at the time when this
15 happened. I went to where the car was found and went
16 to the scene where the body was found and all of that
17 investigative work. I had a list of all of the
18 statements that the State had. Mr. Poole had a copy
19 of all of those.

20 Q Did Mr. Poole ever ask you to contact his
21 brother, Mr. Jones?

22 A I don't have any recollection of it. He
23 never called me. I think he just admitted that.

24 Q Mr. Poole told you he had a potential alibi
25 in the form of Mr. Jones, would you have contacted

1 him?

2 **A** I would've tried.

3 **Q** Did the State ever make any kind of plea
4 offers in this case?

5 **A** No. The family put a lot of pressure on
6 him. There was a lot of history between the victim
7 and Mr. Poole. It have been off and on for years.
8 The family was very upset.

9 **Q** The transcript reflects that y'all
10 discussed, you and Mr. Poole discussed a plea offer
11 the day of the plea. Do you recall that?

12 **A** It is on Page 12. That is when Judy came
13 with the manslaughter offer. Other than that, it was
14 either murder or a trial.

15 **Q** And Judy, that is Ms. Munson?

16 **A** Yeah, Ms. Munson. Yeah. She had both
17 cases. They were running simultaneously. I didn't
18 know which one was going to be called first. It
19 could've been the murder case or the armed robbery.
20 So I was preparing for both.

21 **Q** Okay.

22 **A** Then she decided to go with the armed
23 robbery. It was the easiest one. If he got
24 convicted or received substantial time, he would be
25 more prone to plea on the murder charge.

1 **Q** Now, when Ms. Munson came to you with this
2 plea offer, did it also involve dismissing the
3 assault and battery?

4 **A** Yes.

5 **Q** And did it also involve dismissing the
6 LWOP?

7 **A** Yeah, the LWOP would be off of the table.

8 **Q** So were you able to discuss the totality of
9 the plea offer with Mr. Poole?

10 **A** At that time, the judge gave us time. At
11 one time, the judge said let's pick a jury. You said
12 he had not had any offer. Ms. Munson made the offer.
13 The judge said we can go back and discuss it.

14 **Q** Okay.

15 **A** And we did. We sat in the cell back there
16 and went over the alternative of the possible LWOP,
17 the life without parole against the cap of 30.

18 **Q** Okay.

19 **A** I was hoping to get everything concurrent,
20 but Judge Stillwell gave him five consecutive.

21 **Q** Okay. Now did you bring up the idea of an
22 Alford plea to Mr. Poole or did he bring that up to
23 you?

24 **A** I didn't bring it up. Ms. Munson was not
25 going to go for it. I think he came up with it and

1 Judy would not allow it. She said if he wants the
2 Alford, he can do it on the murder charge but I'm not
3 going to do it on the reduced charge.

4 Q Did you explain to Mr. Poole the State was
5 not going to agree to an Alford plea?

6 A The State doesn't have to make the reduced
7 offer. She would've let him do an Alford perhaps on
8 the murder case but not -- she's not going to reduce
9 it and let him do an Alford like that.

10 Q You explained that to Mr. Poole that she
11 was not going to go along with the Alford plea on the
12 voluntary manslaughter?

13 A Yes. And then right out of the gate on the
14 plea, it is in the record, he said I didn't do it.
15 So the judge said let's pick a jury and proceeded
16 from there.

17 Q Since this case was on the trial docket,
18 would you have been prepared to go to trial that day?

19 A Yeah, I seen Willie -- I don't know when I
20 first saw him but I was sick for a while. I saw him
21 many times before the armed robbery trial. At that
22 time, we discussed both of them. He gave me names
23 and stuff. I had discovery on both of them. Willie
24 had it. I didn't wait two weeks before trial to give
25 somebody discovery on a murder case.

C. Timothy Sullivan - Direct Examination by Ms. Ratigan

1 Q But you would have been prepared to go
2 forward on the murder trial that day?

3 A He was brought up some between the armed
4 robbery conviction and -- I think we met two weeks
5 before this where I again went over discovery. I
6 told him to write everything down. He was brought up
7 early for trial like on Monday or Tuesday. He was
8 brought up Thursday. We had time over the weekend to
9 discuss it. That morning, we went through it again.

10 Q Okay. After Mr. Poole was convicted of the
11 armed robbery, did he stay at the detention center or
12 did he go to SCDC?

13 A They sent him down to SCDC. I did not go
14 to Kirkland to see him. We discuss the case at
15 length before the robbery trial and on occasion
16 afterwards. Nothing had changed as far as discovery
17 is concerned. There is no reason to go down there to
18 discuss something that had changed.

19 Q Did you ever have him brought up to discuss
20 the case?

21 A Two weeks before this, he came up -- they
22 brought him up again. I met and went over discovery
23 again.

24 **MS. RATIGAN:** That's all I have, Your
25 Honor.

1 **MR. ARIAIL:** Thank you, Your Honor. May
2 it please the court?

3 **THE COURT:** Yes, sir.

4 **CROSS-EXAMINATION**

5 **BY MR. ARIAIL:**

6 **Q** Mr. Sullivan, it is good to see you today.
7 When you talked to him about the discovery, do you
8 remember, you didn't go to the Department of
9 Corrections?

10 **A** At the LEC while the armed robbery was
11 pending. They had -- both cases were going. Judy
12 indicated which one she was going to go forward
13 first. They were separate.

14 **Q** Okay.

15 **A** They were kind of connected in a way but
16 they were separate.

17 **Q** Right. She chose to go with the armed
18 robbery first?

19 **A** I think we discussed, she thought if he
20 received a substantial sentence if he were convicted,
21 that would make him more amenable to a plea on the
22 murder case and work something out.

23 **Q** Tell me what you remember about the
24 conversations with him in regards to that murder. Do
25 you remember what he said or what his thoughts were

C. Timothy Sullivan - Cross-Examination by Mr. Ariail

1 in regard to it?

2 **A** He said she had dropped them off. They
3 were together that night at least up until 10 o'clock
4 because they went to a halfway house to see a girl
5 that Ms. Allen had been roommates with at Lieber. I
6 think Willie had accused the girlfriend of having
7 some lesbian tendencies. They went by to see the
8 girl at the halfway house so that she could convince
9 Willie that while she had been at Lieber or a
10 separate charge from all of this that she had not had
11 any girlfriends.

12 **Q** Okay.

13 **A** That was the last time anybody saw them
14 together or for a while, that night.

15 **Q** So now you have heard his brother testify
16 that he was with him somewhere between 10:30, 11:30,
17 up until possibly 1 o'clock.

18 **A** I just heard that for the first time.

19 **Q** Okay. Did he ever tell you about that?

20 **A** I don't recall but if he did, I would try
21 to find them. Here is the scenario I got. Willie
22 left the house. He was in her car, the last they
23 were seen was 10 o'clock. And then he showed up
24 later at his house after a day or so and he pushed
25 furniture against the door and the people in the

1 house were freaking out saying that when somebody
2 dies, a bird is their soul and a bird got in the
3 house. Something confusing. I could not account for
4 him at the time that he was seen at the halfway house
5 to the time that he showed up at his house.

6 Q Did he ever tell you or give you any
7 account of where he was during the last time?

8 A He said he was home, but the people there
9 couldn't verify it.

10 Q Did you ever hear that he had gone to
11 Easley to get a car?

12 A To some party or something? No, I never
13 heard that.

14 Q Andrea Crossman, did you ever speak to her
15 about her affidavit?

16 A I don't recall. I could have. He never
17 told me he did it. He could have told 100 people, it
18 wasn't going to make or break the case.

19 Q This case was circumstantial?

20 A All circumstantial. There were no
21 witnesses. She was found -- I do not have that. I
22 don't want to get into that. The family knew that he
23 had assaulted her one time before at that spot. They
24 went back to it. It was muddy. They did not want to
25 go back up to the spot. They did not go that day.

1 They went later and found.

2 Q All right. Now, the plea offer in this
3 case, you never got an official plea offer?

4 A It was a plea straight up, no
5 recommendation or go to trial and they would seek
6 life or death until that morning.

7 Q So it was a plea of straight up voluntary
8 manslaughter or just murder?

9 A Straight up murder and they would not push
10 beyond the 30.

11 Q Okay.

12 A If you wanted a trial, they were going to
13 push for the max.

14 Q You on the trial docket clearly?

15 A Yeah, that morning.

16 Q How did you get a reduction down to
17 voluntary manslaughter?

18 A During this meeting with Mr. Poole, she
19 came an offered voluntary manslaughter. The family
20 said they were going to seek the max. I said I don't
21 know if I can get it concurrent. He is doing 25. I
22 think on Page 12 where the judge said there had been
23 some talk among the attorneys about an offer with it.
24 We went back into the cell and had a long talk about
25 the implications but no guarantee it would be

1 concurrent. I thought that Judge Stillwell could do
2 it concurrent. He surprised me with five years
3 consecutive to be honest with you.

4 Q Okay.

5 A He backdated the 30 to run with the 25 and
6 hit him with a five. That surprise me a little bit
7 but there was no discussion about the length of
8 sentence. It was a plea.

9 Q The Alford discussion, you had that with
10 him in the back?

11 A Alford?

12 Q Alford, yes, sir.

13 A I think he wanted it. He wanted to do
14 Alford all along. He had trouble admitting that he
15 shot her. I can't tell you. In the plea when he
16 took the manslaughter and actually started the plea,
17 the judge said did you do it and he said no I didn't.
18 The judge says okay, it will be a trial. Then he
19 changed his mind and went forward with it.

20 I'm still not convinced. I don't know what
21 would've happened in that trial. They had a lot of
22 circumstantial evidence. If he had not had the 25
23 hanging over him, I would be more inclined to try it.

24 Q Okay.

25 A I thought I could work something out.

C. Timothy Sullivan - Cross-Examination by Mr. Ariail

1 **Q** I guess based on what you were going with,
2 you didn't have any of the witnesses that you heard
3 -- you did not have his brother?

4 **A** No, I didn't have the brother. I did not
5 know about the brother until this morning.

6 **Q** No one else that could have said he was
7 here at the house or not?

8 **A** I could not find the paper where he told me
9 about it. Some of them said they had seen him.

10 **Q** Okay. Tell me, in regards to those people
11 you went to look for, did you get your investigator
12 to go out and look for them? How did you try to
13 locate those individuals?

14 **A** Went to Street, I think it was
15 Henry Street. Everybody had moved out. I had a name
16 but I didn't have any numbers. I couldn't find them.
17 I don't know if J.C. look for any of them or not.

18 **Q** So there was nothing going into it that
19 told you I have got an alibi or I have got some
20 defense witness who is going to help me?

21 **A** The ones I found were not going to help
22 them.

23 **Q** Okay.

24 **A** They had people that seen him the morning
25 after pushing a couch against the door and talking

1 about birds and stuff like that.

2 Q If you heard the testimony from Mr. Jones
3 before --

4 A I would have called him if I would have had
5 him.

6 Q Would you have recommended him to go to
7 trial on that testimony or would you still be in the
8 same situation?

9 A I would have had to investigate and then I
10 would've gotten into the story of where the party
11 was, who else was there that could verify where he
12 came from, where was the dope house. We had a lot of
13 -- I would've just taken his word for it. I might
14 have put him in my car and said let's go find this
15 place.

16 Q Right.

17 A You know.

18 MR. ARIAIL: No further questions, Your
19 Honor. Thank you, Your Honor.

20 MS. RATIGAN: I have no redirect. At this
21 point, the state will rest, Your Honor.

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

23 MS. RATIGAN: Also -- I'm not sure about
24 Mr. Ariail -- I'll be willing to waive any
25 closing arguments.

C. Timothy Sullivan - Cross-Examination by Mr. Ariail

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MR. ARIAIL: I'm fine with that, Your Honor.

THE COURT: All right. All right. Well I'm going to take this matter under advisement. I'm going to read the transcript fully and look at the evidence that has been admitted here today and I will be issuing a decision shortly.

(WHEREUPON, the proceedings conclude at approximately 10:36 a.m.)

CERTIFICATE

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth 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 trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville, South Carolina, on this 12th day of March, 2015.

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

Teresa B. Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

IN THE Common Pleas COURT 97
 CASE NO(s). 13-2904

EXHIBITS RECEIPT

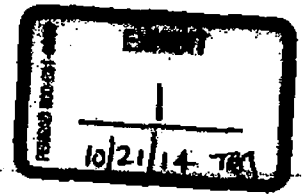
PLAINTIFF	<u>Willie Poole</u>	PLAINTIFF'S ATTORNEY	<u>M. Ariail</u>
DEFENDANT	<u>State</u>	DEFENDANT'S ATTORNEY	<u>K. Ratigan</u>
JUDGE	<u>Verdin</u>	DATE OF HEARING	<u>10/21/14</u>

The following exhibits were received by me from Teresa B. Johnson, Court Reporter for the Thirteenth Judicial Circuit, on the 21 day of Oct, 20 14.
 They are, as follows:

Plaintiff / Petitioner / State Exhibits	Defendant / Respondent Exhibits	Court Exhibits
1 Letter (2 pg) ID/EV	1 ID/EV	1
2 Affidavit - Crossman ID/EV	2 ID/EV	2
3 Statement - Sullivan ID/EV	3 ID/EV	3
4 List of Visitors ID/EV	4 ID/EV	4
5 ID/EV	5 ID/EV	5
6 ID/EV	6 ID/EV	6
7 ID/EV	7 ID/EV	7
8 ID/EV	8 ID/EV	8
9 ID/EV	9 ID/EV	9
10 ID/EV	10 ID/EV	10
11 ID/EV	11 ID/EV	
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25 ID/EV	25 ID/EV	

Jan White
 Clerk of Court

Oct. 21, 2014
 Date Received



Mr. Timothy Sullivan,

① I am requesting to be put on the trial docket for Warrant (nos) T-477328 / 477329. But I am writing you in reference to my cases. I have concerns about the way they are being handled. First off I have been here 2 yrs. And I put a Speedy Trial in almost a year ago on February 9th 2010. ② Donnell Haywood - It is not possible, however, to be both a principal and an Accessory before the fact to a felony. And my liability is dependant upon the principals guilt. The ancient crime of misprision of a felony was said to be complete upon mere failure to report a known felony. I reported the crime they didn't figure it out I told them about that's why this case was successful (me)! And besides he has 2 inconsistent statements I have enclosed also a Strong Armed Robbery in Anderson he done.) That proves it didn't make him do that he done that on his own and I didn't know nothing about it. (Charges need to be dismissed!) on grounds of I am the one told about the charges regardless of why I told it was the truth and the truth came out. I shouldn't be suffering because they trying to convict me on a murder I didn't do. And you're my lawyer and I know you see where they wrong at. You been doing this for years. ③ I'll tell who the gunman is if they agree to drop the Accessory before the fact and the poss. of a gun during a violent crime. And just take me to trial for the murder.

Basically, I shouldn't be charged with Accessory before the fact. Seeing in the one told about the crime. And how did I get indicted on Armed robbery anyway? All in the discovery it says I was the one in the car and besides that I'm the one told about the crime. Mr. Sullivan now you know these charges on me are bogus. Where's the defense at? Also Andrea Crossman signed affidavits saying 2 affidavits saying in one that I didn't admit to her I shot Talibah Allen and in the other one she says that Investigator Mary Fields told her that Talibah Allen was HIV Positive and showed her a picture of Talibah badly beating then asked her for an statement. And I got my house arrest records showing I wasn't where Allen said I was and were working on getting hospital records.

④ So Mr. Sullivan in ready for trial please! I
 → Would respectfully ask if you would look into this situation and adhere to my request. And seek red litigation in my case, concerning Antonio Jones and Lutricia V. Turner.

⑤ (P.S. We need Hospital records of Talibah Allen since I did all the beating) Thanking you in advance for your time and consideration.
 Sincerely,
 Dignita York

Sworn before me on 11-18-10

Colleen F. Reelins

My Commission # P. 10-17-2016.

AFFIDAVIT

I, Andrea Crossman, being duly sworn upon my oath do hereby swear and aver the following statements are true:

1. My name is Andrea Crossman, I am over 18 years of age, I reside in Greenville, South Carolina. I am fully competent to execute this affidavit;
2. I have personal knowledge of the facts stated in this affidavit. To my knowledge, all the facts stated in this affidavit are true and correct;
3. I never told my mother, ~~Bernice Crossman~~ Willie Poole shot Talibah Allen;
4. My mother never heard that come out of my mouth and she never heard that from Willie Poole;
5. I never told that to my mother or anybody else that Willie Poole shot Talibah Allen;

6. Poole never admitted to me Andrea Crossman that he Willie Poole shot Talibah Allen

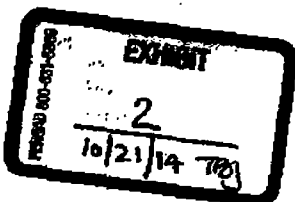
DECLARATION UNDER THE PENALTY OF PERJURY

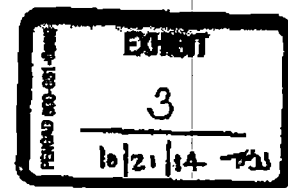
I, Andrea Crossman, declare, verify or state under the penalty of perjury pursuant to 28 USC 1746, that the forgoing is true and correct to best of my knowledge and belief, and that I have not divested, not been paid, any monies, property or items of value for the purpose of swearing this oath.

Submitted this 10th day of November, 2010

Notary Christine Mascaro

Respectfully Submitted,



**ATTORNEY STATEMENT**

Willie Poole pled guilty to voluntary manslaughter and possession of a weapon during the commission of a violent crime. Mr. Poole was under a twenty five year sentence on an unrelated armed robbery charge. He was to be tried on murder, use of a weapon and assault and battery with intent to kill. The latter all involved the same victim. Prior to trial the solicitor and I and Mr. Poole agreed that he would plea to voluntary manslaughter and use of a weapon during the commission of a violent crime with the assault and battery with intent to kill being dismissed. The solicitor would not agree to an *Afford* plea on the reduced charge. The family wanted closure and so the police investigators. Mr. Poole proceeded with the plea but at the time to admit guilt he denied he shot and killed the victim. The Judge would not accept his plea and told us to get ready for trial. Mr. Poole then stated he did not want a trial and the possibility of life without parole. He then stated, under further questioning, that he did indeed shoot and kill the victim. The Judge then questioned Mr. Poole some more to confirm Mr. Poole's decision. Mr. Poole, in my opinion, would have completed an *Afford* plea with any problem. He had a tough time admitting that he actually shot his former girlfriend and the mother of his child. He also wanted to avoid the possibility of life without parole. These are my views on Mr. Poole's plea for whatever reasons they may be viewed. It is my opinion that there was a good chance that he would have been convicted on the murder charge

C. Timothy Sullivan, Attorney for Mr. Poole

Submitted January 19, 2012

LIST OF VISITORS FOR INMATE #270914 - WILLIE POOLE SINCE 5/2/2011

3

DATE OF VISIT	VISITOR NAME	TIME OF VISIT	INSTITUTION
08/13/11	CARTER, JOSHUA J	13:13	GILLIAM PSY
08/13/11	CARTER, JOYLYN E	13:13	GILLIAM PSY
08/27/11	CARTER, COURTNEY S DLBY287267	13:28	GILLIAM PSY
08/27/11	CARTER, JOSHUA J	13:28	GILLIAM PSY
08/27/11	CARTER, JOYLYN E	13:28	GILLIAM PSY
08/18/11	CARTER, JOSHUA J	13:37	GILLIAM PSY
08/18/11	CARTER, JOYLYN E	13:37	GILLIAM PSY
11/05/11	ALLEN, THOMAS LEWIS	13:11	GILLIAM PSY
11/05/11	CARTER, JOYLYN E	13:11	GILLIAM PSY
04/08/12	CARTER, COURTNEY S DLBY287267	13:40	GILLIAM PSY
04/08/12	CARTER, JOSHUA J	13:40	GILLIAM PSY
05/12/14	CARTER, JOSHUA J	11:30	LEE

N = 12

EXHIBIT
 4
 10/21/14 TBS
 PENNSB 603-601-0000

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GREENVILLE)	C.A. No. 2013-CP-23-2904
)	
Willie Poole, S.C.D.C. No. 270914,)	
Applicant,)	
)	ORDER OF DISMISSAL
v.)	
)	
State of South Carolina,)	
Respondent.)	

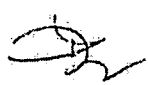
FILED - COURT OF COURT
 GREENVILLE CO. S.C.
 PAUL D. WICKHAM, CLERK
 2014 DEC 19 PM 4 44

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 22, 2013. The Respondent made its return on January 2, 2014. A hearing into the matter was held on October 21, 2014 before Judge Leilitia H. Verdin at the Greenville County Courthouse. The Applicant was present and represented by R. Mills Ariail, Jr., Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's brother Antonio Jones and the Applicant's plea counsel, C. Timothy Sullivan, Esquire. The Court had before it the transcript of the guilty plea hearing; the Greenville County Clerk of Court records, including the arrest warrant, indictment and sentencing sheet; the Applicant's South Carolina Department of Corrections Records; the PCR Application; and the Return.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the December 2009 term of the Greenville County Grand Jury for murder (2009-GS-23-5747,



Count 1) and possession of a weapon during the commission of a violent crime (2009-GS-23-5747, Count 2). He was represented by C. Timothy Sullivan, Esquire.

On January 16, 2012, the Applicant pled guilty. The Honorable Robin B. Stilwell sentenced the Applicant to concurrent terms of thirty years for the lesser-included offense of voluntary manslaughter and five years for possession of a weapon during the commission of a violent crime. The Applicant was given credit for time served beginning on January 20, 2009.

The Applicant filed a direct appeal. The Court of Appeals dismissed the appeal without publishing an opinion. (App. Case No. 2012-207186). The Remittitur was sent on August 13, 2012.

ALLEGATIONS

In this application, the Applicant alleges that he received ineffective assistance of counsel, that he experienced a violation of his due process rights, and that the Court lacked subject matter jurisdiction over his case.

Regarding the ineffective assistance of plea counsel claim, the Applicant particularly alleges the following:

- a. Failure to withdraw the plea for involuntariness;
- b. Failure to adequately prepare the Applicant for his plea; and
- c. Failure to discover potential alibi witnesses and properly investigate the Applicant's case.

At the PCR hearing, the Applicant proceeded upon his ineffective assistance claim.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.



Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2014).

The Applicant was originally indicted for murder and possession of a weapon during the commission of a violent crime (2009-GS-23-5747). The Applicant did not make bond, and while in jail he was also indicted for armed robbery (2010-GS-23-3428A). Both indictments involved the same victim. Though all evidence in the case was circumstantial, the State was able to uncover a number of witnesses who would demonstrate the prolonged abusive relationship between the victim and the Applicant, the Applicant's familiarity and prior use of the location where the victim's body was found, and the Applicant's prior threats to the victim's life. The Applicant attempted to provide names of witnesses who might provide an alibi, but his attorney was unable to locate them or to find credible proof of the Applicant's whereabouts within the timeframe of the victim's death.

There were no plea offers made by the Solicitor's Office prior to the case being placed on the trial docket. The day of trial and in exchange for a plea, the Assistant Solicitor agreed to reduce the murder charge to voluntary manslaughter, dismiss the assault and battery charge, and to forego an attempt by the State to seek a sentence of life without parole. (Plea Tr. 24.) The Assistant Solicitor made clear that she would only assent to an offered plea if the Applicant pled to the original charge of murder. In the alternative, the State was prepared to go forward with the trial for murder.

After a discussion with his attorney, the Applicant pled guilty to voluntary manslaughter and possession of a weapon during the commission of a violent crime. (Plea Tr. 20.) He received concurrent sentences for thirty years and five years, respectively, for these charges. (Plea Tr. 32.) During the plea, the Applicant's attorney stated that he met with the Applicant



numerous times prior to the trial date to review the case, and believed that a plea was the Applicant's best option in light of the serious nature of the charges and the weight of the evidence that would be presented against him. (Plea Tr. 3, 16, 29.)

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 686 (1984); Porter v. State, 368 S.C. 378, 629 S.E.2d 353, 356 (2006). Regarding the first prong, the Applicant must in essence show that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56 (1985). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). A reasonable probability is "a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland, 466 U.S. at 686).

In a proceeding for post-conviction relief involving a guilty plea, an applicant may collaterally attack the voluntary or the intelligent character of his plea. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). Where ineffective assistance of counsel is the subject of the PCR action, the applicant must show that counsel's representation fell below an objective



standard of reasonableness and that, but for counsel's errors, there is a reasonable probability that he would have insisted on proceeding to trial. Suber v. State, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007) (citing Strickland, 466 U.S. at 686 and Rosecoe, 345 S.C. at 20, 546 S.E.2d at 419); see also Rolen v. State, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009).

To show that a guilty plea is made knowingly and voluntarily, the record must establish that the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44 (1969). A criminal defendant must know the nature of the constitutional rights he is waiving, as well as the nature and crucial elements of the offense to which he is pleading. Boykin, 395 U.S. at 243-44; Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). A criminal defendant's knowledge may be established by the plea colloquy between court and defendant, between the court and the defendant's counsel, or both. Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000).

Furthermore, the decisions and advice of trial counsel should be assessed for reasonableness under all the circumstances, with heavy deference given to counsel's judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). A criminal defense attorney has a duty to conduct a reasonable investigation so that he may discover all reasonably available mitigation evidence, as well as any reasonably available evidence tending to rebut evidence produced by the state. McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 361 (2008). There is a strong presumption that adequate assistance of counsel was rendered, and that reasonable care was exercised—particularly in the arena of professional judgments. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 597 (2007).

a. **Failure to withdraw the plea for involuntariness.**

The Applicant claims that his plea was involuntary, and should therefore have been withdrawn. However, the Applicant was given numerous opportunities during his plea to



confirm that he wished to proceed. (Plea Tr. 14-15, 27.) He conferred with his counsel for a period of time before deciding to enter the plea. (Plea Tr. 14-15.) After this discussion there was a thorough plea colloquy in which Judge Stilwell confirmed that the Applicant was pleading guilty of his own free will, was not under the influence of drugs or alcohol, was not suffering from any mental impairment, and was not being forced or threatened to plead guilty. (Plea Tr. 20-21.)

This Court notes that there was some discussion after the Assistant Solicitor described the facts as she would have presented them at trial. The Applicant appears to have been unable to affirmatively answer Judge Stilwell's direct question, "did you shoot and kill the victim?" (Plea Tr. 26.) After this point, Judge Stilwell indicated that the case would go to trial as a result of the Applicant's response. (Id.) However, upon the mention of a trial, the Applicant immediately admitted that he "did it" and stated "I'm not going to a trial. . . . I can't go through with a trial." (Id.) He subsequently affirmed that he did not feel pressured or coerced into entering his plea. (Id.) This Court notes that this conversation differs substantially from the plea scenario at issue in Rolen, 384 S.C. at 413, 683 S.E.2d at 474, and as a result of the Applicant's immediate and adamant insistence on continuing with his plea, his counsel was under no obligation to move to withdraw the plea.

This Court finds that the Applicant failed to meet his burden of proving that his plea was involuntarily made and should have been withdrawn. There is sufficient evidence of voluntariness contained in the plea transcript and the PCR hearing.

b. Failure to adequately prepare the Applicant for his plea.

Both the testimony at the PCR hearing and the plea transcript reflect that the Applicant's trial counsel met with him in jail several times before trial, reviewed all of the discovery received from the state, and discussed at length his options going forward. (Plea Tr. 3.) The plea



transcript further reflects substantial discussions of the merits of plea versus trial as well as the merits of a jury trial versus a bench trial. (Plea Tr. 7.) This Court consequently finds that the Applicant's trial counsel devoted sufficient time to the preparation of the Applicant's case prior to the plea.

c. Failure to discover potential alibi witnesses and properly investigate the Applicant's case.

Much discussion during the PCR hearing was devoted to the Applicant's suggestion that alibi witnesses were available—the final issue raised in his ineffective assistance argument. Testimony at the PCR hearing showed that the Applicant did provide his attorney with several names of potential witnesses. However, most of the witnesses named by the Applicant were unable to be found. Those witnesses who were able to be located were, in the attorney's professional judgment, not likely to be helpful at trial. As a result, trial counsel's reasonable efforts to discover any mitigation evidence such as alibi witnesses do not constitute inadequate assistance. The simple fact that no other witnesses were found does not in the totality of the circumstances give rise to ineffective assistance.

Trial counsel reviewed the evidence, charges, and possible penalties with the Applicant and also discussed his version of events. This Court finds trial counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test—that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland—that he



was prejudiced by plea counsel's performance. The Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier, 351 S.C. at 389, 570 S.E.2d at 174.

Due Process

In this case, the Applicant also asserts that his 14th Amendment right to due process was violated. Particularly, in his application for PCR he lists "abandonment" as a fact supporting this argument. (Appl. for PCR 3.) The Applicant further asserts that the indictment and plea in this case were invalid. (Id.) In spite of these assertions, this Court finds that there is no discernable error with the indictment or with the Applicant's plea as preserved in the transcript. Further, this Court finds that the indictment in this case was presented to the Greenville County Grand Jury in proper form. The Grant Jury returned a true bill on December 15, 2009.

This Court consequently finds that the Applicant has not met his burden of proving that his 14th Amendment right to due process of law was violated.

Subject Matter Jurisdiction

Finally, the Applicant also asserts that the trial court lacked subject matter jurisdiction. (Appl. for PCR 3.) The events that were the subject of this matter occurred in Greenville County, and Judge Stilwell accepted the Applicant's plea during a term of the Court of General Sessions in Greenville County. (Plea Tr. 1.) The Applicant has shown the court no error in this document. This Court finds that the Applicant has not met his burden of proving that the Circuit Court lacked subject matter jurisdiction over his case.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to



present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds that the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by Counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

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

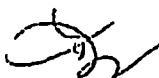
IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 8 day of ^{Dec.}~~November~~, 2014.



Letitia H. Verdin
Circuit Court Judge
Thirteenth Judicial Circuit



R. MILLS ARIAIL, JR.
ATTORNEY AT LAW

11 NORTH IRVINE STREET, SUITE 11 • GREENVILLE, SC 29601
PHONE 864.232.9390 • FAX 864.232.9392 • E-MAIL MILLS@RMALAWOFFICE.COM

January 12, 2015

Via US Mail

Daniel Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RECEIVED

JAN 20 2015

S.C. SUPREME COURT

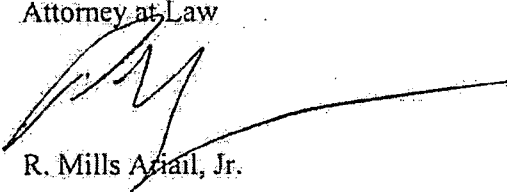
*Re: Notice of Intent to Appeal from Willie James Poole vs. State of South Carolina
C.A. No.: 2013-CP-23-02904*

Dear Mr. Shearouse:

I was Court Appointed in the above referenced matter, and I expect that appellate defense will handle the appeal and petition for certiorari. On behalf of my client, enclosed for filing please find the Notice of Appeal and proof of service. I've enclosed a copy of the Honorable Letitia H. Verdin's Order of Dismissal to be challenged on appeal. By copy of this letter, I am also serving my client, counsel for the State of South Carolina, the South Carolina Commission of Indigent Defense - Appellate Defense Division and the Greenville County Clerk's Office.

Thank you for your assistance in this matter and if you have any questions, please feel free to contact me.

Sincerely,
LAW OFFICE OF R. MILLS ARIAIL, JR.
Attorney at Law


R. Mills Ariail, Jr.

RMAjr/dl
Enclosures (as stated)

cc: Greenville County Clerk's Office
Greenville County Courthouse
305 East North Street
Greenville, SC 29601

RECEIVED

JAN 20 2015

S.C. SUPREME COURT

Karen C. Ratigan
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-11549

Willie James Poole SCDC# 270914
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

SC Commission of Indigent Defense
Division of Appellate Defense
PO Box 11433
Columbia, SC 29211-1433

WITNESSES

John Divittorio

[Handwritten Signature]

Greenville County Sheriffs Office

1/20/2009

ARREST WARRANT NUMBER

1477328 and 1477329

ACTION OF GRAND JURY
TRUE BILL

[Handwritten Signature]

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-

WB

The State of South Carolina

005747

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2009

December

THE STATE

vs.

WILLIE JAMES POOLE

Indictment for

0116/ 0549

MURDER AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT
CRIME

VIOLATION § 16-03-0010 and § 16-23-0490

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MURDER AND POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **DEC 18 2009** the Grand Jurors of Greenville

County present upon their oath:

COUNT I - MURDER

That WILLIE JAMES POOLE did in Greenville County, on or about the 9th day of January, 2009, unlawfully and with malice aforethought kill TALIBAH ALLEN by means of shooting her in the chest, and that TALIBAH ALLEN died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT II - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That WILLIE JAMES POOLE did in Greenville County on or about the 9th day of January, 2009, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

116

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS. Willie James Poole

AKA:
Race: BLACK Sex: M Age: 33

Address: STREET
City, State, Zip: PIEDMONT, SC 29673
DL#: SID#: SC01131006

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: VOLUNTARILY MANSLAUGHTER

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS2305747
A/W#: 1477328
Date of Offense: 1/9/2009
S.C. Code § : 16-03-0010, 0020
CDR Code #: 0116

SENTENCE SHEET

CONVICTED OF or PLEADS

2-20-11

in violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Munson, SC Bar# 64040 Defendant Attorney for Defendant C. TIMOTHY SWANN SC Bar# 95425

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: TO CURRENT ARREST RECORDS
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied TO PERS. OF S. DEPT. OF CORRECTIONS SINCE JAN 20, 2008
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with 3 columns: Description, Amount, Total. Rows include assessments like § 14-1-206, § 14-1-211(A)(1), § 14-1-211(A)(2), § 56-5-2995, § 56-1-286, Proviso 47.9, § 14-1-212, § 14-1-213, § 50-21-114, § 56-5-2942(I), Proviso 90.5, 3% to County, and TOTAL.

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

Clerk of Court/ Deputy Clerk Paul B Wickham
Court Reporter: D. Williams
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 258
Sentence Date: 1-16-2012

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.

INDICTMENT/CASE#: 2009GS2305747
A/W#: 1477329
Date of Offense: 1/9/2009
S.C. Code §: 16-23-0490
CDR Code #: 0549

AKA:
Race: BLACK Sex: M Age: 33

Address: STREET
City, State, Zip: PIEDMONT, SC 29673
DL#: SID#: SC01131006

SENTENCE SHEET 54

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) § 17-25-45

The charge: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Munson, Clerk SC Bar# Defendant Attorney for Defendant C. Timothy Sullivan SC Bar# 5425

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: TO ALLIANCE.
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. SINCE JAN 20, 2009.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surchage) \$100, § 14-1-211(A)(2) (DUI Surchage) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surchage) \$150, § 50-21-114 (BUJ Breath Test Fee) \$50, § 56-5-2942(I) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surchage) \$5, 3% to County (if paid in installments) \$, TOTAL \$

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

Clerk of Court/ Deputy Clerk Paul B Wickham
Court Reporter: D. Oneal
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2158
Sentence Date: 1-16-2012

ARREST WARRANT 5031
 544 Entered 7328 1-29-09
 STATE OF SOUTH CAROLINA
 Greenville

ORIGINAL
 FORM APPROVED BY
 S.C. Attorney General
 April 21, 2003
 SCCA 318

AFFIDAVIT

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
 Greenville)
 Personally appeared before me the affiant John Divittorio who
 being duly sworn deposes and says that defendant Willie James Poole
 did within this county and state on or about 01/09/2009 violate the criminal laws of the
 State of South Carolina (or ordinance of County/ Municipality of Greenville)
 in the following particulars:
 DESCRIPTION OF OFFENSE Murder / Murder

THE STATE 1-09-010506
 against
Willie James Poole
 Address: Street
Greenville, SC 29605-
 Phone: _____ SSN: _____
 Sex: M Race: B Height: 6 4 Weight: 250
 DL State: SC DL #: _____
 DOB: _____ Agency ORI #: SC0230000
 Prosecuting Agency: Greenville County Sheriffs Office
 Prosecuting Officer: John Divittorio - 0098
 Offense: Murder / Murder

Offense Code: 0116
 Code/Ordinance Sec: 16-03-0010, 0020
 This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of _____
 The accused
 is to be arrested and brought before me to be
 dealt with according to the law.

(L.S.)
 Signature of Judge _____
 Date: _____

RETURN
 A copy of this arrest warrant was delivered to
 defendant WILLIE JAMES POOLE
 on 1/20/09
J.M. [Signature] 544 1062
 Signature of Law Enforcement Officer

RETURN WARRANT TO:
 City Magistrate 2
 4 Mc Gee Street Room 116-B
 Greenville, SC 29601

Signature of Affiant [Signature]
 STATE OF SOUTH CAROLINA)
 County/ Municipality of)
 Greenville)
 Affiant's Address 4 McGee Street
Greenville, SC 29601-
 Affiant's Telephone (864)467-5240

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
 It appearing from the above affidavit that there are reasonable grounds to believe that
 on or about 1/9/2009 defendant Willie James Poole
 did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of Greenville) as set forth below.

DESCRIPTION OF OFFENSE: Murder / Murder
 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
 soon thereafter as is practicable.
 Sworn to and subscribed before me
 on 01/16/2009
 Signature of Issuing Judge (L.S.) [Signature]
James E. Hudson
 Judge Code: 5031
 Judge's Address 4 McGee Street, Room 116-B
Greenville, SC 29601-
 Judge's Telephone (864)467-5302
 Issuing Court: Magistrate Municipal Circuit

COMPUTER ENTERED
 1/16/09

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

ARREST WARRANT

5031
1-29-09

544

1-477380

STATE OF SOUTH CAROLINA
 County/ Municipality of

Greenville

EMERGENCY
NCIC

THE STATE

1-09-010808

against

Willie James Poole

Address: Street
Greenville, SC 29605-

Phone: _____ SSN: _____
Sex: M Race: B Height: 6 4 Weight: 250
DL State: SC DL #: _____
DOB: _____ Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office
Prosecuting Officer: John Divittorio - 0098

Offense: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549
Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant WILLIE JAMES POOLE on 1/20/2009

C.F. Hankins 513 4636
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Magistrate 2
4 Mc Gee Street Room 116-B
Greenville, SC 29601

ORIGINAL

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ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Greenville

Personally appeared before me the affiant John Divittorio who

being duly sworn deposes and says that defendant Willie James Poole

did within this county and state on or about 01/09/2009 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The affiant has statements from witnesses stating that the defendant was seen with the victim Talibah Allen on January 9, 2009 in the victim's vehicle and statements stating that the defendant owns and was in possession of a 22 caliber handgun on January 9, 2009. An identified witness states that the suspect was angry with the victim and the victim was scared shortly before the murder. The defendant has physically abused the victim according to family members and friends as well as Sheriff's Office reports. The defendant has provided false alibis as to his whereabouts and other false information. An identified witness states the defendant admitted he shot the victim in the chest with a 22 caliber handgun at a dead end off of Stauton Bridge Rd in Greenville County. The victim was located at this location. An autopsy revealed that the victim died as a result of multiple gun shots to the chest with a 22 caliber handgun.

Signature of Affiant

John E. Divittorio

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)467-5240

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 1/9/2009 defendant Willie James Poole

did violate the criminal laws of the State of South Carolina (or ordinance of Greenville) as set forth below.

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.
Sworn to and subscribed before me

on 01/16/2009

Signature of Issuing Judge
James J. Hudson (L.S.)

Judge Code: 5031

Judge's Address 4 Mcgee Street, Room 116-B

Greenville, SC 29601- SHERIFF'S OFFICE

Judge's Telephone (864)467-5302

Issuing Court: Magistrate Municipal Circuit

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Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 516

AFFIDAVIT

CONFIDENTIAL

JAN 16 2009

GREENVILLE COUNTY
SHERIFF'S OFFICE