

RECEIVED

OCT 16 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

James W. Johnson, Jr., Circuit Court Judge

JAMES C. WILLIAMS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

ROBERT M. PACHAK
Assistant Appellate Defender

South Carolina Office
of Appellate Defense
1205 Pendleton Street, Room 306
Columbia, S. C. 29201

ATTORNEY FOR PETITIONER

HENRY DARGAN MCMASTER
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

SABRINA TODD
Assistant Attorney General

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

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....i

TRIAL TRANSCRIPT.....1

FINAL ANDERS BRIEF OF APPELLANT43

COURT OF APPEALS OPINION NO. 2003-UP-32952

APPLICATION FOR POST-CONVICTION RELIEF54

POST-CONVICTION RELIEF HEARING TRANSCRIPT.....70

ORDER OF DISMISSAL107

CLERK OF COURT RECORDS112

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

COURT OF GENERAL SESSIONS
00-GS-32-688
00-GS-32-689

THE STATE OF SOUTH CAROLINA
-VS-
JAMES CHESTER WILLIAMS

:
:
: TRANSCRIPT OF RECORD
:
:

MARCH 18 AND 21, 2002
LEXINGTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE MARC H. WESTBROOK, JUDGE, AND JURY.

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

TRACEY CARROLL, ESQUIRE
SAMUEL R. HUBBARD, III, ESQUIRE
ATTORNEYS FOR THE STATE

WILLIAM F. GORSKI, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DAPHNE D. HELMS
CIRCUIT COURT REPORTER

County Lexington
 Date: 3-18-02

VOIR DIRE

Case No: 00-65-32-688, 689

Judge: Marc Westbrook

Pl. / State: State

State/Pl's. Atty: Jacey Carroll
Rick Hubbard

Defendant: James C. Williams

Defense Atty: William Gorski

Court Reporter: Daphne Helms

Juror No.	Name	Sex	Race	*Court	Strikes		Ac
					Plaintiff	Defense	
10	James Berry	M	W				L
94	Mary G. Mobley	F	W			✓	
128	Karen Sorger	F	W			✓	
80	Timothy Lovett	M	W				L
152	Willie Robinson, Jr.	M	B				L
131	Michael Spolarich	M	W			✓	
59	Mary Hill	F	B				L
153	Larry Rhodes	M	W			✓	
60	April Hinkle	F	B				L
28	Cheryl Dennis	F	W		✓		
111	Robin Price	F	W			✓	
117	Dorette Sease	F	B				L
107	Jeffery Persons	M	W		✓		
106	Ruth Perry	F	B				L
30	Jonathan Dominick	M	W				L
119	Mickey Shealy	M	W			✓	

* For the Court column, indicate who made the motion to strike the jurors "for cause."
 C-Court, P-Plaintiff, D-Defense

County: Lexington
 Date: 3-18-02

VOIR DIRE

Case No: 00-65-32-688,689 Judge: Marc Westbrook
 Pl. / State: State State/Pl's. Atty: Tracy Carroll
Rick Hubbard
 Defendant: James C. Welkars Defense Atty: William Gorski

Court Reporter: Daphne Helms

Juror No.	Name	Sex	Race	*Court	Strikes		Accept
					Plaintiff	Defense	
146	William Whitsett	M	W				✓
50	Carol Gross	F	W			✓	
1	Lisa Adkins	F	W				✓
7	Dan Bateman	M	W				✓
68	Ronald Johnson	M	W				✓
- Alternates -							
135	Emily Stewart Pace	F	W				✓
129	Olivia Knight Spears	F	W				✓

* For the Court column, indicate who made the motion to strike the jurors "for cause."
 C-Court, P-Plaintiff, D-Defense

1 THE COURT: ALL RIGHT. ARE WE READY TO GET STARTED,
2 COUNSEL? MADAM SOLICITOR, ARE YOU READY TO CALL YOUR FIRST
3 CASE?

4 MS. CARROLL: YES, YOUR HONOR. THE STATE CALLS THE
5 CASE OF THE STATE VERSUS JAMES CHESTER WILLIAMS, INDICTMENT
6 NUMBER 2000-GS-32-688 AND 689 FOR THE OFFENSES OF MURDER AND
7 POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT
8 OFFENSE.

9 THE COURT: LADIES AND GENTLEMEN, AS YOU HEARD THE
10 CASE -- THE STATE NOW CALLS THE CASE OF THE STATE VERSUS
11 JAMES CHESTER WILLIAMS. THEY DO SO BY VIRTUE OF THESE
12 INDICTMENTS WHICH I HOLD IN MY HAND. NOW, LET ME HASTEN TO
13 TELL YOU THAT, FIRST OF ALL, THE INDICTMENTS ARE NOT
14 EVIDENCE. THEY DON'T MEAN THAT THE DEFENDANT HAS DONE
15 ANYTHING WRONG. THE INDICTMENTS ARE SIMPLY STATEMENTS OF THE
16 CHARGES, AND IT'S DESIGNED TO GIVE THE DEFENDANT NOTICE OF
17 WHAT HE'S CHARGED WITH. THE FACT AGAIN THAT HE IS CHARGED
18 DOESN'T MEAN HE'S GUILTY, AS I INDICATED. THAT'S GOING TO BE
19 UP TO A JURY TO DETERMINE AT THE APPROPRIATE TIME.

20 LET ME READ VERY BRIEFLY TO YOU FROM THE INDICTMENTS
21 AS TO THE ALLEGATIONS. FIRST, THE FIRST INDICTMENT CHARGES
22 THE DEFENDANT WITH MURDER. IT ALLEGES THAT JAMES CHESTER
23 WILLIAMS DID IN LEXINGTON COUNTY ON OR ABOUT SEPTEMBER 15,
24 1999, WILLFULLY, FELONIOUSLY, AND WITH MALICE AFORETHOUGHT
25 SHOOT ONE KATHY ARETHA WILLIAMS AND THAT THE SAID KATHY

1 ARETHA WILLIAMS DIED AS A PROXIMATE RESULT OF THE SHOOTING IN
2 LEXINGTON COUNTY ON OR ABOUT SEPTEMBER 15, 1999.

3 THE OTHER INDICTMENT CHARGES THE DEFENDANT WITH
4 POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT
5 CRIME. IT ALLEGES THAT JAMES CHESTER WILLIAMS DID IN
6 LEXINGTON COUNTY ON OR ABOUT SEPTEMBER 15, 1999, POSSESS A
7 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME OF MURDER IN
8 VIOLATION OF THE CODE OF LAWS OF SOUTH CAROLINA. AGAIN,
9 THESE ARE SIMPLY THE CHARGES IN THE INDICTMENT.

10 NOW, LET ME FIRST ASK: HAS ANY MEMBER OF THE JURY
11 VENIRE HEARD ANYTHING ABOUT THIS CASE OR DO YOU KNOW ANYTHING
12 ABOUT THE CASE? IF YOU KNOW ANYTHING ABOUT IT OR HEARD
13 ANYTHING ABOUT IT IN ANY WAY AND THAT WOULD BE -- YOU MAY
14 HAVE HEARD ABOUT IT BY WORD OF MOUTH OR THROUGH NEWS MEDIA.
15 AGAIN -- AND THAT -- AS I UNDERSTAND, SPECIFICALLY THERE WAS
16 SOMETHING IN THE PAPER YESTERDAY AND ON THE TELEVISION LAST
17 NIGHT REFERRING TO IT. UNDERSTANDING ALL OF THAT, HAS ANYONE
18 HEARD ANYTHING ABOUT THE CASE OR KNOW ANYTHING ABOUT IT?

19 JUROR JONES: OTHER THAN WHAT WAS---

20 THE COURT: ALL RIGHT. YES, SIR.

21 JUROR JONES: OTHER THAN WHAT WAS IN THE MEDIA, YOUR
22 HONOR?

23 THE COURT: YES, SIR. YOU DID HEAR WHAT WAS IN THE
24 MEDIA; IS THAT CORRECT, MR. JONES?

25 JUROR JONES: YES, SIR.

VOIR DIRE AND IMPANELING OF THE JURY

1 THE COURT: WHAT'S YOUR NUMBER AGAIN, MR. JONES?

2 JUROR JONES: 69.

3 THE COURT: OKAY. LET ME ASK THIS. DID WHAT YOU
4 HEAR CAUSE YOU TO FORM ANY OPINIONS ABOUT THE CASE?

5 JUROR JONES: NO, SIR.

6 THE COURT: OKAY. AND IF YOU WERE SITTING ON THE
7 JURY, WOULD YOU BE ABLE TO SIT ASIDE -- SET ASIDE ANYTHING
8 YOU HEARD AND BASE A VERDICT ONLY ON WHAT YOU HEARD IN THE
9 COURTROOM?

10 JUROR JONES: YES, SIR.

11 THE COURT: OKAY. AND DID IT CAUSE YOU TO FORM ANY
12 OPINION AS TO THE INNOCENCE OR GUILT OF THE DEFENDANT?

13 JUROR JONES: NO, SIR.

14 THE COURT: ALL RIGHT. THANK YOU, SIR. ANYONE
15 ELSE? GO AHEAD AND STAND, PLEASE, IF YOU WOULD; OKAY? YES,
16 MA'AM, THE LADY IN THE BACK. WHAT IS YOUR NAME AND NUMBER,
17 PLEASE, MA'AM?

18 JUROR PERKINS: VALARIE PERKINS. I THINK MY NUMBER
19 IS 101. I DIDN'T REALLY...

20 THE COURT: OKAY. LET ME ASK, FIRST OF ALL, HOW DID
21 YOU HEAR ANYTHING ABOUT IT? BY WORD OF MOUTH OR BY NEWS
22 MEDIA?

23 JUROR PERKINS: THE NEWS MEDIA.

24 THE COURT: ALL RIGHT. AND DID WHAT YOU SEE OR HEAR
25 CAUSE YOU TO FORM ANY OPINIONS ABOUT THIS CASE AT ALL?

1 JUROR PERKINS: YES, IT DID.

2 THE COURT: IT DID? ALL RIGHT. LET ME ASK IF YOU
3 WOULD STEP UP THIS WAY, PLEASE, MA'AM. OKAY?

4 THE CLERK: SHE'S NUMBER 105, YOUR HONOR. VALARIE
5 PERKINS.

6 THE COURT: ALL RIGHT. WHAT'S THE LAST NAME?

7 THE CLERK: PERKINS, VALARIE.

8 THE COURT: ALL RIGHT. COUNSEL, YOU CAN APPROACH
9 THE BENCH IF YOU WOULD LIKE TO.

10 (WHEREUPON, A BENCH CONFERENCE TOOK PLACE BETWEEN
11 THE COURT, JUROR PERKINS, AND THE ATTORNEYS OUTSIDE THE
12 HEARING OF THE COURT REPORTER.)

13 THE COURT: ANY EXCEPTION TO EXCUSING THE WITNESS AT
14 THIS TIME?

15 MS. CARROLL: NONE FROM THE STATE.

16 MR. GORSKI: NONE.

17 THE COURT: JUST STAY AS YOU'LL BE... ALL RIGHT.
18 MS. PERKINS WILL BE DISQUALIFIED FOR THIS CASE. ANYONE ELSE?
19 YES, MA'AM. WHAT'S YOUR NAME AND NUMBER, PLEASE?

20 JUROR MEETZE: 91.

21 THE COURT: NO, THE -- I'M SORRY. THE LADY -- THE
22 LADY IN THE BACK.

23 JUROR BUSBEE: I'M NUMBER 16, LISA BUSBEE, AND I
24 JUST READ IT IN THE PAPER YESTERDAY.

25 THE COURT: ALL RIGHT. DID WHAT YOU READ CAUSE YOU

1 TO FORM ANY OPINIONS ABOUT THIS CASE AT ALL?

2 JUROR BUSBEE: NO, SIR.

3 THE COURT: AND DID IT CAUSE YOU TO FORM ANY
4 OPINIONS ABOUT THE INNOCENCE OR GUILT OF MR. WILLIAMS?

5 JUROR BUSBEE: NO, SIR.

6 THE COURT: AND IF YOU WERE SITTING ON A JURY, WOULD
7 YOU BE ABLE TO PUT ASIDE ANYTHING YOU HEARD AND DECIDE THE
8 ISSUES IN THE CASE ONLY ON WHAT YOU HEARD IN THE COURTROOM?

9 JUROR BUSBEE: YES, SIR.

10 THE COURT: OKAY. THANK YOU, MA'AM. YES, MA'AM,
11 YOUR NAME AND NUMBER, PLEASE?

12 JUROR MEETZE: 91.

13 THE COURT: OKAY. YOUR NAME, PLEASE?

14 JUROR MEETZE: JUDY MEETZE.

15 THE COURT: ALL RIGHT. MS. MEETZE, HOW DID YOU HEAR
16 ANYTHING? BY WORD OF MOUTH OR NEWS MEDIA?

17 JUROR MEETZE: ON THE NEWS THE CASE WAS COMING UP
18 TODAY.

19 THE COURT: OKAY. AND DID IT CAUSE YOU TO FORM ANY
20 OPINIONS ABOUT THIS CASE AT ALL?

21 JUROR MEETZE: NO, SIR.

22 THE COURT: ALL RIGHT.

23 JUROR MEETZE: I WAS NOT EVEN AWARE OF IT TILL THAT
24 TIME.

25 THE COURT: OKAY. DID IT CAUSE YOU TO FORM ANY

1 OPINIONS ABOUT THE INNOCENCE OR GUILT OF MR. WILLIAMS?

2 JUROR MEETZE: NO, SIR.

3 THE COURT: ALL RIGHT. AND IF YOU SAT ON THE JURY,
4 WOULD YOU BE ABLE TO PUT ASIDE ANYTHING YOU HEARD AND BASE A
5 VERDICT ONLY ON WHAT YOU HEARD OR SAW IN THE COURTROOM?

6 JUROR MEETZE: YES, SIR.

7 THE COURT: ALL RIGHT. THANK YOU, MA'AM. YES,
8 MA'AM, YOUR NAME AND NUMBER?

9 JUROR BARWICK: BRENDA BARWICK, NUMBER 5 I THINK.

10 THE COURT: OKAY. AND---

11 JUROR BARWICK: I SAW IT IN THE NEWSPAPER YESTERDAY.

12 THE COURT: OKAY. DID IT CAUSE YOU TO FORM ANY
13 OPINIONS ABOUT THE CASE?

14 JUROR BARWICK: NO, SIR.

15 THE COURT: DID IT CAUSE YOU TO FORM ANY OPINIONS
16 ABOUT THE INNOCENCE OR GUILT OF MR. WILLIAMS?

17 JUROR BARWICK: NO, SIR.

18 THE COURT: AND IF YOU SAT ON THE JURY, WOULD YOU BE
19 ABLE TO PUT ASIDE ANYTHING YOU HEARD OR SAW AND BASE YOUR
20 VERDICT ONLY ON WHAT YOU SAW OR HEARD IN THE COURTROOM?

21 JUROR BARWICK: YES, SIR.

22 THE COURT: ALL RIGHT. THANK YOU, MS. BARWICK.
23 YES, MA'AM, YOUR NAME AND NUMBER, PLEASE?

24 JUROR MOBLEY: YES, SIR. MARY MOBLEY, JUROR NUMBER
25 94, AND I READ IT IN YESTERDAY'S PAPER.

1 THE COURT: OKAY. DID IT CAUSE YOU TO FORM ANY
2 OPINIONS ABOUT THIS CASE?

3 JUROR MOBLEY: NO.

4 THE COURT: ALL RIGHT. DID IT CAUSE YOU TO FORM ANY
5 OPINIONS ABOUT THE INNOCENCE OR GUILT OF MR. WILLIAMS?

6 JUROR MOBLEY: NO.

7 THE COURT: AND IF YOU SAT AS A JUROR, WOULD YOU BE
8 ABLE TO PUT ASIDE ANYTHING YOU MAY HAVE SEEN AND BASE YOUR
9 VERDICT ONLY ON WHAT CAME UP IN THE COURTROOM?

10 JUROR MOBLEY: YES.

11 THE COURT: ALL RIGHT. THANK YOU, MA'AM. ANYONE
12 ELSE? YES, MA'AM?

13 JUROR PRICE: 111, ROBIN PRICE.

14 THE COURT: WHAT'S YOUR NAME AGAIN?

15 JUROR PRICE: ROBIN PRICE.

16 THE COURT: PRICE?

17 JUROR PRICE: YES, SIR.

18 THE COURT: DO YOU KNOW YOUR NUMBER, MS. PRICE?

19 JUROR PRICE: 111.

20 THE COURT: OKAY. AND HOW DID YOU SEE OR HEAR IT?

21 JUROR PRICE: NEWS MEDIA.

22 THE COURT: ALL RIGHT. NEWS MEDIA?

23 JUROR PRICE: YES, SIR.

24 THE COURT: DID IT CAUSE YOU TO FORM ANY OPINIONS
25 ABOUT THIS CASE?

1 JUROR PRICE: NO, SIR.

2 THE COURT: DID IT CAUSE YOU TO FORM ANY OPINIONS
3 ABOUT THE INNOCENCE OR GUILT OF MR. WILLIAMS?

4 JUROR PRICE: NO, SIR.

5 THE COURT: AND IF YOU SAT ON A JURY, WOULD YOU BE
6 ABLE TO PUT ASIDE ANYTHING YOU SAW OR HEARD AND BASE YOUR
7 VERDICT ONLY ON WHAT YOU SAW OR HEARD IN THE COURTROOM?

8 JUROR PRICE: YES, SIR.

9 THE COURT: ALL RIGHT. THANK YOU, MA'AM. ANYONE
10 ELSE? ALL RIGHT. THANK YOU. NOW, LET ME IF I MIGHT
11 INTRODUCE YOU TO SOME OF THE FOLKS INVOLVED IN THE CASE. I'M
12 GOING TO ASK YOU IF YOU ARE RELATED TO ANY OF THESE FOLKS BY
13 BLOOD OR MARRIAGE OR OTHERWISE. FIRST OF ALL, THE --
14 PROSECUTING THE CASE WILL BE THE ELEVENTH CIRCUIT SOLICITOR'S
15 OFFICE. HAS ANY MEMBER OF THE JURY VENIRE OR YOUR FAMILY
16 MEMBER OR A CLOSE FRIEND EVER HAD ANY RELATIONSHIPS OR ANY
17 DEALINGS WITH THE SOLICITOR'S OFFICE IN ANY WAY, WHETHER BY
18 WORKING FOR THEM, DOING BUSINESS WITH THEM AS A VICTIM OR A
19 FAMILY MEMBER OF A VICTIM OR IN ANY WAY WHATSOEVER? ALL
20 RIGHT. THANK YOU. PARTICULARLY---

21 THE CLERK: STAND UP. WE'VE GOT ONE, YOUR HONOR.

22 THE COURT: I'M SORRY. YES, MA'AM. YOUR NAME AND
23 NUMBER, PLEASE?

24 JUROR SEASE: GROVETTE SEASE, JUROR NUMBER 117.

25 THE COURT: OKAY. WHAT DEALINGS HAVE YOU HAD WITH

1 THE SOLICITOR'S OFFICE?

2 JUROR SEASE: THE MURDER TRIAL FOR RILEY AND...

3 THE COURT: I'M SORRY. WHY DON'T YOU COME UP HERE?
4 I COULDN'T HEAR WHAT YOU WERE SAYING. COUNSEL, YOU CAN
5 APPROACH IF YOU'D LIKE.

6 (JUROR GROVETTE SEASE APPROACHED THE BENCH, AND THE
7 FOLLOWING BENCH CONFERENCE TOOK PLACE OUT OF THE HEARING OF
8 THE JURY VENIRE.)

9 THE COURT: I'M SORRY. WHAT WERE YOU SAYING?

10 JUROR SEASE: YES. DAYTON TRIED A CASE FOR RAVENEL
11 RILEY. THAT'S MY NEPHEW.

12 THE COURT: OKAY. HE WAS THE DEFENDANT IN A CASE?

13 JUROR SEASE: NO, HE WAS THE VICTIM.

14 THE COURT: YOU WERE THE VICTIM?

15 JUROR SEASE: UH-HUH.

16 THE COURT: WOULD THAT GIVE YOU ANY PROBLEM IN
17 GIVING BOTH SIDES A FAIR TRIAL?

18 JUROR SEASE: NO.

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

20 (THE BENCH CONFERENCE CONCLUDED.)

21 THE COURT: ALL RIGHT. ANYONE ELSE EVER HAD ANY
22 DEALINGS OR ANY RELATIONSHIP WITH THE SOLICITOR'S OFFICE?
23 ALL RIGHT. PARTICULARLY TRYING THE CASE WILL BE DEPUTY
24 SOLICITOR TRACEY CARROLL AND SENIOR ASSISTANT SOLICITOR RICK
25 HUBBARD. ANY MEMBER OF THE JURY VENIRE RELATED BY BLOOD,

1 MARRIAGE, BUSINESS RELATIONSHIP, SOCIAL RELATIONSHIP, OR
2 OTHERWISE TO MS. CARROLL OR MR. HUBBARD? ALL RIGHT. THANK
3 YOU.

4 NOW, THE FOLLOWING PEOPLE MAY BE WITNESSES IN THIS
5 CASE. I WILL CALL THE NAMES ONE AT THE TIME. THERE ARE A
6 NUMBER OF NAMES -- AND LET ME DO THIS. BEFORE I GET TO
7 THOSE, I'LL GO AHEAD AND INTRODUCE MR. GORSKI TO YOU AT THIS
8 TIME IF I MIGHT; OKAY? FIRST OF ALL, THE DEFENDANT IS MR.
9 JAMES CHESTER WILLIAMS. LET MR. WILLIAMS STAND SO THEY CAN
10 SEE WHO HE IS. ANY MEMBER OF THE JURY VENIRE RELATED TO MR.
11 WILLIAMS BY BLOOD, MARRIAGE, BUSINESS, OR SOCIAL RELATIONSHIP
12 OR OTHERWISE? ALL RIGHT. THANK YOU, SIR. AND HE'S
13 REPRESENTED BY MR. BILL GORSKI. THIS IS MR. GORSKI. ANYONE
14 RELATED TO MR. GORSKI BY BLOOD OR MARRIAGE, BUSINESS OR
15 SOCIAL OR OTHERWISE? ALL RIGHT. THANK YOU, SIR.

16 NOW, AS I INDICATED, I WILL CALL THE NAMES OF
17 POTENTIAL WITNESSES IN THE CASE AND AS I CALL THEM IF YOU
18 RECOGNIZE A NAME AND YOU HAVE SOME RELATIONSHIP TO AN
19 INDIVIDUAL, PLEASE STAND AND, AGAIN, BY BLOOD OR MARRIAGE OR
20 SOCIAL RELATIONSHIP OR BUSINESS RELATIONSHIP OR ANY
21 RELATIONSHIP AT ALL. IF THEY'RE HERE, I'LL LET THEM STAND SO
22 YOU CAN SEE WHO THEY ARE. MANY OF THEM WILL NOT BE HERE.
23 THEY DON'T HAVE TO BE HERE RIGHT NOW, SO DON'T BE CONCERNED.
24 BUT IF THEY ARE HERE, WE'LL LET THEM STAND SO YOU CAN SEE
25 WHICH ONES THEY ARE.

1 FIRST OF ALL, SPECIAL AGENT TONYA BARBER OF
2 S.L.E.D., THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION.
3 ANYONE RELATED TO MS. BARBER IN ANY FASHION? DR. JOHN
4 CARTER, M.D. KIMBERLY CASH. SPECIAL AGENT STEVE DERRICK OF
5 S.L.E.D. ELLEN MYERS. SPECIAL AGENT EDDIE PORTER OF
6 S.L.E.D. RODNEY PRUITT. LUBY RAYNOR SPELLED R-A-Y-N-O-R.
7 LUBY I THINK IS SPELLED L-U-B-Y. DALTON SHULL OF THE
8 LEXINGTON COUNTY E.M.S. SPECIAL AGENT JENNIFER STONER OF
9 S.L.E.D. DEPUTY JEFF WEED OF THE LEXINGTON COUNTY SHERIFF'S
10 DEPARTMENT. CHRIS -- SORRY. CHERIS, C-H-E-R-I-S, CHERIS
11 JETER. DIANE ROBERTS. SPECIAL AGENT DAN DEFREESE OF
12 S.L.E.D. DENNIS LANIER. PATRICK GEIGER, MAYBE GEIGER,
13 SPELLED G-E-I-G-E-R. SUPRINA BYRD, B-Y-R-D. INVESTIGATOR
14 SCOTTIE FRIER OF THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT.
15 INVESTIGATOR OSCAR MCINTOSH OF THE LEXINGTON COUNTY SHERIFF'S
16 DEPARTMENT. THIS IS INVESTIGATOR MCINTOSH. THANK YOU, SIR.
17 KEVIN WILLIAMS. ANSONETTE WILLIAMS. ALEXANDER
18 WILLIAMS. DAVID GILLEY. IMNAMI WILLIAMS SPELLED -- THE
19 FIRST NAME IS SPELLED I-M-N-A-M-I, IMNAMI WILLIAMS. OFFICER
20 VICKI HALLMAN OF THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT.
21 OFFICER JIM HICKMAN OF THE LEXINGTON COUNTY SHERIFF'S
22 DEPARTMENT. SPECIAL AGENT LISA KISER OF S.L.E.D. MASTER
23 DEPUTY MARK MADDEN OF THE LEXINGTON COUNTY SHERIFF'S
24 DEPARTMENT. HEYWARD ROGERS. VIRGIL BATES. OFFICER TRACY
25 PRICE OF THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT.

1 AGAIN, ANYONE RELATED TO ANY OF THE POTENTIAL
2 WITNESSES BY BLOOD, MARRIAGE, SOCIAL RELATIONSHIP, BUSINESS
3 RELATIONSHIP OR OTHERWISE IN ANY FASHION WHATSOEVER? YES,
4 SIR. WHAT'S YOUR NAME AND NUMBER, PLEASE?

5 JUROR MOGAN: THOMAS MOGAN, 95. I KNOW VICKI
6 HALLMAN.

7 THE COURT: OKAY. WAS THERE A REASON YOU DIDN'T
8 STAND UP EARLIER WHEN HER NAME WAS CALLED?

9 JUROR MOGAN: JUST REALIZED IT.

10 THE COURT: OH, OKAY. AND HOW DO YOU KNOW OFFICER
11 HALLMAN?

12 JUROR MOGAN: SHE'S A CUSTOMER OF MINE.

13 THE COURT: ALL RIGHT. WOULD THAT AFFECT YOUR
14 ABILITY TO GIVE BOTH SIDES A FAIR TRIAL IN THIS CASE?

15 JUROR MOGAN: I DON'T THINK SO.

16 THE COURT: WOULD IT CAUSE YOU TO GIVE HER TESTIMONY
17 MORE WEIGHT THAN YOU WOULD ANYONE ELSE?

18 JUROR MOGAN: NO.

19 THE COURT: OKAY. THANK YOU, SIR. ANYONE ELSE?
20 YES, MA'AM. YOUR NAME AND NUMBER, PLEASE?

21 JUROR HUGHES: JUROR 63, ELIZABETH HUGHES. OFFICER
22 FRIER IS HANDLING MY DAUGHTER'S ASSAULT CASE.

23 THE COURT: AND WOULD THAT AFFECT YOUR ABILITY TO
24 GIVE BOTH SIDES A FAIR TRIAL?

25 JUROR HUGHES: THAT'S HARD TO SAY.

1 THE COURT: IS THERE SOME QUESTION IN YOUR MIND?

2 JUROR HUGHES: YES, SIR.

3 THE COURT: ALL RIGHT. COUNSEL, WE'LL EXCUSE THIS
4 JUROR FOR THIS CASE. ANY EXCEPTIONS FROM THE STATE?

5 MS. CARROLL: NONE, YOUR HONOR.

6 THE COURT: DEFENSE?

7 MR. GORSKI: NO, YOUR HONOR.

8 THE COURT: OKAY. YOU CAN JUST STAY WITH US. YOU
9 MIGHT BE ABLE TO BE ON ANOTHER TRIAL.

10 THE CLERK: YOU'RE ELIZABETH HUGHES, MA'AM?

11 THE COURT: MS. HUGHES?

12 THE CLERK: IS THAT YOUR NAME? ELIZABETH HUGHES?

13 JUROR HUGHES: (NODDED HEAD UP AND DOWN.)

14 THE CLERK: THANK YOU. THAT'S ALL. THAT'S ALL I
15 NEEDED TO KNOW.

16 THE COURT: ALL RIGHT. ANYONE ELSE? ALL RIGHT.
17 NOW, IS ANY MEMBER OF THE JURY VENIRE RELATED BY BLOOD OR
18 MARRIAGE TO ANYONE WHO WORKS FOR ANY LAW ENFORCEMENT AGENCY?
19 YES, MA'AM. YOUR NAME AND NUMBER, PLEASE?

20 JUROR BARWICK: BRENDA BARWICK, NUMBER 5. MY SON IS
21 IN LAW ENFORCEMENT, D.N.R., IN GREENVILLE COUNTY.

22 THE COURT: ALL RIGHT. AND WOULD THAT AFFECT YOUR
23 ABILITY TO GIVE BOTH SIDES A FAIR TRIAL?

24 JUROR BARWICK: NO.

25 THE COURT: WOULD IT CAUSE YOU TO BELIEVE A LAW

1 ENFORCEMENT OFFICER OVER ANYONE ELSE?

2 JUROR BARWICK: PROBABLY WOULD.

3 THE COURT: OKAY. COUNSEL, ANY OBJECTION TO
4 EXCUSING THIS JUROR? STATE?

5 MS. CARROLL: NO, YOUR HONOR.

6 THE COURT: DEFENSE?

7 MR. GORSKI: NO, YOUR HONOR.

8 THE COURT: OKAY. ALL RIGHT. WE'LL EXCUSE YOU FOR
9 THIS TRIAL. YOU CAN STAY WITH US. YOU MAY BE ABLE TO GET ON
10 ANOTHER ONE. ANYONE ELSE? YES, MA'AM. YOUR NAME AND
11 NUMBER, PLEASE?

12 JUROR DURRELL: I BELIEVE IT WAS 32. MY NAME IS
13 SHIRLEY DURRELL. MY HUSBAND IS A POLICE OFFICER.

14 THE COURT: ALL RIGHT. WOULD THAT AFFECT YOUR
15 ABILITY TO GIVE BOTH SIDES A FAIR TRIAL?

16 JUROR DURRELL: I'M NOT SURE.

17 THE COURT: DO YOU HAVE SOME QUESTION ABOUT IT?

18 JUROR DURRELL: YEAH, I THINK SO.

19 THE COURT: OKAY. ALL RIGHT. ANY OBJECTION TO
20 EXCUSING THIS JUROR FROM THE STATE?

21 MS. CARROLL: NO, YOUR HONOR.

22 THE COURT: DEFENSE?

23 MR. GORSKI: NO, YOUR HONOR.

24 THE COURT: ALL RIGHT. WE'LL EXCUSE YOU FOR THIS
25 CASE, BUT YOU CAN STAY WITH US. YOU MAY BE ABLE TO GET ON

1 ANOTHER CASE. YES, MA'AM -- ANYONE, IF YOU'RE GOING TO
2 ANSWER THIS, GO AHEAD AND EVERYBODY STAND UP NOW; OKAY?
3 INSTEAD OF ONE AT THE TIME. LET ME SEE HOW MANY WE HAVE. IS
4 THAT EVERYBODY? OKAY. WHAT'S YOUR NAME AND NUMBER, PLEASE,
5 MA'AM?

6 JUROR HARTERT: CHERYL HARTERT, NUMBER 55.

7 THE COURT: OKAY.

8 JUROR HARTERT: MY COUSIN IS MARRIED TO JOE SCOTT
9 RIDDLE.

10 THE COURT: ALL RIGHT. WOULD THAT AFFECT YOUR
11 ABILITY TO GIVE BOTH SIDES A FAIR TRIAL?

12 JUROR HARTERT: NO.

13 THE COURT: AND WOULD IT CAUSE YOU TO BELIEVE A LAW
14 ENFORCEMENT OFFICER OVER ANYONE ELSE?

15 JUROR HARTERT: NO.

16 THE COURT: ALL RIGHT. THANK YOU, MA'AM. YES, SIR.
17 YOUR NAME AND NUMBER, PLEASE?

18 JUROR BATEMAN: IAN BATEMAN. I BELIEVE IT WAS 7.

19 THE COURT: ALL RIGHT. AND WHAT RELATIONSHIP AGAIN?

20 JUROR BATEMAN: I HAVE A BROTHER-IN-LAW WHO IS A
21 DEPUTY SHERIFF IN GEORGIA.

22 THE COURT: WOULD THAT AFFECT YOUR ABILITY TO GIVE
23 BOTH SIDES A FAIR TRIAL?

24 JUROR BATEMAN: NO, SIR.

25 THE COURT: AND WOULD IT CAUSE YOU TO BELIEVE A LAW

1 ENFORCEMENT OFFICER OVER ANYONE ELSE?

2 JUROR BATEMAN: NO, SIR.

3 THE COURT: OKAY. THANK YOU, SIR. ANYONE ELSE?

4 ALL RIGHT. NOW, IS ANY MEMBER OF THE JURY VENIRE RELATED BY
5 BLOOD OR MARRIAGE TO ANYONE WHO IS EMPLOYED BY THE ATTORNEY
6 GENERAL'S OFFICE OR ANY SOLICITOR'S OFFICE OR ANY FEDERAL OR
7 MILITARY PROSECUTOR'S OFFICE? ALL RIGHT. THANK YOU. IS
8 THERE ANY MEMBER OF THE JURY VENIRE WHO IS A MEMBER -- NOW,
9 THIS WOULD INCLUDE YOU OR A FAMILY MEMBER OR A CLOSE FRIEND
10 WHO IS A MEMBER OR A CLOSE -- OR A CONTRIBUTOR TO ANY GROUP
11 WHOSE PURPOSE IS TO PROMOTE LAW ENFORCEMENT OR VICTIMS'
12 RIGHTS, AND THIS WOULD INCLUDE GROUPS SUCH AS M.A.D.D. -
13 MOTHERS AGAINST DRUNK DRIVERS, S.A.D.D., C.A.D.R.E.,
14 C.A.V.E., OR ANY LAW ENFORCEMENT PROMOTION GROUP AT ALL.
15 ANYONE -- YOU OR A FAMILY MEMBER OR A CLOSE FRIEND AGAIN A
16 MEMBER OF ANY SUCH GROUP OR A CONTRIBUTOR TO ANY SUCH GROUP?
17 ALL RIGHT. MR. JONES?

18 JUROR JONES: YES, SIR.

19 THE COURT: WHAT'S YOUR NUMBER AGAIN?

20 JUROR JONES: 69. I'M A MEMBER OF THE LAW
21 ENFORCEMENT OFFICERS ASSOCIATION AND HAVE BEEN FOR MANY
22 YEARS.

23 THE COURT: ALL RIGHT. WOULD THAT AFFECT YOUR
24 ABILITY TO GIVE BOTH SIDES A FAIR TRIAL?

25 JUROR JONES: NO, SIR.

1 THE COURT: OKAY. THANK YOU, SIR. ANYONE ELSE?
2 NOW, HAS ANY MEMBER OF THE JURY VENIRE AND AGAIN THIS
3 INCLUDES YOU, A FAMILY MEMBER OR A CLOSE FRIEND, EVER BEEN A
4 VICTIM OF A VIOLENT CRIME? YES, MA'AM. I BELIEVE YOU
5 EXPLAINED EARLIER... WHAT WAS YOUR NAME AGAIN, PLEASE,
6 MA'AM?

7 JUROR SEASE: GROVETTE SEASE, NUMBER 117.

8 THE COURT: OKAY. AND WOULD THAT AFFECT YOUR
9 ABILITY TO GIVE BOTH SIDES A FAIR TRIAL?

10 JUROR SEASE: NO, SIR.

11 THE COURT: ALL RIGHT. THANK YOU, MA'AM. ANYONE
12 ELSE? NOW, ANY MEMBER OF THE JURY VENIRE RELATED BY -- IN
13 ANY WAY, BLOOD OR MARRIAGE, SOCIALLY, BUSINESS OR OTHERWISE
14 TO ANYONE WHO IS EMPLOYED BY A -- AN ATTORNEY'S OFFICE WHO
15 DOES -- WHO REPRESENTS DEFENDANTS IN CRIMINAL CASES? OKAY.
16 YOUR NAME AND NUMBER, PLEASE, MA'AM?

17 JUROR DENNIS: NUMBER 28, CHERYL DENNIS.

18 THE COURT: ALL RIGHT.

19 JUROR DENNIS: I GUESS I AM. MY SISTER-IN-LAW WORKS
20 AT HENRY MCMASTER'S OFFICE.

21 THE COURT: ALL RIGHT. WOULD THAT AFFECT YOUR
22 ABILITY TO GIVE BOTH SIDES A FAIR TRIAL?

23 JUROR DENNIS: NO, SIR.

24 THE COURT: ALL RIGHT. THANK YOU, MA'AM. YES,
25 MA'AM. YOUR NAME AND NUMBER, PLEASE?

1 JUROR JACOBS: ROSE JACOBS. I THINK IT'S 60. MY
2 BROTHER-IN-LAW IS INVOLVED IN LAW ENFORCEMENT.

3 THE COURT: ALL RIGHT. DOES HE DO WORK IN
4 REPRESENTING DEFENDANTS IN CRIMINAL---

5 JUROR JACOBS: HE DOESN'T TALK ABOUT HIS WORK TO ME,
6 SO, YOU KNOW, I DON'T REALLY THINK IT WILL AFFECT ANYTHING.

7 THE COURT: OKAY. WOULD THAT AFFECT YOUR ABILITY --
8 IT WOULD NOT AFFECT YOUR ABILITY TO GIVE BOTH SIDES A FAIR
9 TRIAL?

10 JUROR JACOBS: NO, SIR.

11 THE COURT: THANK YOU, MA'AM. YES, SIR, YOUR NAME
12 AND NUMBER, PLEASE?

13 JUROR BERRY: JAMES BERRY, NUMBER 10. MY WIFE
14 WORKED IN THE MCNAIR LAW FIRM. MY DAUGHTER WORKS FOR
15 POPOWSKI, CALLAS, AND SHIRLEY.

16 THE COURT: OKAY. WOULD THAT AFFECT YOUR ABILITY TO
17 GIVE BOTH SIDES A FAIR TRIAL?

18 JUROR BERRY: NO.

19 THE COURT: ALL RIGHT. THANK YOU, SIR. GO AHEAD,
20 MR. JONES.

21 JUROR JONES: AS I SAID EARLIER, A FIRM THAT I'M
22 EMPLOYED BY IS A WHOLLY-OWNED SUBSIDIARY OF NEXSEN, PRUET,
23 JACOBS AND POLLARD LAW FIRM.

24 THE COURT: WOULD THAT AFFECT YOUR ABILITY TO GIVE
25 BOTH SIDES A FAIR TRIAL?

1 JUROR JONES: NO, SIR.

2 THE COURT: ALL RIGHT. THANK YOU. YES, MA'AM.
3 YOUR NAME AND NUMBER, PLEASE?

4 JUROR BRADLEY: STEPHANIE BRADLEY, NUMBER 12, AND I
5 HAVE A CLOSE FRIEND WHO IS A DEFENSE ATTORNEY IN NORTH
6 CAROLINA.

7 THE COURT: WOULD THAT AFFECT YOUR ABILITY TO GIVE
8 BOTH SIDES A FAIR TRIAL?

9 JUROR BRADLEY: NO, SIR.

10 THE COURT: ALL RIGHT. ANYONE ELSE? COUNSEL, DO
11 EITHER OF YOU HAVE ANY OTHER QUESTIONS YOU WISH TO ASK? FROM
12 THE STATE?

13 MS. CARROLL: NO, YOUR HONOR.

14 THE COURT: FROM THE DEFENSE?

15 MR. GORSKI: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. ONE OTHER QUESTION. DOES
17 ANY MEMBER OF THE JURY VENIRE KNOW OF ANY OTHER REASON WHY
18 YOU COULD NOT GIVE BOTH SIDES A FAIR TRIAL IN THIS CASE? ALL
19 RIGHT. THANK YOU. NOW, AT THIS TIME WE WILL PROCEED WITH
20 THE SELECTION OF JURORS, AND MS. FRICK FROM THE CLERK'S
21 OFFICE IS GOING TO HANDLE THIS. NOW, SHE HAS DONE THIS MANY
22 TIMES, SO SHE WILL TREAT YOU KINDLY AND GENTLY AND ALL YOU
23 HAVE TO DO IS BASICALLY JUST SORT OF COOPERATE WITH HER. MR.
24 CAMERAMAN, BE SURE THERE ARE NO PICTURES OF JURORS.

25 CAMERAMAN: YES, SIR.

GUILTY PLEA

1 (WHEREUPON, THE PROCEEDINGS CONCLUDED AND RESUMED ON
2 MARCH 21, 2002.)

3 THE COURT: THANK YOU. PLEASE HAVE A SEAT.

4 THE CLERK: INDICTMENT 2000-GS-32-689, THE STATE
5 VERSUS JAMES CHESTER WILLIAMS, INDICTED FOR MURDER. THE
6 DEFENDANT IS PUT TO THE BAR AND ARRAIGNED AND UPON HIS
7 ARRAIGNMENT PLEADS GUILTY AS CHARGED. IT IS SIGNED AND
8 PROPERLY ATTESTED TO, TRUE BILLED, AND REPRESENTED BY MR.
9 GORSKI.

10 THE COURT: MR. GORSKI, YOU REPRESENT MR. WILLIAMS?

11 MR. GORSKI: YES, YOUR HONOR, I DO.

12 THE COURT: HAVE YOU ADVISED HIM OF HIS RIGHTS IN
13 THIS MATTER?

14 MR. GORSKI: I HAVE.

15 THE COURT: DO YOU FEEL LIKE HE UNDERSTANDS HIS
16 RIGHTS?

17 MR. GORSKI: HE UNDERSTANDS HIS RIGHTS, YOUR HONOR.

18 THE COURT: ALL RIGHT. IS HE UNDER OATH, MADAM
19 CLERK?

20 THE CLERK: RAISE YOUR RIGHT HAND.

21 JAMES CHESTER WILLIAMS, AFTER BEING DULY SWORN,
22 TESTIFIED AS FOLLOWS:

23 EXAMINATION BY THE COURT

24 Q. THANK YOU. MR. WILLIAMS, I UNDERSTAND THAT YOU WISH
25 TO PLEAD GUILTY TO A CHARGE OF MURDER. IS THAT CORRECT?

GUILTY PLEA

1 A. YES, SIR.

2 Q. DO YOU UNDERSTAND THAT ON A CONVICTION OF MURDER
3 THAT YOU COULD GET AS MUCH AS A LIFE SENTENCE BUT AT LEAST 30
4 YEARS?

5 A. YES, SIR.

6 Q. DO YOU UNDERSTAND THAT?

7 A. YES, SIR.

8 Q. AND ON THIS CHARGE DO YOU UNDERSTAND WHAT THE STATE
9 ALLEGES THAT YOU'VE DONE TO HAVE BEEN CHARGED WITH MURDER?

10 A. YES, SIR.

11 Q. OKAY. IN FACT, DO YOU UNDERSTAND THEY ALLEGE THAT
12 ON SEPTEMBER 15, 1999, THAT YOU SHOT ONE KATHY ARETHA
13 WILLIAMS AND THAT SHE DIED AS A RESULT OF SHOOTING? DO YOU
14 UNDERSTAND THAT THAT'S WHAT THEY CHARGE YOU WITH DOING?

15 A. YES, SIR.

16 Q. OKAY. NOW, DO YOU UNDERSTAND THAT YOU DON'T HAVE TO
17 PLEAD GUILTY? YOU HAVE A RIGHT TO PLEAD NOT GUILTY. IF YOU
18 PLED NOT GUILTY, YOU WOULD HAVE A JURY TRIAL. DO YOU
19 UNDERSTAND THAT?

20 A. YES, SIR.

21 Q. AND, IN FACT, YOU UNDERSTAND THAT THERE IS A JURY
22 WAITING RIGHT NOW AND YOU WOULD BE AVAILABLE -- YOU WOULD BE
23 ABLE TO HAVE YOUR JURY TRIAL STARTING IN JUST A LITTLE WHILE?
24 DO YOU UNDERSTAND THAT?

25 A. YES, SIR.

1 **THE COURT:** THERE IS SOMEONE HERE FROM THE NEWS
2 MEDIA COVERING THIS, BUT AGAIN I WANT TO ASSURE YOU THAT HE'S
3 NOT GOING TO TAKE YOUR PICTURE, NOT GOING TO GIVE OUT
4 ANYTHING THAT WILL BE IDENTIFYING INFORMATION ABOUT YOU AT
5 ALL. I HAVE DEALT WITH THESE MEDIA FOLKS IN A NUMBER OF
6 CASES, AND THEY'RE EXCELLENT TO WORK WITH ON THESE THINGS.
7 SO DON'T WORRY ABOUT THAT. OKAY. ARE YOU READY, MADAM
8 CLERK?

9 **THE CLERK:** WHAT ARE THE STRIKES?

10 **THE COURT:** IT WILL BE FIVE AND TEN ON THE STRIKES.

11 **THE CLERK:** AS I CALL YOUR NAME, IF YOU'LL COME UP
12 HERE, BRING YOUR UMBRELLAS, POCKETBOOKS, BRIEFCASES, WHATEVER
13 YOU HAVE WITH YOU. COME UP HERE AND STAND IN FRONT OF ME AND
14 THEN TURN AROUND AND FACE BACK OUT INTO THE AUDIENCE AND THEN
15 I WILL GIVE YOU INSTRUCTIONS EITHER TO HAVE A SEAT IN THE
16 JURY BOX OR TO RETURN TO YOUR SEAT. NUMBER 10, JAMES BERRY.
17 TURN AROUND. THANK YOU. WHAT SAY YE FOR THE STATE?

18 **MS. CARROLL:** PLEASE PRESENT THE JUROR.

19 **THE CLERK:** WHAT SAY YE FOR THE DEFENSE?

20 **MR. GORSKI:** SEAT THE JUROR.

21 **THE CLERK:** HAVE A SEAT IN THE JURY BOX, SIR.
22 NUMBER 94, MARY MOBLEY. WHAT SAY YE FOR THE STATE?

23 **MS. CARROLL:** PLEASE PRESENT THE JUROR.

24 **THE CLERK:** WHAT SAY YE FOR THE DEFENSE?

25 **MR. GORSKI:** PLEASE EXCUSE THE JUROR.

1 THE CLERK: RETURN TO YOUR SEAT, PLEASE, MA'AM.
2 NUMBER 128, KAREN SORGEN. WHAT SAY YE FOR THE STATE?

3 MS. CARROLL: PLEASE PRESENT THE JUROR.

4 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

5 MR. GORSKI: PLEASE EXCUSE THE JUROR.

6 THE CLERK: RETURN TO YOUR SEAT, PLEASE, MA'AM.
7 NUMBER 80, TIMOTHY LOVETT. WHAT SAY YE FOR THE STATE?

8 MS. CARROLL: PLEASE PRESENT THE JUROR.

9 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

10 MR. GORSKI: PLEASE SEAT THE JUROR.

11 THE CLERK: HAVE A SEAT IN THE JURY BOX, SIR. THIS
12 WAY. THIS WAY. NUMBER 152, WILLIE ROBINSON. WHAT SAY YE
13 FOR THE STATE?

14 MS. CARROLL: PLEASE PRESENT THE JUROR.

15 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

16 MR. GORSKI: PLEASE SEAT THE JUROR.

17 THE CLERK: HAVE A SEAT IN THE JURY BOX, SIR.

18 NUMBER 131, MICHAEL SPOLARICH. WHAT SAY YE FOR THE STATE?

19 MS. CARROLL: PLEASE PRESENT THE JUROR.

20 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

21 MR. GORSKI: PLEASE EXCUSE THIS JUROR.

22 THE CLERK: RETURN TO YOUR SEAT, PLEASE, SIR.

23 NUMBER 59, MARY HILL. WHAT SAY YE FOR THE STATE?

24 MS. CARROLL: PLEASE PRESENT THE JUROR.

25 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

1 MR. GORSKI: PLEASE SEAT THE JUROR.

2 THE CLERK: HAVE A SEAT IN THE JURY BOX, MA'AM.

3 153, LARRY RHODES. WHAT SAY YE FOR THE STATE?

4 MS. CARROLL: PLEASE PRESENT THE JUROR.

5 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

6 MR. GORSKI: PLEASE EXCUSE THE JUROR.

7 THE CLERK: RETURN TO YOUR SEAT, PLEASE, SIR.

8 NUMBER 60, APRIL HINKLE. WHAT SAY YE FOR THE STATE?

9 MS. CARROLL: PLEASE PRESENT THE JUROR.

10 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

11 MR. GORSKI: PLEASE SEAT THE JUROR.

12 THE CLERK: HAVE A SEAT IN THE JURY BOX, MA'AM.

13 NUMBER 28, CHERYL DENNIS. WHAT SAY YE FOR THE STATE?

14 MS. CARROLL: PLEASE EXCUSE THE JUROR.

15 THE CLERK: RETURN TO YOUR SEAT, PLEASE, MA'AM.

16 NUMBER 111, ROBIN PRICE. WHAT SAY YE FOR THE STATE?

17 MS. CARROLL: PLEASE PRESENT THE JUROR.

18 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

19 MR. GORSKI: PLEASE EXCUSE THE JUROR.

20 THE CLERK: RETURN TO YOUR SEAT, PLEASE, MA'AM.

21 NUMBER 117, GROVETTE SEASE. WHAT SAY YE FOR THE STATE?

22 MS. CARROLL: PLEASE PRESENT THE JUROR.

23 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

24 MR. GORSKI: PLEASE SEAT THE JUROR.

25 THE CLERK: HAVE A SEAT IN THE JURY BOX, MA'AM.

1 107, JEFFERY PERSONS. WHAT SAY YE FOR THE STATE?

2 MS. CARROLL: PLEASE EXCUSE THE JUROR.

3 THE CLERK: RETURN TO YOUR SEAT, PLEASE, SIR. 106,

4 RUTH PERRY. WHAT SAY YE FOR THE STATE?

5 MS. CARROLL: PLEASE PRESENT THE JUROR.

6 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

7 MR. GORSKI: PLEASE SEAT THE JUROR.

8 THE CLERK: HAVE A SEAT IN THE JURY BOX, MA'AM.

9 NUMBER 30, JONATHAN DOMINICK. WHAT SAY YE FOR THE STATE?

10 MS. CARROLL: PLEASE PRESENT THE JUROR.

11 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

12 MR. GORSKI: PLEASE SEAT THE JUROR.

13 THE CLERK: HAVE A SEAT IN THE JURY BOX, SIR.

14 NUMBER 119, MICKEY SHEALY. WHAT SAY YE FOR THE STATE?

15 MS. CARROLL: PLEASE PRESENT THE JUROR.

16 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

17 MR. GORSKI: PLEASE EXCUSE THE JUROR.

18 THE CLERK: RETURN TO YOUR SEAT, SIR. NUMBER 146,

19 WILLIAM WHITSELL - EXCUSE ME - WHITSETT. WHAT SAY YE FOR THE

20 STATE?

21 MS. CARROLL: PLEASE PRESENT THE JUROR.

22 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

23 MR. GORSKI: PLEASE SEAT THE JUROR.

24 THE CLERK: HAVE A SEAT IN THE JURY BOX, SIR.

25 NUMBER 50, CAROL GROSS. WHAT SAY YE FOR THE STATE?

1 MS. CARROLL: PLEASE PRESENT THE JUROR.

2 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

3 MR. GORSKI: PLEASE EXCUSE THE JUROR.

4 THE CLERK: RETURN TO YOUR SEAT, PLEASE, MA'AM.

5 NUMBER 1, LISA ADKINS. WHAT SAY YE FOR THE STATE?

6 MS. CARROLL: PLEASE PRESENT THE JUROR.

7 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

8 MR. GORSKI: PLEASE SEAT THE JUROR.

9 THE CLERK: HAVE A SEAT IN THE JURY BOX, MA'AM.

10 NUMBER 7, IAN BATEMAN. WHAT SAY YE FOR THE STATE?

11 MS. CARROLL: PLEASE PRESENT THE JUROR.

12 THE CLERK: WHAT SAY YE FOR THE STATE -- DEFENSE?

13 MR. GORSKI: PLEASE SEAT THE JUROR.

14 THE CLERK: HAVE A SEAT IN THE JURY BOX, SIR.

15 NUMBER 68, RONALD JOHNSON. WHAT SAY YE FOR THE STATE?

16 MS. CARROLL: PLEASE PRESENT THE JUROR.

17 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

18 MR. GORSKI: PLEASE SEAT THE JUROR.

19 THE CLERK: HAVE A SEAT IN THE JURY BOX, SIR.

20 THE COURT: TWO ALTERNATES.

21 THE CLERK: TWO ALTERNATES?

22 THE COURT: COUNSEL, WE'LL DRAW TWO ALTERNATES. AS

23 YOU KNOW, THE STATE WILL HAVE ONE STRIKE AND THE DEFENSE TWO

24 FOR EACH ALTERNATE.

25 THE CLERK: NUMBER 135, EMILY STEWART PACE. WHAT

1 SAY YE FOR THE STATE?

2 MS. CARROLL: PLEASE PRESENT THE JUROR.

3 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

4 MR. GORSKI: PLEASE SEAT THE JUROR.

5 THE CLERK: HAVE A SEAT IN THE JURY BOX. THAT'S

6 ALTERNATE ONE, YOUR HONOR. NUMBER 129, OLIVIA KNIGHT

7 SPEARES. WHAT SAY YE FOR THE STATE?

8 MS. CARROLL: PLEASE PRESENT THE JUROR.

9 THE CLERK: WHAT SAY YE FOR THE DEFENSE?

10 MR. GORSKI: SEAT THE JUROR.

11 THE CLERK: HAVE A SEAT IN THE JURY BOX. ALTERNATE

12 TWO, YOUR HONOR.

13 THE COURT: COUNSEL, LET ME ASK BOTH OF YOU TO
14 APPROACH JUST ONE MINUTE, PLEASE.

15 (THE JURY WAS IMPANELED AT 12:08 P.M. A BENCH
16 CONFERENCE WAS HELD.)

17 THE COURT: ALL RIGHT. JURORS, THOSE OF YOU WHO
18 HAVE BEEN SELECTED, I'M GOING TO ASK YOU TO DO THIS. WE'RE
19 ACTUALLY GOING TO -- BECAUSE OF SOME SCHEDULING PROBLEMS, WE
20 HAVE A -- WE HAVE A SICK LAWYER. WE'RE GOING TO ACTUALLY TRY
21 THIS CASE SECOND. SO WHAT I WILL DO IS ASK YOU TO CALL THE
22 NUMBER ON THE CARD THAT YOU GOT. HAVE ALL OF YOU GOT A PINK
23 CARD? DOES ANYONE NOT HAVE -- HAVE YOU LOST -- ANYBODY LOST
24 ONE? ANYBODY NEED ANOTHER CARD? ONE LADY UP HERE NEEDS
25 ANOTHER CARD. OKAY. ANYONE ELSE? ALL RIGHT. ONE GENTLEMAN

1 OVER HERE NEEDS ANOTHER CARD. ANYBODY ELSE? SAY SO NOW OR
2 FOREVER HOLD YOUR PEACE. ALL RIGHT. ALL JURORS HAVE A CARD.
3 ON THAT CARD YOU'LL HAVE A NUMBER TO CALL IN. IF YOU WOULD,
4 CALL THAT NUMBER THIS EVENING AFTER 6, AFTER 6, AND YOU'LL
5 HAVE INSTRUCTIONS. MADAM CLERK, WHAT WILL IT SAY ON THE
6 ANSWERING MACHINE?

7 THE CLERK: I'LL STILL CALL THEM PANEL NUMBER ONE.

8 THE COURT: YOU'LL BE LISTED AS PANEL NUMBER ONE.
9 SO WHEN YOU HEAR HER REFER TO PANEL NUMBER ONE, YOUR EARS
10 SHOULD PERK UP BECAUSE THAT WILL BE YOU AND YOU'LL HAVE
11 INSTRUCTIONS AS TO WHEN TO COME BACK. BUT I'LL ASK YOU TO DO
12 THAT THIS EVENING AFTER 6. CALL TONIGHT AFTER 6 AND YOU'LL
13 HAVE INSTRUCTIONS.

14 NOW, IT'S VERY IMPORTANT THAT YOU NOT TALK ABOUT
15 THIS CASE OR ANY OTHER CASE. ALSO HERE IS THE OTHER THING,
16 TOO. WE DON'T KNOW IF THERE WILL BE ANYTHING IN THE NEWS
17 MEDIA ABOUT IT. SO UNTIL YOU COME BACK, UNTIL FURTHER
18 INSTRUCTIONS, I'M GOING TO ASK THAT YOU STAY AWAY FROM ANY
19 KIND OF NEWS. DON'T READ ANY NEWSPAPER. STAY AWAY FROM ANY
20 LOCAL RADIO NEWS AND ANY LOCAL TELEVISION NEWS, AND DON'T
21 TALK WITH ANYONE ABOUT THE CASE AND DON'T LET THEM TALK WITH
22 YOU ABOUT IT. OBVIOUSLY YOU WANT TO TELL YOUR FAMILY AND
23 FRIENDS WHERE YOU'RE GOING TO BE AND WHAT YOU'RE DOING;
24 THAT'S OKAY. BUT JUST DON'T TALK ABOUT THE CASE IN ANY
25 DETAIL.

COLLOQUY

1 WITH THAT IN MIND, IF YOU'LL CALL BACK, YOU'LL HAVE
2 INSTRUCTIONS AS TO WHEN TO BE BACK AND WE'LL SEE YOU AT SOME
3 POINT WITHIN THE NEXT FEW DAYS. ALL RIGHT? THANK YOU. THE
4 BAILIFFS WILL SHOW YOU THE JURY ROOM SO YOU'LL KNOW WHERE TO
5 REPORT AT THE APPROPRIATE TIME.

6 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR
7 THE DAY AT 12:11 P.M.)

8 THE COURT: ALL RIGHT. THANK YOU. ALL JURORS ARE
9 NOW EXCUSED. COUNSEL, AS I INDICATED A MOMENT AGO, ARE THERE
10 ANY MOTIONS RELATED -- UNDER BATSON VERSUS KENTUCKY RELATED
11 TO RACIAL EXCLUSION OR ANY MOTIONS UNDER J.E.B. VERSUS
12 ALABAMA RELATED TO GENDER EXCLUSIONS? ANY FROM THE STATE?

13 MS. CARROLL: NO, YOUR HONOR.

14 THE COURT: ANY MOTIONS AT ALL RELATED TO JURY
15 SELECTION FROM THE STATE?

16 MS. CARROLL: NO, YOUR HONOR.

17 THE COURT: FROM THE DEFENSE?

18 MR. GORSKI: NO, YOUR HONOR.

19 THE COURT: OKAY. THANK YOU. ALL RIGHT. COUNSEL,
20 WHAT WE'LL DO IS JUST LET THE JURY CALL BACK. MR. GORSKI, IF
21 YOU COULD, HOW ABOUT BE SURE AND GET US A DOCTOR'S STATEMENT
22 BACK AS SOON AS WE CAN SO THAT WE CAN KNOW WHAT KIND OF
23 POSITION WE'LL BE IN. OKAY?

24 MR. GORSKI: YES, YOUR HONOR.

25 THE COURT: ALL RIGHT. THANK YOU.

1 Q. DO YOU?

2 A. YES, SIR.

3 Q. OKAY. AND DO YOU UNDERSTAND THAT -- LET ME GO
4 THROUGH THE TRIAL PROCESS NOW, AND I'M SURE YOUR LAWYER HAS
5 BEEN OVER THIS WITH YOU, BUT I'LL GO THROUGH IT WITH YOU SO
6 THAT IT'S ON THE RECORD. YOU UNDERSTAND THAT, OF COURSE,
7 WE'VE BEEN THROUGH PART OF IT WHERE THERE'S BEEN -- THERE'S
8 BEEN JURY SELECTION. THE JURY HAS BEEN SELECTED, AND AS YOU
9 KNOW, YOU WERE ABLE TO TAKE PART IN THAT AND EVEN TO STRIKE
10 SOME JURORS.

11 A. YES, SIR.

12 Q. DO YOU UNDERSTAND THAT WHAT WOULD HAPPEN NOW WOULD
13 BE THAT BOTH YOUR LAWYER WOULD HAVE A RIGHT TO MAKE WHAT'S
14 CALLED AN OPENING STATEMENT TO THE JURY IN WHICH HE WOULD
15 SPEAK TO THE JURY ON YOUR BEHALF? THE STATE WOULD ALSO. AND
16 THEN ONCE THAT'S DONE, THEN ALL THE EVIDENCE WOULD START.
17 THE STATE WOULD HAVE TO PUT UP WITNESSES AND THEY WOULD HAVE
18 TO TESTIFY IN OPEN COURT, AND YOUR LAWYER WOULD HAVE A RIGHT
19 TO QUESTION THOSE WITNESSES. DO YOU UNDERSTAND THAT?

20 A. YES, SIR.

21 Q. AND YOU UNDERSTAND THE REASON THEY DO THAT IS
22 BECAUSE THEY HAVE THE BURDEN OF PROOF. THEY MUST PROVE YOU
23 GUILTY BEYOND A REASONABLE DOUBT. DO YOU UNDERSTAND THAT?

24 A. YES, SIR.

25 Q. AND YOU UNDERSTAND THAT THAT MEANS THAT YOU DON'T

GUILTY PLEA

1 HAVE TO PROVE ANYTHING. YOU'RE NOT REQUIRED TO PROVE A THING
2 AND, OF COURSE, WE WILL TELL THE JURY THAT, TOO. DO YOU
3 UNDERSTAND THAT?

4 A. YES, SIR.

5 Q. AND THAT THEN MEANS THAT YOU CAN TESTIFY IF YOU WANT
6 TO, BUT YOU WOULDN'T HAVE TO. IT'S UP TO YOU. YOU COULD
7 CALL WITNESSES IF YOU WANTED TO, BUT AGAIN YOU WOULDN'T HAVE
8 TO. THAT WOULD BE UP TO YOU. DO YOU UNDERSTAND THAT?

9 A. YES, SIR.

10 Q. NOW, REGARDLESS OF WHICH YOU DID, ONCE ALL -- ALL
11 THAT WAS OVER WITH, THEN YOUR LAWYER WOULD HAVE A CHANCE TO
12 SPEAK TO THE JURY AGAIN ON YOUR BEHALF AT THE END AND GIVE
13 WHAT'S CALLED A CLOSING STATEMENT. DO YOU UNDERSTAND THAT?

14 A. YES, SIR.

15 Q. AND THEN FOLLOWING THAT, THE STATE WOULD HAVE A
16 CHANCE TO MAKE A CLOSING STATEMENT. I WOULD TELL THE JURY
17 THE LAW AND THEN THEY WOULD GO OUT AND COME BACK WITH A
18 VERDICT. DO YOU UNDERSTAND THAT?

19 A. YES, SIR.

20 Q. NOW, YOU UNDERSTAND THAT DURING ALL THIS THERE ARE
21 FROM TIME TO TIME VARIOUS MOTIONS THAT CAN BE MADE ON YOUR
22 BEHALF, AND YOUR LAWYER WOULD BE ABLE TO MAKE THOSE. DO YOU
23 UNDERSTAND?

24 A. YES, SIR.

25 Q. AND IF THE JURY WERE TO FIND YOU GUILTY, YOU WOULD

GUILTY PLEA

1 HAVE A RIGHT TO APPEAL TO THE STATE SUPREME COURT. DO YOU
2 UNDERSTAND THAT?

3 A. YES, SIR.

4 Q. ALL RIGHT. AND DO YOU UNDERSTAND BASICALLY THEN
5 WHAT YOUR RIGHTS ARE IN THE JURY TRIAL?

6 A. YES, SIR.

7 Q. DO YOU HAVE ANY QUESTIONS ABOUT THAT AT ALL?

8 A. NO, SIR.

9 Q. AND YOU'VE BEEN OVER ALL THAT WITH YOUR LAWYER.

10 A. YES, SIR.

11 Q. AND YOU UNDERSTAND THAT -- THAT IF YOU PLEAD GUILTY
12 YOU'RE GOING TO GIVE ALL THAT UP. DO YOU UNDERSTAND?

13 A. YES, SIR.

14 Q. AND, OF COURSE, THAT MEANS IF YOU HAD ANY DEFENSES
15 THAT YOU WANTED TO BRING UP OR ANY MOTIONS OR ANY CLAIMS OF
16 YOUR OWN OR ANY COMPLAINTS ABOUT THE WAY YOU WERE TREATED,
17 YOU WOULD GIVE ALL THAT UP. DO YOU UNDERSTAND THAT?

18 A. YES, SIR.

19 Q. AND UNDERSTANDING THAT THEN, DO YOU STILL WANT TO
20 PLEAD GUILTY?

21 A. YES, SIR.

22 Q. ALL RIGHT. NOW, MR. WILLIAMS, ARE YOU PLEADING
23 GUILTY OF YOUR OWN FREE WILL?

24 A. YES, SIR.

25 Q. OKAY. HAS ANYBODY THREATENED YOU IN ANY WAY TO MAKE

GUILTY PLEA

1 YOU PLEAD GUILTY?

2 A. NO, SIR.

3 Q. ALL RIGHT. NOW, THERE'S -- EXCEPT FOR ANY
4 AGREEMENT, ANYTHING THAT MAY HAVE BEEN WORKED OUT BETWEEN
5 YOUR LAWYER AND THE STATE -- AND I DON'T KNOW ABOUT THAT.
6 I'LL FIND OUT IF THERE HAS BEEN. EXCEPT FOR ANYTHING THAT
7 MIGHT HAVE BEEN WORKED OUT WITH THAT, HAS ANYBODY PROMISED
8 YOU ANYTHING TO GET YOU TO PLEAD GUILTY?

9 A. NO, SIR.

10 Q. OKAY. DO YOU ADMIT THAT YOU'RE GUILTY OF THIS
11 CHARGE?

12 A. YES, SIR.

13 Q. ALL RIGHT. NOW, AT THIS TIME ARE YOU UNDER THE
14 INFLUENCE OF ANY DRUGS OR ALCOHOL OR MEDICATION OF ANY KIND?

15 A. NO, SIR.

16 Q. NOW, IS THERE ANY MEDICINE THAT YOU'RE SUPPOSED TO
17 BE TAKING THAT YOU'RE NOT TAKING?

18 A. NO, SIR.

19 Q. OKAY. ARE YOU SATISFIED WITH YOUR LAWYER?

20 A. YES, SIR.

21 Q. HAVE YOU HAD HIS ADVICE IN THIS MATTER?

22 A. YES, SIR.

23 Q. DO YOU FEEL LIKE HE'S DONE EVERYTHING YOU WANTED HIM
24 TO DO?

25 A. YES, SIR.

1 Q. ALL RIGHT. AND UNDERSTANDING EVERYTHING THAT I'VE
2 ASKED, DO YOU STILL WANT TO PLEAD GUILTY?

3 A. YES, SIR.

4 Q. OKAY. AND LET ME ALSO NOTE -- DO YOU UNDERSTAND
5 THAT WHEN ALL OF THIS IS OVER WITH THAT IF YOU'RE -- THAT IF
6 YOU FEEL LIKE THERE'S BEEN ANY PROBLEM WITH IT OR ANYTHING
7 WAS DONE WRONG YOU HAVE A RIGHT TO APPEAL -- EVEN THE PLEA
8 YOU HAVE A RIGHT TO APPEAL TO THE SUPREME COURT. DO YOU
9 UNDERSTAND THAT?

10 A. YES, SIR.

11 Q. AND YOU HAVE TEN DAYS TO FILE THAT. DO YOU
12 UNDERSTAND THAT?

13 A. REPEAT THAT AGAIN NOW.

14 Q. YOU WOULD HAVE TEN DAYS -- IF YOU WANTED TO FILE AN
15 APPEAL, YOU WOULD HAVE TEN DAYS TO FILE THE APPEAL WITH THE
16 SUPREME COURT. YOU'D HAVE TO NOTIFY YOUR LAWYER AND GIVE HIM
17 TIME TO DO THAT. DO YOU UNDERSTAND THAT?

18 A. YES, SIR.

19 Q. OKAY. UNDERSTANDING ALL OF THAT THEN, DO YOU STILL
20 WANT TO PLEAD GUILTY?

21 A. YES, SIR.

22 THE COURT: ALL RIGHT. MADAM SOLICITOR?

23 MS. CARROLL: MAY IT PLEASE THE COURT? ON THE NIGHT
24 OF SEPTEMBER 15TH OF 1999 THE LEXINGTON COUNTY SHERIFF'S
25 DEPARTMENT RESPONDED TO AN APARTMENT IN RIVER OAKS APARTMENTS

GUILTY PLEA

1 IN LEXINGTON COUNTY. WHEN THEY ARRIVED, THEY FOUND THE BODY
 2 OF KATHY WILLIAMS WHO WAS 41 YEARS OLD WHO HAD BEEN OBVIOUSLY
 3 SHOT IN THE NECK AREA. THEY ALSO FOUND THREE OF HER CHILDREN
 4 WHO WERE FRANTICALLY RUNNING AROUND THE APARTMENT TRYING TO
 5 GET HELP FOR THEIR MOTHER.

6 LAW ENFORCEMENT QUESTIONED THE CHILDREN WHO WERE
 7 PRESENT IN THE APARTMENT WHEN THEIR MOTHER WAS SHOT. AT THAT
 8 TIME THEY WERE AGES 8, 13, AND 15. THE CHILDREN WERE ABLE TO
 9 TELL LAW ENFORCEMENT THAT THAT EVENING THEIR FATHER OR
 10 STEPFATHER, THE DEFENDANT, CAME OVER TO SPEAK TO THE MOTHER
 11 SUPPOSEDLY TO BRING SOME MONEY SO THE YOUNGEST CHILD COULD
 12 PLAY FOOTBALL. AT THAT POINT THE DEFENDANT AND THE VICTIM
 13 HAD BEEN SEPARATED. SHE HAD MOVED OUT OF THE MARITAL HOME
 14 INTO THESE APARTMENTS IN RIVER OAKS. HE WAS NOT LIVING
 15 THERE.

16 THE VICTIM AND THE DEFENDANT ARGUED A LITTLE BIT
 17 ABOUT HIM COMING OVER ALL THE TIME. AT THAT POINT THE
 18 DEFENDANT LEFT THE APARTMENT, WENT DOWN TO HIS CAR, ARMED
 19 HIMSELF WITH A SHOTGUN, TOOK ONE SHOTGUN SHELL, LOADED THE
 20 GUN AND WENT BACK INTO THE APARTMENT. HE WENT STRAIGHT BACK
 21 TO THE VICTIM'S BEDROOM AND MOTIONED HER TO COME INTO THE
 22 BEDROOM WITH HIM.

23 THE CHILDREN HEARD SOME MORE ARGUING. TWO OF THE
 24 CHILDREN HEAR THE VICTIM SAYING IN A VERY STRONGER VOICE,
 25 "WHAT ARE YOU GOING TO DO? SHOOT ME?" AND THEN IMMEDIATELY

1 AFTERWARDS THEY HEARD A GUNSHOT FIRED. THE DEFENDANT RUNS
2 OUT OF THE APARTMENT, LEAVING MS. WILLIAMS ALONE ON THE FLOOR
3 TO DIE.

4 LAW ENFORCEMENT GETS A TIP AS TO WHERE THE DEFENDANT
5 MAY BE LOCATED. HE HAD SOME FAMILY MEMBERS, I BELIEVE, IN
6 BARNWELL COUNTY. THE NEXT MORNING THEY'RE ABLE TO GO OUT
7 THERE. I BELIEVE THEY WERE ACTUALLY CONTACTED BY HIS FAMILY
8 MEMBERS. WHEN THEY WENT TO THE BROTHER'S HOUSE, THEY FOUND
9 THE DEFENDANT IN THAT HOME. THEY FOUND THE CAR HE WAS
10 DRIVING HIDDEN BEHIND ANOTHER HOME IN THE AREA AS WELL AS A
11 SAWED-OFF SHOTGUN HIDDEN IN AN OLD REFRIGERATOR BEHIND THE
12 TRAILER AND A BOX OF SHOTGUN SHELLS. OUT OF THE BOX OF
13 AMMUNITION ONE SHOTGUN SHELL WAS MISSING. THAT WAS SENT TO
14 S.L.E.D., AND FORENSIC WERE -- THEY WERE ABLE TO DETERMINE
15 THAT THE DEFENDANT'S PALM PRINT WAS ON THE BOX OF AMMUNITION.

16 THE AUTOPSY WAS PERFORMED ON MS. WILLIAMS. DR.
17 CARTER DETERMINED THAT SHE DIED FROM A GUNSHOT WOUND TO THE
18 NECK AREA. HE APPROXIMATES THAT THE GUN WAS LESS THAN SIX
19 INCHES FROM HER NECK WHEN IT WAS DISCHARGED, AND BASICALLY IT
20 SEVERED HER SPINAL CORD. SO SHE HAD ABSOLUTELY NO CHANCE OF
21 SURVIVING AFTER SHE WAS SHOT.

22 GUNSHOT RESIDUE TESTS WERE PERFORMED ON BOTH THE
23 DEFENDANT AND THE VICTIM. IT OBVIOUSLY CAME UP NEGATIVE ON
24 THE DEFENDANT DUE TO THE LACK OF -- OR THE GREAT PERIOD OF
25 TIME THAT LAPSED BETWEEN THE SHOOTING AND TAKING THE TEST. I

GUILTY PLEA

1 BELIEVE IT WAS OVER AT LEAST 18 HOURS OR A LITTLE BIT LESS
2 WHEN THEY ACTUALLY DID THAT TEST ON HIM. BUT THE EXPERT FROM
3 S.L.E.D. WOULD HAVE TESTIFIED THAT THE GUNSHOT RESIDUE TEST
4 THAT WAS DONE ON THE VICTIM WOULD HAVE BEEN CONSISTENT WITH
5 THE VICTIM'S HANDS BEING UP IN THE SURRENDER POSITION. IT
6 WAS NOT ON THE GUN AT ANY TIME.

7 THE DEFENDANT DOES HAVE A PRIOR RECORD OF C.D.V. IN
8 THIS CASE FROM 1999 FROM WHEN HE WAS CHARGED AND THE VICTIM
9 WAS, IN FACT, THE SAME VICTIM AS THIS CASE. HE ALSO HAS A
10 GRAND LARCENY CHARGE THAT HE PLED TO IN 1994. WE ALSO HAD
11 PLANNED ON CALLING WITNESSES FROM THE DEFENDANT'S WORKPLACE
12 WHO HAD INDICATED THAT FOR AT LEAST WEEKS BEFORE THIS CRIME
13 HE HAD THREATENED TO KILL HIS WIFE, KATHY WILLIAMS, AS WELL
14 AS KILLING HIMSELF AND WE HAD INTENDED TO CALL THEM AS
15 WITNESSES IF THIS CASE HAD, IN FACT, GONE TO TRIAL.

16 IN EXCHANGE FOR THE DEFENDANT'S PLEA TODAY, WE ARE
17 DISMISSING THE CHARGE OF POSSESSION OF A WEAPON DURING THE
18 COMMISSION OF A VIOLENT OFFENSE, AND WE ARE RECOMMENDING A
19 30-YEAR SENTENCE.

20 THE COURT: OKAY. DID ANY OF THE VICTIMS HAVE
21 ANYTHING TO SAY?

22 MS. CARROLL: NO, YOUR HONOR.

23 THE COURT: OKAY. ALL RIGHT. I'LL ACCEPT THE PLEA
24 AND FIND THE DEFENDANT GUILTY AS PLED. COUNSEL?

25 MR. GORSKI: YOUR HONOR, WE DON'T HAVE ANYTHING TO

1 ADD TO THAT. WE WOULD ASK THE COURT TO ACCEPT THE STATE'S
2 RECOMMENDATION.

3 THE COURT: OKAY. MR. WILLIAMS, DID YOU HAVE
4 ANYTHING YOU WANTED TO SAY?

5 MR. WILLIAMS: I JUST WANT TO APOLOGIZE TO MY KIDS,
6 YOU KNOW, AND WHAT HAPPENED TO THEIR MOTHER BECAUSE, YOU
7 KNOW, I LOVE THEM BOTH -- THEIR MOTHER JUST AS MUCH AS I LOVE
8 THEM, AND I'M BASICALLY ASKING THEM TO FORGIVE ME FOR IT.
9 BUT, YOU KNOW, WHETHER THEY DO IT OR NOT, YOU KNOW, I DON'T
10 KNOW, BUT I WANTED TO LET THEM KNOW THAT I STILL LOVE THEM.

11 THE COURT: OKAY. THANK YOU, SIR. ALL RIGHT.
12 COUNSEL, I WILL -- BASED ON THE PLEA AND THE -- AND THE
13 ENTIRE RECORD OF THE PLEA, I'LL ORDER THE DEFENDANT COMMITTED
14 TO THE DEPARTMENT OF CORRECTIONS FOR A TERM OF 30 YEARS.
15 WE'LL GIVE HIM CREDIT FOR TIME SERVED FROM SEPTEMBER 16 OF
16 1999. THANK YOU.

17 MS. CARROLL: THANK YOU, YOUR HONOR.

18 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED. ALL
19 EXHIBITS WERE RETURNED TO THE POLICE OFFICERS DUE TO THE
20 GUILTY PLEA, AND A RECORD OF THEIR DESCRIPTION IS NOT
21 AVAILABLE.)

42

I, THE UNDERSIGNED DAPHNE D. HELMS, OFFICIAL COURT REPORTER FOR THE ELEVENTH 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 CIRCUIT COURT FOR LEXINGTON COUNTY, SOUTH CAROLINA, ON THE 18TH AND 21ST DAYS OF MARCH, 2002.

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

MAY 1, 2002



DAPHNE D. HELMS, COURT REPORTER

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Marc H. Westbrook, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES C. WILLIAMS,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

ROBERT M. DUDEK
Assistant Appellate Defender

South Carolina Office
of Appellate Defense
1122 Lady Street, Suite 940
Columbia, S. C. 29201
(803) 734-1330

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS.....1
TABLE OF AUTHORITIES.....2
STATEMENT OF ISSUE ON APPEAL.....3
STATEMENT OF THE CASE.....4
ARGUMENT.....5
PETITION TO BE RELIEVED AS COUNSEL.....7

TABLE OF AUTHORITIES**Cases**

<u>State v. Hudgins</u> , 319 S.C. 233, 460 S.E.2d 388 (1995)	6
<u>State v. McKinney</u> , 278 S.C. 107, 292 S.E.2d 598 (1982).....	5, 6
<u>State v. O'Leary</u> , 302 S.C. 17, 393 S.E.2d 186 (1990).....	5
<u>State v. Owen</u> , 275 S.C. 586, 274 S.E.2d 510 (1981)	6
<u>State v. Truesdale</u> , 278 S.C. 368, 296 S.E.2d 528 (1982)	5

STATEMENT OF ISSUE ON APPEAL

Whether the court erred by informing appellant he could appeal the results of his guilty plea in the same manner as a guilty verdict from a jury, since this erroneously informed appellant an appellate court could vacate the plea in the absence of an objection, undermined the finality of the plea, and made it an impermissible conditional plea?

STATEMENT OF THE CASE

Appellant was indicted by the Lexington County grand jury for the offense of murder. He appeared on May 21, 2002 before the Honorable Marc H. Westbrook, and a jury. William F. Gorski represented appellant. The solicitors were Tracey Carroll and Samuel R. Hubbard, III. R. 1.

After a jury was impaneled, appellant entered a plea of guilty to the crime of murder. R. 31, ll. 4-9. Judge Westbrook then sentenced appellant to thirty years imprisonment. R. 41, ll. 11-16.

This appeal follows.

ARGUMENT

The trial judge informed appellant on more than one occasion that he had the right to appeal to the Supreme Court. That had the tendency to lead appellant to believe that an appellate court could vacate his guilty plea if it found it unfair in some way — that undermined the finality of the guilty plea — and made it an impermissible conditional plea.

Relevant facts

Appellant was estranged from his wife. An argument occurred between them at the River Oaks Apartments in Lexington County where his wife resided. Appellant, according to the solicitor, shot the decedent with a shotgun during the argument. R. 37, l. 23 – 40, l. 19.

While explaining his rights to appellant, the judge informed him that if he was found guilty after a jury trial, he could appeal to the state Supreme Court. R. 34, l. 25 – 35, l. 3. Similarly, when explaining appellant's rights following his guilty plea, the judge stated: "Do you understand that when all of this is over with, that if you're – if you feel like there's been any problem with it or anything was done wrong you have a right to appeal – even the plea, you have a right to appeal to the Supreme Court. Do you understand that?" Appellant answered that he understood. R. 37, ll. 4-10.

The trial judge then told appellant that he would have to notify his lawyers following the plea that he wanted to appeal because that appeal had to be filed within ten days. R. 37, ll. 11-21.

Discussion

In State v. O'Leary, 302 S.C. 17, 393 S.E.2d 186 (1990), this Court held that a trial judge cannot accept a conditional guilty plea. This Court noted that guilty pleas are

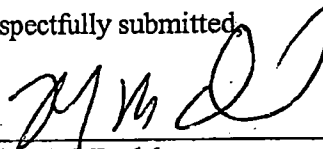
unconditional admissions of guilt, and preserving an issue for an appeal is impermissible. See State v. Truesdale, 278 S.C. 368, 296 S.E.2d 528 (1982).

Absent a timely objection during a guilty plea proceeding, the unknowing or involuntary nature of the guilty plea cannot be raised on appeal. State v. McKinney, 278 S.C. 107, 292 S.E.2d 598 (1982). Any issue, including that the sentence imposed constituted cruel and unusual punishment must be presented to the judge or it is procedurally barred. State v. Owen, 275 S.C. 586, 274 S.E.2d 510, 513 (1981); State v. Hudgins, 319 S.C. 233, 460 S.E.2d 388, 391 (1995).

The judge told appellant he could appeal following sentencing. The judge essentially emphasized that an appeal from a guilty plea was conducted in the same manner as an appeal from a jury verdict. That was misleading since it left appellant with the impression that this Court or the Supreme would review his sentence — even in the absence of an objection — and alter it if the Court found fault with the sentence or the guilty plea.

In reality, all non-jurisdictional defects were waived. Appellant here was properly indicted, and there was not anything appellant could appeal under these circumstances. However, he was left with the impression an appeal could produce some relief for him. Why else would you appeal? Appellant's guilty plea should be vacated as a conditional plea. State v. O'Leary, *supra*.

Respectfully submitted,



Robert M. Dudek
Assistant Appellate Defender

ATTORNEY FOR APPELLANT

This 1st day of November, 2002.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Marc H. Westbrook, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES C. WILLIAMS,

APPELLANT

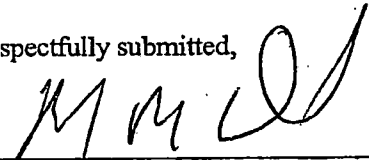
PETITION TO BE RELIEVED AS COUNSEL

Counsel for James C. Williams states:

1. He is Assistant Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Marc H. Westbrook, which was held on March 18 and 21st, 2002, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for James C. Williams .

Respectfully submitted,



Robert M. Dudek
Assistant Appellate Defender

ATTORNEY FOR APPELLANT

This 1st day of November, 2002.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Marc H. Westbrook, Circuit Court Judge

THE STATE,

RESPONDENT,

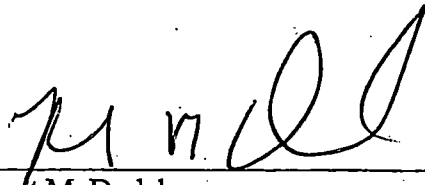
v.

JAMES C. WILLIAMS,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief in the above case has been served upon Donald J. Zelenka, Esquire; a copy of the Record on Appeal and Final Anders Brief has been served on James C. Williams, #282929 at Lieber Correctional Institution this 1st day of November, 2002.



Robert M. Dudek
Assistant Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 1st day of November, 2002.

Sanda B. Wise (L.S.)
Notary Public for South Carolina
My Commission Expires: February 3, 2005.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State,

Respondent,

v.

James C. Williams,

Appellant.

Appeal From Lexington County
Marc H. Westbrook, Circuit Court Judge

Unpublished Opinion No. 2003-UP-329
Submitted March 26, 2003 – Filed May 15, 2003

APPEAL DISMISSED

Assistant Appellate Defender Robert M. Dudek, of Columbia, for Appellant.

Attorney General Henry Dargan McMaster; Chief Deputy Attorney General John W. McIntosh; Assistant Deputy Attorney General Donald J. Zelenka, of Columbia; Donald V. Myers, of Lexington; for Respondent.

PER CURIAM: James Williams was indicted for murder and possession of a firearm or knife during the commission of a violent crime. Williams pled guilty to murder. He was sentenced to thirty years imprisonment. Williams appeals, arguing his guilty plea was impermissibly conditional. Counsel for appellant filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting that there were no meritorious grounds for appeal and requesting permission to withdraw from further representation. After careful consideration of the record pursuant to Anders v. California, 386 U.S. 738 (1967) and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.

APPEAL DISMISSED.

CURETON, ANDERSON and Huff, JJ., concur.

ORIGINAL

STATE OF SOUTH CAROLINA

County of Lexington

James Chester Williams #282929

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

vs.

The State

Name of Respondent.

In the Court of Common Pleas

THOMAS H. GOMERFORD
CLERK OF COURT
LEXINGTON SC
2003 MAY 21 AM 11:00

FILED
SYP

APPLICATION FOR

POST-CONVICTION RELIEF

2003-CP32-1863

INSTRUCTIONS — READ CAREFULLY

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

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention Lieber Correctional Inst., Ridgeville, SC. 29472

2. Name and location of Court which imposed sentence General Sessions, Lexington County

3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:

(a) 2000-GS-32-689 Murder

(b) _____

(c) _____

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

(a) March 21, 2002

(b) 30 Year sentence

(c) _____

A TRUE COPY

Thomas H. Gomerford
Lex. Co. C.C.C.P., G.S. F.C.

5. Check whether a finding of guilty was made

- (a) after a plea of guilty yes
- (b) after a plea of not guilty no
- (c) after a plea of nolo contendere no

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

yes

7. If you answered "yes" to (6), list

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

- i. The S.C. Court of Appeals
- ii. _____
- iii. _____

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

- i. appellate counsel filed Anders brief
- ii. _____
- iii. _____

(c) the date of each such result:

- i. Final Anders brief filed Nov. 1, 2002
- ii. _____
- iii. _____

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

- i. unknown
- ii. _____
- iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) n/a
- (b) _____
- (c) _____

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

- (a) Ineffective Assistance of Counsel
- (b) Unintelligent, Unknowing, & Involuntary Plea
- (c) Subject Matter Jurisdiction

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) (Please see attached)
- (b) "
- (c) "

A TRUE COPY
Thomas H. Grogan
 Lex. Co. C.C.C.P., G.S. P.C.

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law? no

(b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? no

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? no

(d) any other petitions, motions or applications in this or any other Court? no

12. If you answered "yes" to any part of (11), 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. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. n/a

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. n/a

ii. _____

iii. _____

iv. _____

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

i. n/a

ii. _____

iii. _____

iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

A TRUE COPY

Alma A. Grogan
Lex. Co. C.C.C.P., G.S. F.C.

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. n/a
- ii. _____
- iii. _____

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

- i. n/a
- ii. _____
- iii. _____

15. If any ground set forth in (9) 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) PCR is the proper avenue
- (b) same
- (c) same

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? no

17. If you answered "yes" to one or more parts of (16), list:

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

- i. Sally J. Henry, Lexington County Public Defender
206 E. Main St.; Lexington, SC 29072
- ii. William F. Gorski
205 W. Main St., Lexington, SC 29072
- iii. Robert M. Dudek, Assistant Appellate Defender
S.C. Office of Appellate Defense, Columbia, SC 29201

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

- i. arraignment
- ii. trial/guilty plea/sentencing
- iii. filed Anders brief on appeal

18. State clearly the relief you seek in filing this application.

Applicant is seeking appointed counsel to perfect this PCR procedure; vacation of conviction and sentence.

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

No

A TRUE COPY

Thomas H. Grogan
Lex. Co. C.C.C.P., G.S. F.C.

ORIGINAL

2003-CP32-1863

58

STATE OF SOUTH CAROLINA

VERIFICATION

County of Lexington

I, James Chester Williams, #282929, 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.

James C. Williams

SWORN to and subscribed before me this 16

day of May 1903

Spette R. Blom (L.S.)
Notary Public

My Commission Expires: 8/20/06

THOMAS H. COMERFORD
CLERK OF COURT
LEXINGTON SC
2003 MAY 21 A 11:40

SYR
FILED

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

I, James Chester Williams, #282929, 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 therefor.

James C. Williams
Applicant

SWORN or affirmed to and subscribed before me this

16 day of May 1903

Spette R. Blom
Notary Public

My Commission Expires 8/20/06

A TRUE COPY

Thomas H. Comerford
Lex. Co. C.C.C.P., G.S. F.C.

I. Introduction

Applicant's guilty plea and conviction should be considered invalid because the plea was made unintelligently, unknowingly, and involuntarily due to defense counsel's ineffectiveness in his representation of this case and thus the information applicant was provided was insufficient and inadequate. Counsel failed to shoulder his duties by not investigating or preparing applicant's case for trial and by coercing applicant to plead guilty. If applicant had received competent representation and adequate information he would have insisted on following through with his trial rather than pleading guilty and the outcome would more than likely have been different. Instead, the ineffectiveness of counsel contributed to the inducement of applicant's plea of guilty. This substandard performance of counsel violates the applicant's constitutional rights and due process of law.

Subject matter jurisdiction is also in question in this case. The indictments are believed to be faulty and therefore defective. Also, the court did not have jurisdiction to sentence applicant to a term of imprisonment in which the court knows or should know is in violation of the South Carolina Constitution. Finally, the applicant was not notified by the court or his counsel of the mandatory Community Supervision term which is a direct consequence of his plea.

A TRUE COPY
Thomas H. Gentry
Lex. Co. C.C.C.P., G.S. F.C.

II. Applicant was unfairly and prejudicially denied effective assistance of counsel.

The applicant, Mr. Williams, submits that he did not receive effective assistance of counsel. The Sixth Amendment to the United States Constitution guarantees that every criminal defendant is entitled to the assistance of counsel in presenting their defense. The Supreme Court has stated, "the right to counsel is a fundamental right of criminal defendants; it assures the fairness and thus the legitimacy, of our adversary process." Kimmelman v. Morrison, 477 U.S. 365, 374 (1986). Furthermore, the Supreme Court has recognized that "the right to counsel is the right to effective assistance of counsel." McMann v. Richardson, 397 U.S. 759, 771 (1970).

To see whether counsel has fallen below the minimum standard needed for effective assistance of counsel under the Sixth Amendment to the Constitution, a two-prong test must be met. In Strickland v. Washington, 466 U.S. 668, 688-694 (1984), the Supreme Court held that a determination of ineffective assistance of counsel would be conditioned on two factors:

- 1. Counsel's performance must have fallen below an objective standard of reasonableness;
- 2. There must be a reasonable probability that, but for counsel's errors, the results of the proceedings would probably have been different.

South Carolina has adopted the Strickland standard. See e.g. Cherry v. State, 300 S.C. 115, 386 S.E. 2d 624 (1989). The right to effective assistance of counsel may be violated by even an isolated error of counsel if the error is sufficiently egregious and prejudicial. Murray v. Carrier, 477 U.S. 478 (1986).

As the Supreme Court further recognized in Strickland, "counsel bears a duty to make a 'reasonable' investigation of the law and facts in his client's case." Strickland, 466 U.S. at 691.

A TRUE COPY
Donald H. Gonsford
Lex. Co. C.C.C.P., G.S. C.F.C.

Additionally, the ABA Standards Relating to the Administration of Criminal Justice provide:

It is the duty of the lawyer to conduct a prompt investigation of the circumstances of the case and to explore all avenues leading to facts relevant to the merits of the case and the penalty in the event of conviction. The investigation should always include efforts to secure information in the possession of the prosecution and law enforcement authorities. The duty to investigate exists regardless of the accused's admissions or statements to the lawyer of facts constituting guilt or the accused's stated desire to plead guilty.

A defendant's right to effective assistance of counsel confers a duty on counsel to conduct an adequate pre-trial investigation. When a lawyer fails to conduct a substantial investigation into any of his client's plausible lines of defense, the lawyer has failed to render effective assistance of counsel. Cobbs v. State, 3605 SC 299, 408 S.E. 2d 223 (1991). Pre-trial preparation, principally because it provides a basis upon which most of the defense case must rest, is, perhaps, the most critical stage of a lawyer's preparation. *Id.* Failure to investigate evidence that would be helpful to the defense is also an indication of ineffective assistance of counsel.

In the case at hand, counsel did not investigate the case, prepare for trial, nor did counsel move for a continuance of the trial when he was caught unprepared at trial. Specifically, trial counsel was unconstitutionally ineffective by way of the following particulars:

A. Counsel did not advocate the applicant's cause in that the incident was an accident during a struggle rather than murder.

Applicant insists that the gun was already in the apartment and that he did not "go to the car to retrieve the gun" as the police officers reported. Applicant contends that Kathy Williams presented the gun and that the gun discharged during a struggle and that the applicant did not have the requisite "intent" to justify the charge of murder. Applicant also contends that certain witnesses' statements were altered by investigating officers in order to show homicide rather than what, in actuality, was an accident.

Upon applicant's information and belief, the following particulars are evidence of the incident being an accident and not murder:

1. SLED Examination Worksheet (Exhibit A)

This document shows that yes there was a gunshot resulting in the death of one Kathy Williams however, as quoted, "No other conclusions reached." This shows only that Kathy Williams died of a gunshot wound and says nothing about the death being the result of a homicide. This goes right along with applicant's assertion that the incident was an accident.

2. There is easily obtainable evidence that Kathy Williams had previously attacked applicant on at least one occasion and once with a knife.

3. In a court hearing several years prior, Kathy Williams testified that she had lied and made up things about the applicant to make him look worse than he really is. Applicant believes this has been a pattern of hers and that certain "hearsay" rumors may have been the result of her fictitious stories.

A TRUE COPY
Sharon H. Gungler
Lex. Co. C.C.C.P., C.S. P.C.

4. Statement by Ansonette Williams (Exhibit B)

Ansonette Williams reported that "he" (James Williams) said to "call police." Mr. Williams argues that he wanted the police to respond to the accident and that if he had "murdered" his wife, why would he want the police to be called on himself? Applicant then ran only because he was confused and scared and did not know how to properly respond to the situation.

5. Statement by Phillip Williams (Exhibit C)

This statement shows that soon after the incident Applicant notified his brother, Phillip Williams, that "the gun went off during a struggle." This reiterates once again that applicant did not mean to kill his wife but that the accident occurred as a result of an argument and a struggle.

6. Applicant further contends that gun shot residue was found on the hand of his wife Kathy Williams and that it is probably on the red skirt as well which she was wearing at the time of the incident. It is applicant's belief that this evidence and the angle of the actual gun shot would help to prove his innocence of the charge of murder.

B. Counsel did not prepare for trial.

Counsel was ineffective in his representation because he did not investigate the case, prepare for trial, or move for a continuance when he came upon the trial and was not prepared. In fact, during the jury selection, counsel "became sick" to cover the fact that he was not prepared for trial. (Please see Exhibit D - Transcript of Record, March 18, 2002, Page 28, Line 20). Because of his lack of preparation for trial, counsel played sick

in order to have time to convince applicant to plead guilty rather than to proceed with a long and drawn out trial. If counsel had readied himself for trial, applicant would have continued with his trial. In fact, the jury had already been selected however, counsel's ineffectiveness and coercion led applicant to believe that pleading guilty was his best or only option.

C. Counsel did not investigate the indictments.

Defense counsel did not effectively investigate the indictments in this case which both contain perfectly identical signatures. The naked eye can see that the two "signatures" were somehow reproduced from an original. It is only after this reproduction of the signatures that the charges could have been added to the documents unless there was a rubber stamp used as the "signature". If counsel had critiqued the indictments he would have made the same observation and thus should have motioned the State for an explanation of this or for an expert on signature authenticity to evaluate the situation. Counsel was ineffective by not motioning the court for an evidentiary hearing to determine whether the indictments are valid. (Please see Exhibits E and F, Indictments).

D. Counsel did not investigate what effect Applicant's use of "Desyrel" may have had which may have contributed to the incident.

Defense counsel was ineffective in that he did not explore the applicant's use of prescription mind-altering medications which may have played a part by either causing or contributing to his actions which led to the incident. The applicant, Mr. Williams, was taking "Desyrel" brand antidepressant around the

A TRUE COPY
Monrad H. Ginzburg
Lex. Co. C.C.C.P., G.S. & F.C.

time of the incident which is particular brand of Trazodone. There has been evidence recently of various antidepressants especially serotonin inhibitors, which Trazodone is, causing or contributing to aggression, suicide, and other violent acts. Specifically, such adverse reactions as "disorientation", "confusion", and "unusual excitement" are listed in at least one "Guide to Prescription Drugs" manual concerning the drug Desyrel. Defense counsel was ineffective for not exploring this possible defense and/or mitigating factor.

Therefore, for the above mentioned reasons, counsel's conduct certainly fell below an objective standard of reasonableness, satisfying the first prong of Strickland. The second prong is met by applicant's assertion that he would have continued with his trial and therefore the results would have been different and he would not have pleaded guilty.

A TRUE COPY

Monica A. Granger
Lex. Co. C.C.C.P., G.S. F.C.

III. Guilty pleas was not knowing, voluntary, & intelligent.

Applicant asserts that his guilty plea was not made knowingly, voluntarily, and intelligently in part because of the issues mentioned above in Section II and for the following:

A. The State's Failure to Rehabilitate

The Applicant alleges that his sentence and incarceration with the South Carolina Department of Corrections violates the South Carolina Constitution, Article XII, Section 2. Pursuant to Section 2, the State, through the General Assembly, is mandated to institute places of confinement to "provide for the custody, maintenance, health, welfare, education and rehabilitation of the inmates" imprisoned within South Carolina. S.C. Constitution, Article XII, Section 2. Since his incarceration the Applicant has attempted to take positive steps toward rehabilitation, however, those attempts have been frustrated by the lack of available programs and other rehabilitative measures. Based on this failure of the State to provide meaningful programs, it is the contention of the Applicant that his constitutional right to be rehabilitated is reduced to such an extent that the State is making his rehabilitation an impossibility. The applicant alleges that the S.C. Department of Corrections does not provide or make available to the Applicant any legitimate programs that encourage, facilitate, or promote rehabilitation. This fact negates the preliminary rehabilitative effects accomplished by pleading guilty and is therefore violative of the Applicant's constitutional rights.

A TRUE COPY

[Signature]
Lex. Co. C.C.C.P., G.S. F.C.

B. Applicant was not notified of Community Supervision.

Applicant was neither notified by counsel nor by the Court that he would be required to complete a mandatory Community Supervision term after he maxes out his prison term. Applicant

believes that the community supervision is essentially the same as mandatory parole and that he should have been advised of both the existence of and the length of this direct consequence of his plea. The plea bargain which applicant agreed to was 30 years at 85% not 30 years plus two years Community Supervision. Therefore, applicant's plea was unknowingly and unintelligently made.

C. Applicant's Plea was Involuntary.

After the jury was selected and counsel was not ready for trial, counsel coerced and cowed applicant into pleading guilty. Applicant was frightened by counsel's comments stating that applicant "would receive the death penalty" if he continued with his trial. Under this coercive situation brought about by his attorney and fact that counsel was deficient by not preparing for trial applicant was pressured into pleading guilty instead of following through with his trial as originally planned. Counsel's representation fell below an objective standard of reasonableness and there is a reasonable probability that but for counsel's errors. the defendant would not have pleaded guilty and would have insisted on going to trial.

A TRUE COPY
Donald H. Grogan
Lex. Co. C.C.C.P., G.S. P.C.

IV. Subject Matter Jurisdiction

In this case, subject matter jurisdiction is in question because of what is believed to be defective indictments and because the sentence given is in direct violation of the South Carolina Constitution.

A. Indictments may be invalid.

The Circuit Court does not have jurisdiction to hear a guilty plea unless the defendant has been indicted by a grand jury or has waived indictment. While indictments do exist in this case, there is question as to whether the indictments were properly and legally issued and prepared by the prosecution and/or the grand jury. The two indictments have exactly the same signatures as if they were photocopied from an original and the charges subsequently added later. Because of recent observations in the news media of misconduct in grand jury proceedings (i.e. "400 indictments prepared in one hour") and the eye opening questionability of the signatures on the indictments at hand, there should have been and should still be an evidentiary hearing on this matter. It is applicant's belief that the indictments are invalid and that this constitutes relevant questionability of subject matter jurisdiction.

B. The Court did not have jurisdiction to impose an unconstitutional sentence.

It could not be any more clear that the State is to "provide for the custody, maintenance, health, welfare, education and rehabilitation of the inmates." Because the S.C. Department of Corrections is not in compliance with the S.C. Constitution's mandate to rehabilitate its prisoners the sentence is illegal.

Therefore, the court did not have jurisdiction to impose said sentence or to accept applicant's plea. This issue was recently noted in newspapers around the state when a top politician stated that SCDC "would like to maintain its reputation (emphasis added) for rehabilitating its inmates." Meanwhile, SCDC has experienced the worst budget cuts in the country and is facing \$23 million in deficits. Everyone, even SCDC employees, knows that there is virtually no rehabilitation within SCDC. This issue directly violates the applicant's constitutional rights.

V. Conclusion

Due to counsel's failure to investigate Applicant's case or to prepare the case for trial, counsel was unable to provide competent advice to Applicant within the standard for attorneys in criminal cases. Because of Ineffective Assistance of Counsel, the Unintelligent, Involuntary, and Unknowing nature of applicant's guilty plea and lack of subject matter jurisdiction the applicant's guilty plea, conviction, and sentence should be vacated, remanded, set aside, and/or corrected as the Court deems necessary. The applicant respectfully requests that the Court appoint counsel to represent the Applicant in this Post Conviction Relief procedure.

A TRUE COPY

Thomas H. Gentry
Lex: Co. C.C.C.P., G.S.

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

03-CP-32-1863

JAMES CHESTER WILLIAMS

:

-VS-

:

TRANSCRIPT OF RECORD

:

THE STATE OF SOUTH CAROLINA

:

JUNE 27, 2005

LEXINGTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JAMES W. JOHNSON, JR., JUDGE.

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

ROBERT N. BOORDA, ESQUIRE
ATTORNEY FOR THE APPLICANT

SABRINA C. TODD, ESQUIRE
DAVID SPENCER, ESQUIRE
ATTORNEYS FOR THE STATE

DAPHNE D. HELMS
CIRCUIT COURT REPORTER

I N D E X

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

WITNESS

JAMES CHESTER WILLIAMS

DIRECT EXAMINATION BY MR. BOORDA.....5
CROSS-EXAMINATION BY MS. TODD.....14

WILLIAM GORSKI

DIRECT EXAMINATION BY MR. BOORDA.....18
CROSS-EXAMINATION BY MS. TODD.....29
REDIRECT EXAMINATION BY MR. BOORDA.....33

(THERE WERE NO EXHIBITS INTRODUCED.)

1 **MS. TODD:** THE STATE WOULD CALL JAMES CHESTER
2 WILLIAMS, 2003-CP-32-1863. THE APPLICANT IS REPRESENTED BY
3 MR. ROBERT BOORDA.

4 **MR. BOORDA:** GOOD MORNING, YOUR HONOR.

5 **THE COURT:** GOOD MORNING. IN LOOKING AT MY ROSTER,
6 IS THERE A MOTION IN THIS CASE ALSO?

7 **MR. BOORDA:** NO, YOUR HONOR. WE'VE DECIDED TO GO
8 FORWARD.

9 **THE COURT:** ALL RIGHT. AND YOU'RE PREPARED, MR.
10 BOORDA?

11 **MR. BOORDA:** YES, SIR, I AM.

12 **THE COURT:** ALL RIGHT, SIR. DO Y'ALL HAVE A FILE
13 FOR ME?

14 (MR. SPENCER HANDS THE FILE TO THE COURT.)

15 **THE COURT:** MR. BOORDA, WHY DON'T YOU GIVE ME JUST A
16 LITTLE BACKGROUND ON THE CASE BEFORE YOU CALL YOUR FIRST
17 WITNESS?

18 **MR. BOORDA:** YES, SIR, YOUR HONOR. YOUR HONOR, MR.
19 WILLIAMS PLED GUILTY TO ONE COUNT OF MURDER. IT WAS A MURDER
20 THAT HAPPENED ON SEPTEMBER 15TH OF 1999. HE PLED GUILTY IN
21 FRONT OF JUDGE WESTBROOK ON MARCH 21ST OF 2002 WHERE HE WAS
22 SENTENCED TO 30 YEARS AT THE TIME. HE'S FILED A P.C.R. HE
23 DID FILE AN APPEAL; THE APPEAL WAS DISMISSED. HOWEVER, HE
24 DID FILE A P.C.R. ON MAY 21ST OF 2003 ALLEGING INEFFECTIVE
25 ASSISTANCE OF COUNSEL.

1 MR. WILLIAMS AND I -- I HAD INITIALLY FILED A MOTION
2 TO BE RELIEVED. MR. WILLIAMS AND I HAVE HAD DISCUSSIONS
3 SINCE THEN, AND WE'RE BOTH COMFORTABLE WITH ME GOING FORWARD
4 AND REPRESENTING HIM AT THIS POINT, YOUR HONOR.

5 THE COURT: ALL RIGHT. THAT'S FINE. YOU MAY CALL
6 YOUR FIRST WITNESS.

7 MR. BOORDA: THANK YOU. I CALL MR. JAMES CHESTER
8 WILLIAMS, YOUR HONOR.

9 THE COURT: MR. WILLIAMS, PLEASE COME UP AND BE
10 SWORN, PLEASE, SIR.

11 THE CLERK: PLACE YOUR LEFT HAND---

12 MS. TODD: YOUR HONOR?

13 THE COURT: WAIT JUST ONE MINUTE.

14 JAMES CHESTER WILLIAMS, AFTER BEING DULY SWORN,
15 TESTIFIED AS FOLLOWS:

16 THE CLERK: HAVE A SEAT RIGHT UP HERE AND STATE YOUR
17 NAME FOR THE RECORD.

18 THE WITNESS: MY NAME IS JAMES CHESTER WILLIAMS.

19 THE COURT: ALL RIGHT. MS. TODD?

20 MS. TODD: YOUR HONOR, THE STATE WOULD ASK THAT THE
21 APPLICANT SET FORTH -- THE APPLICANT'S ATTORNEY PLEASE SET
22 FORTH THE ALLEGATIONS ON WHICH HE INTENDS TO PROCEED.

23 THE COURT: ALL RIGHT. MR. BOORDA?

24 MR. BOORDA: YES, SIR, YOUR HONOR. YOUR HONOR, MR.
25 WILLIAMS EFFECTIVELY HAS FILED AN APPLICATION FOR POST-

1 CONVICTION RELIEF ALLEGING INEFFECTIVE ASSISTANCE OF COUNSEL
2 IN ASSISTING HIM TO DETERMINE WHETHER OR NOT TO PLEAD GUILTY
3 TO THE CHARGES THAT WERE BROUGHT BEFORE HIM, AND HE ALSO
4 ALLEGES THAT AT THE TIME THAT HE DID PLEAD GUILTY THAT HE
5 DIDN'T FULLY UNDERSTAND WHAT THE COURT WAS QUESTIONING HIM
6 ABOUT AS HE ANSWERED THE COURT DURING THE SOLILOQUY THAT
7 HAPPENED BETWEEN THE TWO.

8 THE COURT: ALL RIGHT. YOU MAY PROCEED.

9 MR. BOORDA: THANK YOU, YOUR HONOR.

10 DIRECT EXAMINATION

11 BY MR. BOORDA:

12 Q. MR. WILLIAMS, YOU WERE INITIALLY SCHEDULED TO HAVE A
13 JURY TRIAL IN THIS CASE, WEREN'T YOU?

14 A. YES, SIR.

15 Q. AND YOU HAD TALKED TO YOUR ATTORNEY, MR. GORSKI, HOW
16 MANY TIMES PRIOR TO THE DAY OF YOUR JURY TRIAL?

17 A. WELL, I SEE HIM ONE TIME. THAT WHEN HE CAME DOWN
18 FOR THE TRIAL.

19 Q. OKAY. AND YOU WERE CHARGED WITH MURDER?

20 A. MURDER.

21 Q. AND YOU HAD -- YOU'RE SAYING THAT YOU MET ONE TIME
22 WITH YOUR ATTORNEY?

23 A. JUST THE TIME TO GO TO COURT, THE DAY BEFORE COURT.

24 Q. OKAY. DID YOU EVER MEET WITH AN INVESTIGATOR OR ANY
25 OTHER PERSON OTHER THAN MR. GORSKI?

1 A. NO, I HAVEN'T SEEN NO INVESTIGATOR, NEVER SEEN MR.
2 GORSKI 'TIL THE DAY I COME BEFORE THE COURT.

3 Q. OKAY. AND AT THE TIME THAT YOU WERE GOING TO A JURY
4 TRIAL DID YOUR ATTORNEY EXPLAIN ALL YOUR CONSTITUTIONAL
5 RIGHTS TO YOU?

6 A. NO, HE NEVER DISCUSSED NOTHING WITH ME.

7 Q. DID YOU, IN FACT, GO TO TRIAL AND SELECT A JURY?

8 A. YEAH, WE WENT TO TRIAL. AFTER THE JURY WAS
9 SELECTED, MR. GORSKI JUMPED UP AND SAID HE WAS SICK AND HE
10 COULDN'T GO ON WITH THE TRIAL.

11 Q. AND THEN AFTER THE TRIAL WAS POSTPONED -- THERE WAS
12 A JURY SEATED; CORRECT?

13 A. YEAH. RIGHT.

14 Q. AND THE TRIAL STOPPED; CORRECT?

15 A. RIGHT.

16 Q. DID MR. GORSKI COME BACK AND SEE YOU BETWEEN THE
17 TIME THAT YOU PLED GUILTY AND THE TIME THAT THE COURT HAD
18 CONTINUED THE CASE?

19 A. YES. I CALLED HIM. HE CAME DOWN THERE THE DAY
20 BEFORE TRIAL, AND WE TALKED ABOUT GOING TO TRIAL. AND MR.
21 GORSKI SAID A PRAYER FOR US, AND I ASKED HIM WHAT CHANCE I
22 HAD AND HE SAID YOU HAD A GOOD CHANCE. AND THEN THEY CALLED
23 ME UP THERE THE NEXT DAY TO GO TO TRIAL. I HAD DONE GOT
24 DRESSED OUT, HAD DONE CHANGED CLOTHES AND EVERYTHING, AND
25 THEY HAD DONE UNHANDCUFFED ME. AND MR. GORSKI COME UP

1 RUNNING UP IN THERE WITH GUILTY PLEA PAPERS. HE HAD ME
2 FOOLED THAT I WAS GOING TO TRIAL, YET STILL HE WENT ON BEHIND
3 MY BACK WITH THE SOLICITOR MAKING A PLEA BARGAIN I DIDN'T
4 KNOW NOTHING ABOUT.

5 Q. DID HE EVER TELL YOU---

6 THE COURT: WAIT A MINUTE. THIS NEEDS TO BE PULLED
7 DOWN.

8 BY MR. BOORDA:

9 Q. DID HE EVER TELL YOU YOU COULD GET THE DEATH
10 PENALTY?

11 A. YES, HE DID.

12 Q. WAS IT YOUR UNDERSTANDING THAT THIS WAS A DEATH
13 PENALTY CASE?

14 A. WELL, LIKE I SAY, I NEVER BEEN ADVISED IN MY CASE,
15 YOU KNOW, AND THE ONLY THING I WAS DOING WAS GOING BY WHAT HE
16 SAID.

17 Q. OKAY. SO IS IT FAIR TO SAY THAT YOU WANTED A TRIAL?

18 A. I WANTED A TRIAL.

19 Q. AND THEN YOUR ATTORNEY CAME TO SEE YOU AND WANTED
20 YOU TO PLEAD GUILTY.

21 A. YES, HE DID.

22 Q. AND DID HE TELL YOU WHAT WOULD HAPPEN IF YOU DIDN'T
23 PLEAD GUILTY?

24 A. WELL, THE FIRST TIME -- LET ME GET IT STRAIGHT. THE
25 FIRST TIME I TALKED TO HIM HE CAME DOWN THERE AND TOLD ME TO

1 PLEAD GUILTY TO 25 YEARS, AND I TOLD HIM I WASN'T GOING TO
2 PLEAD GUILTY TO NOTHING BECAUSE I DIDN'T KILL NOBODY, YOU
3 KNOW. I TOLD HIM THAT I DIDN'T HAVE MY HAND NOWHERE ON THE
4 GUN, AND FORENSICS CAN PROVE THAT. SO HE TOLD ME -- HE SAID,
5 "WELL, WE'RE GOING TO TRIAL." I SAID, "OKAY."

6 SO HE CALLED MY PEOPLE AND TOLD MY PEOPLE TO MEET
7 HIM AT HIS OFFICE. SEVEN O'CLOCK THAT MORNING MY PEOPLE WAS
8 THERE; HE NEVER SHOWED UP AT HIS OFFICE. SO THAT'S WHEN I --
9 THEY BROUGHT ME OVER TO THE COURTS, AND THAT'S WHEN HE TOOK
10 ME UP IN FRONT OF THE JUDGE AND LET ME SELECT MY JURY.

11 Q. BUT AT THE TIME YOU DECIDED TO PLEAD GUILTY, DID
12 YOUR ATTORNEY TELL YOU WHAT YOUR SENTENCE WOULD BE? DID YOU
13 HAVE AN AGREEMENT AS TO YOUR SENTENCE?

14 A. WELL, HE CAME TO ME AND TOLD ME THAT -- TO PLEAD
15 GUILTY TO 30 YEARS, AND I TOLD HIM I WASN'T GOING TO PLEAD
16 GUILTY TO NO 30 YEARS. SO THE DEPUTY WAS SITTING THERE, TOO.
17 SO HE ASKED THE DEPUTY TO STEP OUTSIDE AND LET HIM TALK TO
18 ME. SO THE DEPUTY TOLD HIM -- SAID, "NO," SAID, "I'M NOT
19 GOING NOWHERE," SAID, "IF YOU WANT TO TALK, TALK." THEN HE
20 PULLED THE CHAIR UP BY ME AND CALLED ME A FOOL -- SAID,
21 "YOU'RE A FOOL. IF YOU DON'T PLEAD TO THESE 30 YEARS, YOU'RE
22 GOING TO GET THE DEATH PENALTY." THEN HE HAD DONE SCARED ME
23 UP.

24 Q. OKAY. SO IS IT AT THAT POINT THAT YOU DECIDED TO
25 PLEAD GUILTY?

1 A. YES. AFTER HE SCARED ME UP LIKE THAT, I DIDN'T KNOW
2 WHAT ELSE TO DO.

3 Q. OKAY. NOW, YOU PLED GUILTY IN FRONT OF A JUDGE.

4 A. RIGHT.

5 Q. AND HE ASKED YOU SEVERAL QUESTIONS; CORRECT?

6 A. YES, HE DID.

7 Q. OKAY. AS A MATTER OF FACT, HE ADVISED YOU THAT A
8 CONVICTION OF MURDER COULD GET YOU AS MUCH AS A LIFE SENTENCE
9 BUT AT LEAST 30 YEARS. IS THAT CORRECT?

10 A. WELL, AFTER I READ MY TRANSCRIPT IT'S GOT IN THERE
11 30 -- IT'S GOT IN THERE LIFE SENTENCE BUT NO MORE THAN 30
12 YEARS, BUT GORSKI TOLD ME I COULD RECEIVE A LIFE SENTENCE. I
13 DIDN'T HEAR NOTHING ABOUT NO 30 YEARS.

14 Q. OKAY. SO DO YOU RECALL -- WERE YOU SO WORRIED IN
15 YOUR MIND AFTER TALKING TO YOUR ATTORNEY THAT YOU JUST
16 ANSWERED YES TO THE JUDGE'S QUESTIONS?

17 A. MY ATTORNEY SCARED ME UP SO BAD AND HAD DONE TOOK MY
18 NERVE FROM ME, AND I WAS ON THAT MEDICATION. I DIDN'T
19 UNDERSTAND WHAT WAS GOING ON.

20 Q. OKAY. NOW, LET ME ASK YOU: YOU SAID YOU WERE ON
21 MEDICATION.

22 A. RIGHT.

23 Q. AND YET WHEN THE JUDGE WENT THROUGH THE GUILTY PLEA
24 WITH YOU---

25 A. RIGHT.

1 Q. ---HE ASKED YOU IF YOU WERE UNDER THE INFLUENCE OF
2 ANY DRUGS OR MEDICATION. WERE YOU WORRIED IF YOU TOLD HIM
3 WHAT YOU WERE TAKING THAT THAT MIGHT TAKE YOUR GUILTY PLEA
4 AWAY AND YOU MIGHT HAVE A WORSE SENTENCE? IS THAT -- WERE
5 YOU WORRIED AT THAT POINT?

6 A. THAT'S RIGHT; I WAS.

7 Q. SO IS IT FAIR TO SAY THAT YOU WERE GOING TO ANSWER
8 ANY QUESTION THAT THE JUDGE WANTED THE WAY YOU THOUGHT HE
9 WANTED TO HEAR IT?

10 A. RIGHT.

11 Q. OKAY.

12 A. BECAUSE I DIDN'T KNOW WHAT WAS GOING ON.

13 Q. OKAY. WHEN THE JUDGE ASKED YOU OR TOLD YOU THAT YOU
14 WOULD HAVE AN ABILITY TO APPEAL YOUR SENTENCE---

15 A. YES, HE DID.

16 Q. ---HE TOLD YOU YOU'D HAVE AN ABILITY TO APPEAL.

17 A. THAT'S RIGHT.

18 Q. DID YOU UNDERSTAND THAT -- DID YOU THINK IN YOUR
19 MIND THAT THAT WOULD GIVE YOU THE ABILITY TO COME BACK AND
20 HAVE A TRIAL LATER ON?

21 A. YEAH. RIGHT.

22 Q. DID YOU TALK TO YOUR LAWYER ABOUT THAT?

23 A. NO, HE WOULDN'T TALK TO ME.

24 Q. OKAY. WHEN YOU MET -- YOU SAID YOU MET ONE TIME
25 WITH YOUR ATTORNEY?

1 A. ONE TIME THE DAY OF TRIAL.

2 Q. OKAY. AND WHEN THE JUDGE ASKED YOU IF YOU WERE
3 SATISFIED WITH YOUR ATTORNEY, WHY DID YOU TELL HIM YES?

4 A. BECAUSE I DONE WHAT THE ATTORNEY TOLD ME TO DO. HE
5 TOLD ME TO PLEAD GUILTY AND EVERYTHING, YOU KNOW. I WAS
6 TAKING HIS ADVICE BECAUSE I DIDN'T KNOW NOTHING ABOUT THE
7 LAW.

8 Q. OKAY. DO YOU FEEL THAT THE MEDICINE -- ACTUALLY
9 WHAT MEDICINE WERE YOU ON?

10 A. DESYREL.

11 Q. DESYREL. NOW, WHAT DOES THAT DO TO YOU?

12 A. IT DON'T -- IT AFFECTS MY WAY OF THINKING MAYBE LIKE
13 I'M DRUNK, LIKE I GUESS A DRUNK PERSON JUST DON'T KNOW WHAT'S
14 GOING ON.

15 Q. DID YOU UNDERSTAND WHAT YOUR LAWYER WAS TALKING TO
16 YOU ABOUT BEFORE YOU PLED GUILTY---

17 THE COURT: LET ME ASK YOU A QUESTION. WHAT WERE
18 YOU TAKING IT FOR?

19 THE WITNESS: DESYREL? ANTIDEPRESSANT.

20 THE COURT: ANTIDEPRESSANT?

21 THE WITNESS: YEAH.

22 THE COURT: ARE YOU TAKING IT RIGHT NOW?

23 THE WITNESS: NO, I'M NOT ON IT RIGHT NOW.

24 THE COURT: ARE YOU TAKING ANYTHING RIGHT NOW?

25 THE WITNESS: NO.

1 THE COURT: NO KIND OF MEDICINE.

2 THE WITNESS: NO KIND OF MEDICINE.

3 THE COURT: ALL RIGHT. GO AHEAD, MR. BOORDA.

4 BY MR. BOORDA:

5 Q. DID YOU UNDERSTAND WHAT YOUR ATTORNEY WAS TALKING TO
6 YOU ABOUT WHILE YOU WERE ON THIS MEDICINE?

7 A. NO.

8 Q. DID YOU UNDERSTAND WHAT THE JUDGE WAS TALKING TO YOU
9 ABOUT WHEN YOU WERE ON THE MEDICINE?

10 A. NO. THE ONLY THING I KNOW: I WAS JUST SAYING YES
11 BECAUSE WHEN HE GAVE ME MY SENTENCE AND WHEN I GOT BACK TO
12 THE COUNTY JAIL, MENTAL HEALTH CAME DOWN THERE AND TALKED TO
13 ME. THEY ASKED ME -- THEY SAID, "MR. WILLIAMS," SAID, "ARE
14 YOU ALL RIGHT?" I SAID, "YEAH." HE SAID, "YOU GOT A LOT OF
15 TIME." I ASKED HIM, "HOW MUCH TIME I GOT?" THEN THAT'S WHEN
16 HE TOLD ME 30 YEARS. I DID NOT REALIZE HOW MUCH TIME I GOT.

17 Q. SO YOU DIDN'T RECALL HOW MUCH TIME YOU HAD WHEN YOU
18 PLED GUILTY?

19 A. NO.

20 Q. DO YOU RECALL MUCH OF THE GUILTY PLEA PROCESS?

21 A. NO, I CAN'T REMEMBER NOTHING.

22 Q. NO? HOW LONG WERE YOU ON THE MEDICINE BEFORE YOU
23 WENT TO TRIAL?

24 A. TWO AND A HALF YEARS.

25 Q. TWO AND A HALF YEARS. AND YOU HAD -- HAD YOU TALKED

1 TO YOUR ATTORNEY ABOUT BEING ON THE MEDICINE?

2 A. WELL, HE KNOWED THAT I WAS ON MEDICATION.

3 Q. OKAY. SO YOUR ATTORNEY KNEW AT THE TIME?

4 A. YEAH.

5 Q. AND TO THE BEST OF YOUR RECOLLECTION, DID YOUR
6 ATTORNEY SPEAK UP---

7 A. NO, HE DIDN'T SAY NOTHING.

8 Q. ---AT YOUR GUILTY PLEA WHEN ASKED IF YOU WERE ON ANY
9 DRUGS THAT MIGHT AFFECT YOU?

10 A. NO, HE DIDN'T SAY ANYTHING.

11 Q. WHEN THE JUDGE ASKED YOU OR ADVISED YOU THAT IF YOU
12 PLED GUILTY YOU WOULD GIVE UP ANY DEFENSES THAT YOU MAY WANT
13 TO BRING, DID YOU UNDERSTAND WHAT THE JUDGE WAS SAYING?

14 A. NO, I DIDN'T UNDERSTAND IT.

15 Q. AND WHEN THE JUDGE ADVISED YOU -- WHAT DID YOU THINK
16 WHEN THE JUDGE ADVISED YOU THAT IF YOU HAD ANY MOTIONS OR
17 CLAIMS OF ANY -- OR ANY COMPLAINTS ABOUT THE WAY YOU WERE
18 TREATED THAT YOU WOULD GIVE THAT UP WHEN YOU PLED GUILTY? DO
19 YOU UNDERSTAND THAT?

20 A. I WAS OUT OF IT. I MEAN, I JUST HAD DONE GIVE UP
21 EVERYTHING BECAUSE, YOU KNOW, MR. GORSKI TOOK MY MIND BEFORE
22 I CAN DO ANYTHING, YOU KNOW, THE WAY HE COME AT ME TO GET ME
23 TO PLEAD.

24 Q. IS THERE ANY SPECIFIC REASON WHY YOU DIDN'T TELL THE
25 JUDGE HOW YOU WERE FEELING AT THE TIME OF YOUR PLEA, THAT

1 WHAT YOU AND YOUR ATTORNEY TALKED ABOUT HAD AFFECTED YOU SO
2 MUCH THAT YOU JUST COULDN'T THINK STRAIGHT? IS THERE ANY
3 REASON WHY YOU DIDN'T TELL THE COURT THAT?

4 A. NO, BECAUSE I WAS SCARED.

5 Q. AND WHAT EXACTLY WERE YOU SCARED OF?

6 A. SCARED I WOULD GET THE DEATH PENALTY IF I MESS UP.

7 MR. BOORDA: OKAY. THANK YOU. I HAVE NO -- NO
8 FURTHER QUESTIONS.

9 THE COURT: ALL RIGHT. MS. TODD?

10 CROSS-EXAMINATION

11 BY MS. TODD:

12 Q. MR. WILLIAMS, YOU SAID THAT YOU DIDN'T UNDERSTAND
13 WHAT WAS GOING ON AT YOUR PLEA.

14 A. NO.

15 Q. AND YOU WERE FRIGHTENED BY MR. GORSKI'S ADVICE.

16 A. RIGHT.

17 Q. NOW, DID I UNDERSTAND YOU CORRECT ON DIRECT? DID
18 YOU SAY THAT YOU WEREN'T ON ANY MEDICATION NOW?

19 A. NO, I'M NOT ON MEDICATION NOW.

20 Q. SO YOU DON'T TAKE GLUCOTROL?

21 A. OH, THAT'S DIABETIC MEDICINE. I'M TALKING ABOUT
22 OTHER KIND -- YEAH, I'M TAKING GLUCOTROL.

23 Q. SO YOU ARE ON MEDICATION.

24 A. YEAH, DIABETIC MEDICATION. YES.

25 Q. WHAT OTHER KIND OF MEDICATION ARE YOU ON?

1 A. HIGH BLOOD PRESSURE.

2 Q. OKAY. WHAT'S THAT CALLED?

3 A. LOTENSIS.

4 Q. OKAY. SO WHEN YOU TOLD THE COURT A LITTLE WHILE AGO
5 THAT YOU WEREN'T ON MEDICATION, THAT WASN'T EXACTLY TRUE, WAS
6 IT?

7 A. WELL, I WAS THINKING ABOUT THE DESYREL. I DIDN'T
8 KNOW DIABETIC MEDICINE HAD TO BE WITH THAT, YOU KNOW. THAT'S
9 ALL IT WAS - DIABETIC.

10 Q. OKAY. NOW, AT THE PLEA YOU ADMITTED YOUR GUILT, DID
11 YOU NOT?

12 A. REPEAT THAT AGAIN, MA'AM.

13 Q. YOU ADMITTED YOUR GUILT.

14 A. DID I REMIT (SIC) THAT I WAS GUILTY?

15 Q. YOU ADMITTED YOU WERE GUILTY.

16 A. WELL, I TOLD MR. GORSKI, MY ATTORNEY, THAT I WASN'T
17 GUILTY BECAUSE I DIDN'T KILL NOBODY, BUT MR. GORSKI TOLD ME
18 THAT IF I DIDN'T PLEAD GUILTY I WOULD GET THE DEATH SENTENCE.
19 THAT WHAT HE TOLD ME. THAT'S THE REASON WHY I DONE -- WENT
20 AND DONE WHAT HE TOLD ME TO DO: PLEAD GUILTY.

21 Q. OKAY. AT YOUR PLEA YOU TOLD THE JUDGE THAT YOU WERE
22 GUILTY. YES?

23 A. YES, IF I CAN RECALL. YES.

24 Q. DO YOU NEED TO SEE A COPY OF YOUR GUILTY PLEA
25 TRANSCRIPT?

1 A. I HAVE A COPY OF IT.

2 Q. AND IT DOES SAY, DOES IT NOT, THAT YOU DO ADMIT YOUR
3 GUILT, DO YOU NOT, IN THE TRANSCRIPT?

4 A. WELL, I DONE THAT BECAUSE MR. GORSKI TOLD ME TO
5 PLEAD GUILTY, BUT GORSKI KNOWED ALL THE TIME THAT I WASN'T
6 GUILTY.

7 Q. AND ON PAGE 41 OF YOUR TRANSCRIPT YOU ALSO
8 APOLOGIZED TO YOUR CHILDREN, DID YOU NOT?

9 A. YEAH, I TOLD MY CHILDREN I WAS SORRY FOR THE
10 INCIDENT THAT HAPPENED, AND MY CHILDREN REALLY COULD HAVE
11 TESTIFIED AT THE -- AT TRIAL THAT I DIDN'T DO WHAT THEY SAID
12 I DONE.

13 Q. BUT -- BUT YOU PLED GUILTY TO IT.

14 A. I WAS ONLY DOING WHAT MR. GORSKI TOLD ME TO DO.

15 Q. BEG THE COURT'S INDULGENCE. NOW, AT YOUR GUILTY
16 PLEA, AS WE'VE DISCUSSED BEFORE AND YOU DISCUSSED WITH YOUR
17 ATTORNEY BEFORE, YOU WAIVED YOUR RIGHT TO A JURY TRIAL.

18 A. WELL, I WAIVED MY RIGHT TO A JURY TRIAL AFTER MR.
19 GORSKI WALKED OUT MY JURY TRIAL PRETENDING THAT HE WAS SICK
20 AND THREATENING ME TO PLEAD GUILTY. I MEAN, I GOT A WITNESS
21 THAT CAN TESTIFY TO THAT. I CAN -- I GOT BIG TOOT. HE'S A
22 DEPUTY SHERIFF; HE WAS BACK THERE. HE WAS LISTENING AT WHAT
23 MR. GORSKI WAS SAYING.

24 Q. BUT YOU TOLD THE JUDGE YOU WANTED TO PLEAD GUILTY.

25 A. I DONE WHAT MR. GORSKI TOLD ME TO DO.

1 Q. BUT YOU TOLD THE JUDGE---

2 A. YEAH, I DONE WHAT---

3 Q. ---YOU WANTED TO PLEAD GUILTY.

4 A. YEAH, I DONE WHAT HE TOLD ME TO DO.

5 Q. BUT NOW YOU'RE TELLING THIS JUDGE THAT THAT WASN'T
6 TRUE.

7 A. WELL, WHAT I'M SAYING, RIGHT, I PLEAD GUILTY ON THE
8 BEHALF OF MR. GORSKI BECAUSE THAT'S WHAT HE ADVISED ME TO DO,
9 BUT MR. GORSKI DID NOT INVESTIGATE MY CASE. HE DIDN'T KNOW
10 NOTHING ABOUT MY CASE. HE DIDN'T KNOW WHETHER I WAS INNOCENT
11 OR NOT.

12 Q. BUT YOU LIED IN YOUR FIRST HEARING, IN YOUR GUILTY
13 PLEA HEARING.

14 A. LIKE I SAY, I DONE WHAT MR. GORSKI TOLD ME TO DO.
15 HE WAS MY ATTORNEY.

16 Q. YOU TOLD THE COURT THAT YOU WERE GUILTY. YES?

17 A. YES, I DID WHAT MR. GORSKI TOLD ME TO DO. HE TOLD
18 ME TO PLEAD GUILTY TO THE 30 YEARS SO I WOULDN'T GET THE
19 DEATH PENALTY. AND THAT'S THE FIRST TIME I EVER BEEN IN ANY
20 TROUBLE, AND THE MAN JUST SCARED ME UP, PUT A LOT OF PRESSURE
21 ON ME.

22 Q. DID MR. GORSKI TELL YOU TO TELL THE JUDGE YOU
23 WEREN'T ON ANY MEDICATION?

24 A. NO. WHAT HE SAID -- HE SAID -- HE TOLD ME WHEN I GO
25 IN THERE -- HE SAID, "WHATEVER THE JUDGE ASK YOU, JUST, YOU

1 KNOW, DO WHAT HE SAY." THAT'S JUST WHAT HE TOLD ME. YOU
2 KNOW, I CAN'T HARDLY PUT THE EXACT WORDS WHAT HE PUT IN
3 THERE, BUT HE DID BECAUSE MR. GORSKI DIDN'T INVESTIGATE MY
4 CASE. HE WAS NOT PREPARED FOR TRIAL.

5 Q. MR. GORSKI TOLD YOU TO LIE TO THE JUDGE?

6 A. YES, AND MR. GORSKI LIED TO ME, TOO.

7 MS. TODD: I HAVE NOTHING FURTHER, YOUR HONOR.

8 THE COURT: ANY REDIRECT?

9 MR. BOORDA: NO, YOUR HONOR.

10 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN. ALL
11 RIGHT.

12 MR. BOORDA: YOUR HONOR, I'D CALL MR. WILLIAM
13 GORSKI.

14 WILLIAM GORSKI, AFTER BEING DULY SWORN,
15 TESTIFIED AS FOLLOWS:

16 THE CLERK: HAVE A SEAT AND STATE YOUR NAME FOR THE
17 RECORD.

18 THE WITNESS: WILLIAM GORSKI.

19 DIRECT EXAMINATION

20 BY MR. BOORDA:

21 Q. MR. GORSKI, YOU'RE AN ATTORNEY HERE IN LEXINGTON;
22 CORRECT?

23 A. YES.

24 Q. AND YOU WERE APPOINTED TO MR. WILLIAMS' CASE?

25 A. I WAS -- I WAS INITIALLY RETAINED TO REPRESENT HIM

1 AT A BOND HEARING ONLY. I WENT OUT TO THE JAIL TO SEE HIM.
2 WE AGREED UPON MY RETAINER FOR A BOND HEARING AND SIGNED A
3 CONTRACT. WE WENT FORWARD AT THE BOND HEARING. THE BOND WAS
4 DENIED. AND AT THAT TIME MR. WILLIAMS WANTED ME TO REPRESENT
5 HIM FOR THE DURATION OF THE TRIAL, BUT HE COULDN'T AFFORD THE
6 RETAINER FEE. AND I AGREED TO BE APPOINTED AT THAT POINT,
7 AND FROM THAT POINT ON I WAS APPOINTED.

8 Q. OKAY. SO YOU HAD AN OPPORTUNITY TO TALK TO HIM
9 ABOUT THE FACTS OF THE CASE PRIOR TO THE BOND HEARING?

10 A. YES.

11 Q. AND WERE YOU ABLE TO TALK TO FAMILY MEMBERS AS WELL?

12 A. YES.

13 Q. WHEN YOU WERE APPOINTED, DID YOU HIRE AN
14 INVESTIGATIVE COUN -- OR INVESTIGATOR TO LOOK INTO THE
15 MATTER?

16 A. I HIRED KEITH BERRY MAINLY AS A PROCESS SERVER, BUT
17 HE WASN'T HIRED TO BE A QUOTE/UNQUOTE INVESTIGATOR.

18 Q. OKAY. BUT YOU WERE AUTHORIZED TO HIRE AN
19 INVESTIGATOR; CORRECT?

20 A. I DON'T REMEMBER.

21 Q. OKAY. IS IT POSSIBLE? I MEAN, I CAN -- I CAN DIG
22 THROUGH THE FILE, BUT IS IT POSSIBLE THAT YOU COULD GET AN
23 INVESTIGATOR IN A MURDER CASE?

24 A. OH, SURE. SURE.

25 Q. OKAY. HOW MANY TIMES DID YOU MEET WITH MR.

1 WILLIAMS?

2 A. I DON'T REMEMBER EXACTLY. I MET WITH HIM A COUPLE
3 OF TIMES.

4 Q. OKAY. AND---

5 A. I TALKED TO HIM. HE, AS WELL AS ALL MY CLIENTS AT
6 THE JAIL, KNOW THEY CAN CALL ME COLLECT, AND I KNOW I TALKED
7 TO HIM ON THE PHONE COLLECT A NUMBER OF TIMES AS WELL.

8 MR. BOORDA: YOUR HONOR, CAN I APPROACH THE WITNESS?

9 THE COURT: SURE.

10 BY MR. BOORDA:

11 Q. I'D JUST LIKE TO REFRESH YOUR RECOLLECTION. IS IT
12 POSSIBLE YOU FILED A MOTION FOR AN INVESTIGATOR IN THIS
13 MATTER?

14 A. OH, YEAH.

15 MR. BOORDA: OKAY. YOUR HONOR, I'VE HANDED THE
16 WITNESS AN ORDER THAT PERMITS COUNSEL TO HIRE AN
17 INVESTIGATOR. IT'S AN ORDER SIGNED BY THE COURT.

18 THE COURT: ALL RIGHT, SIR. DO YOU WANT TO HAVE
19 THAT MARKED?

20 MR. BOORDA: NO, YOUR HONOR. I JUST -- I WANTED TO
21 TRY AND REFRESH HIS RECOLLECTION REAL QUICK.

22 THE COURT: ALL RIGHT. THAT'S FINE. ALL RIGHT.

23 BY MR. BOORDA:

24 Q. DID YOU, IN FACT, HIRE AN INVESTIGATOR?

25 A. LIKE I SAID, I HIRED KEITH BERRY, BUT HE WAS -- HE

1 WAS A PROCESS SERVER. THE WITNESSES WERE IN BAMBERG COUNTY,
2 BLACKBERG. I ALWAYS GET IT MIXED UP DOWN THERE.
3 BLACKSVILLE. AND -- AND HE WAS GOING TO GO DOWN THERE AND
4 SERVE SUBPOENAS SO THEY WOULD BE THERE FOR THE TRIAL, I
5 BELIEVE HIS BROTHER, I BELIEVE SOME OTHER RELATIVES. BUT HE
6 WASN'T HIRED AS A -- AS A -- AS AN INVESTIGATOR TO GO TALK TO
7 WITNESSES AND LOOK AT THE CRIME SCENE AND THAT SORT OF THING.

8 Q. OKAY. NOW, YOU WOULD AGREE WITH ME THAT A MURDER
9 CHARGE IS A FAIRLY SERIOUS CHARGE; CORRECT?

10 A. OBVIOUSLY.

11 Q. ABSOLUTELY. SO WOULD YOU AGREE WITH ME THAT HAVING
12 A FULLY FUNCTIONAL, COMPETENT INVESTIGATOR TO ASSIST YOU IN
13 PREPARING TO TRY A MURDER CASE WOULD BE A PRUDENT THING TO
14 DO?

15 A. IT'S INVALUABLE.

16 Q. INVALUABLE. AND DID YOU HIRE ONE?

17 A. NO.

18 Q. OKAY. AND YET, AS FAR AS YOU KNEW, THIS WAS GOING
19 TO TRIAL; CORRECT?

20 A. YES.

21 Q. OKAY. NOW, WHAT -- WHAT INVESTIGATION OF THE FACTS
22 DID YOU DO PRIOR TO TRIAL OF YOUR OWN? OTHER THAN REVIEWING
23 DISCOVERY, WHAT INVESTIGATIONS DID YOU DO PRIOR TO TRIAL?

24 A. WE LOOKED AT THE VIDEOTAPE OF THE CRIME SCENE AT THE
25 -- AT THE SHERIFF'S DEPARTMENT. I DID THAT WITH THE -- WITH

1 THE SOLICITOR. TALKED TO WITNESSES. TALKED TO -- MR.
2 WILLIAMS WANTED TO -- AS ONE OF HIS DEFENSES HE WANTED TO --
3 HE WANTED TO ASSASSINATE THE CHARACTER OF THE VICTIM, AND HE
4 CLAIMED TO ME THAT SHE WAS -- THAT SHE HAD BEEN BROUGHT UP ON
5 CRIMINAL DOMESTIC VIOLENCE CHARGES IN RICHLAND COUNTY. WE
6 INVESTIGATED THAT, AND THERE WAS NO EVIDENCE OF THAT
7 EITHER -- EITHER IN RICHLAND COUNTY OR THROUGH D.S.S. OR
8 ANYWHERE THAT -- THAT WE COULD FIND.

9 Q. NOW, DID YOU KNOW THAT MR. WILLIAMS WAS ON SOME
10 DEPRESSION MEDICINE AT THE TIME?

11 A. I DON'T REMEMBER.

12 Q. YOU DON'T RECALL? DID YOU EVER TALK TO HIM ABOUT
13 IT?

14 A. I DON'T REMEMBER.

15 Q. IS IT POSSIBLE THAT YOU WOULD HAVE TALKED TO HIM
16 ABOUT IT?

17 A. ANYTHING'S POSSIBLE.

18 Q. OKAY. HOW MANY MURDER CASES HAVE YOU TRIED?

19 A. HIS WAS THE FIRST ONE---

20 Q. FIRST CASE?

21 A. ---I THINK. I THINK. A COUPLE. LESS THAN TEN.

22 Q. OKAY. DID YOU TALK TO HIM ABOUT HIS MENTAL
23 CONDITION AT THE TIME THAT THE INCIDENT OCCURRED?

24 A. I DON'T REMEMBER. THIS WAS FOUR OR FIVE YEARS AGO.
25 I DON'T REMEMBER.

1 Q. OKAY. DID YOU -- DO YOU RECALL IF YOU ORDERED ANY
2 PSYCHOLOGICALS ON HIM?

3 A. I'M SURE WE DIDN'T.

4 Q. WHAT EXACTLY OTHER THAN CALLING -- CALLING SOME
5 WITNESSES AND LOOKING AT A TAPE, WHAT EXACTLY DID YOU DO TO
6 GET READY FOR A MURDER TRIAL?

7 A. I TALKED TO MR. WILLIAMS, TALKED TO WITNESSES, WENT
8 OVER THE -- WENT OVER THE EVIDENCE WHICH WAS PRETTY BAD
9 AGAINST HIM.

10 Q. WHAT PLEA NEGOTIATIONS DID YOU DO WITH THE
11 SOLICITOR?

12 A. OH, WE, YOU KNOW, TRIED TO GET HIM 20 YEARS, TRIED
13 TO GET HIM 15 YEARS, TRIED TO GET HIM 25 YEARS, BUT THEY WERE
14 PRETTY -- THEY WERE PRETTY STUCK ON -- THEY WERE PRETTY STUCK
15 ON 30 YEARS.

16 Q. OKAY. WAS THIS EVER A DEATH PENALTY CASE?

17 A. IT WAS NEVER A DEATH PENALTY CASE.

18 Q. OKAY. WHAT -- WHAT OTHER ATTORNEYS IN THE LOCAL
19 AREA DID YOU TALK WITH ABOUT TRYING A MURDER CASE PRIOR TO
20 GETTING READY FOR TRIAL? HOW MANY ATTORNEYS DID YOU TALK TO?

21 A. I DON'T REMEMBER.

22 Q. DID YOU TALK TO ANY?

23 A. I MAY HAVE TALKED TO A FEW.

24 Q. OKAY. YOU WERE READY FOR TRIAL. YOU HAD YOUR TRIAL
25 NOTEBOOK TOGETHER; CORRECT?

1 A. YES.

2 Q. HAD ALL YOUR WITNESSES?

3 A. SUBPOENAED.

4 Q. SUBPOENAED AND PRESENT. THEY WERE PRESENT THE DAY
5 OF TRIAL?

6 A. YEAH, THEY WERE EITHER PRESENT OR THEY WERE ON
7 STANDBY.

8 Q. OKAY. SELECTED YOUR JURY.

9 A. YES.

10 Q. AND THEN YOU BECAME ILL.

11 A. THAT'S CORRECT.

12 Q. AND THE JUDGE RIGHTLY CONTINUED IT.

13 A. YES.

14 Q. WHAT HAPPENED FROM THE POINT THAT YOU SELECTED THE
15 JURY TO DECIDING THAT YOU SHOULD ADVISE MR. WILLIAMS TO
16 PLEAD? WHAT -- WHAT PROMPTED YOUR SHIFT FROM JURY TRIAL IN A
17 MURDER CASE TO NOW A PLEA WITHIN ONE DAY? WHAT -- WHAT
18 HAPPENED IN THAT TIME SPAN?

19 A. HE TOLD ME HE WANTED TO PLEAD. HE TOLD ME HE WANTED
20 TO PLEAD GUILTY.

21 MR. BOORDA: YOUR HONOR, IF I MAY, THE -- AND THIS
22 IS ACTUALLY -- THIS IS THE COURT AND I WOULD JUST ASK THE
23 COURT TO TALK TO THE GUARDS HERE. THEY'RE GIGGLING AND
24 LAUGHING IN THE CORNER, AND I DON'T FIND ANYTHING FUNNY ABOUT
25 WHAT WE'RE TALKING ABOUT.

1 **THE COURT:** I HAVEN'T NOTICED THAT, BUT I WOULD
2 ADVISE ALL PEOPLE IN THE COURTROOM THAT THEY NEED TO CONDUCT
3 THEMSELVES ACCORDINGLY IN THE COURTROOM. GO AHEAD, MR.
4 BOORDA.

5 **MR. BOORDA:** THANK YOU, YOUR HONOR.
6 BY MR. BOORDA:

7 **Q.** SO YOU'RE SAYING THAT MR. WILLIAMS DECIDED THAT HE
8 WANTED TO PLEAD JUST OUT OF THE BLUE.

9 **A.** IT WASN'T OUT OF THE BLUE.

10 **Q.** HAD YOU HAD PLEA -- PLEA DISCUSSIONS WITH HIM PRIOR
11 TO THE JURY TRIAL?

12 **A.** ABSOLUTELY.

13 **Q.** OKAY. AND WHAT WAS HIS POSITION?

14 **A.** HE WANTED HIS TRIAL.

15 **Q.** OKAY. SO -- SO WHAT PROMPTED HIM TO NOW WANT TO
16 PLEAD GUILTY?

17 **A.** YOU NEED TO ASK THAT TO HIM. MY UNDERSTANDING IS
18 THAT HE DIDN'T WANT TO PUT HIS FAMILY THROUGH -- THROUGH A
19 PLEA (SIC) AND ESPECIALLY HIS CHILDREN, AND IN THE COURTROOM
20 YOU HAVE A LOT MORE ACCESS TO YOUR FAMILY MEMBERS THAN YOU DO
21 IN JAIL. IN THE COURTROOM HE DOESN'T HAVE THE CUFFS. HE'S
22 WEARING REGULAR CLOTHES, AND HIS FAMILY MEMBERS CAN COME UP
23 TO HIM AND TALK TO HIM AND, AS YOU KNOW, THERE'S A LOT OF
24 DOWN TIME IN THE COURTROOM ESPECIALLY IN A -- ESPECIALLY IN A
25 JURY TRIAL, AND I DON'T REMEMBER WHO HE TALKED TO. I DON'T

1 REMEMBER IF IT WAS SISTERS OR BROTHERS, BUT I BELIEVE IT WAS
2 SOMEBODY ON THAT LEVEL AND, YOU KNOW, OLDER RELATIVES CLOSER
3 TO HIS AGE WHERE -- WHERE HE WAS ADAMANT THAT HE DID NOT WANT
4 THE TRIAL. HE JUST WANTED TO PLEAD GUILTY, AND HE JUST
5 WANTED TO GET IT OVER WITH. HE THOUGHT IT WAS THE RIGHT
6 THING TO DO.

7 Q. OKAY. HAD YOU ADVISED MR. WILLIAMS TO PLEAD GUILTY
8 PRIOR TO THE JURY TRIAL?

9 A. I CAN'T TELL ANYBODY TO PLEAD GUILTY. I CAN TELL
10 THEM THAT IF YOU DO PLEAD GUILTY THERE ARE CERTAIN BENEFITS.
11 ONE OF THE BENEFITS IS THAT YOU HAVE A -- YOU HAVE A BARGAIN
12 AS OPPOSED TO AN UNCERTAINTY. AND EVEN WITH -- EVEN WITH 30
13 YEARS AT MR. WILLIAMS' AGE, THERE'S A CHANCE HE'LL GET OUT,
14 BUT IF HE GOES THROUGH A TRIAL AND THE JUDGE GIVES HIM LIFE,
15 LIFE IS LIFE IN SOUTH CAROLINA, NO POSSIBILITY OF PAROLE.
16 AND IT'S ALWAYS BETTER TO PLEAD GUILTY WHEN YOU HAVE A BETTER
17 DEAL ON THE TABLE LIKE 20 YEARS OR EVEN 25 YEARS, BUT THAT
18 DEAL WAS NEVER ON THE TABLE. SO WHEN WE TALKED ABOUT
19 PLEADING GUILTY BEFORE THE FIRST TRIAL, IT WASN'T MUCH OF A
20 DISCUSSION BECAUSE FROM HIS POINT OF VIEW - AND I DON'T BLAME
21 HIM - HE HAD NOTHING TO LOSE BY GOING TO A JURY TRIAL BECAUSE
22 AT HIS AGE, 30 YEARS IS ESSENTIALLY LIFE ANYWAY.

23 Q. SO WHAT WAS YOUR ADVICE WHEN HE TOLD YOU HE WANTED
24 TO PLEAD GUILTY?

25 A. MY ADVICE WHEN HE WANTED TO PLEAD GUILTY? I TOLD

1 HIM THAT -- I DON'T REMEMBER WHAT I TOLD HIM. OBVIOUSLY WE
2 WENT THROUGH WITH IT, SO I PROBABLY SAID SOMETHING ALONG THE
3 LINES OF, "ARE YOU SURE YOU WANT TO DO THIS? DO YOU REALIZE
4 YOU HAVE A RIGHT TO A TRIAL?" ALL THE THINGS THAT THE JUDGE
5 ASKED HIM ABOUT.

[6] Q. DID YOU DO A FULL PROFILE OF MR. WILLIAMS PRIOR TO
[7] -- AS YOU PREPARED FOR TRIAL, DID YOU DO, YOU KNOW, A
[8] CHILDHOOD, YOUNG ADULT, ADULT, ALL THE WAY UP TO THE
[9] INCIDENT? DID YOU DO A PROFILE OF HIS LIFE AND WHAT HIS
[10] PROBLEMS WERE OR WHAT HIS HIGH POINTS WERE, THINGS LIKE THAT?
[11] DID YOU PUT THAT TOGETHER?

[12] A. I DON'T -- I DON'T KNOW WHAT YOU'RE TALKING ABOUT.

[13] Q. WELL, LET'S -- LET ME REPHRASE THIS. YOU'RE GOING
[14] INTO A MURDER TRIAL.

[15] A. YES.

[16] Q. YOUR CLIENT IS CHARGED WITH MURDER, NOT A -- NOT A
[17] SMALL CHARGE, ONE THAT COULD CARRY LIFE, 30 YEARS MINIMUM.
[18] ARE YOU TELLING ME THAT YOU DIDN'T FIND OUT EVERYTHING YOU
[19] COULD ABOUT YOUR CLIENT PRIOR TO GOING TO TRIAL?

[20] A. I FOUND OUT EVERYTHING HE TOLD ME ABOUT HIMSELF.

21 Q. OKAY. AND YOU FOUND OUT ABOUT ANY MEDICATIONS HE
22 MIGHT HAVE BEEN ON THAT MIGHT HAVE AFFECTED HIM AT THE TIME?

23 A. I DON'T REMEMBER. IF YOU WANT ME TO GO THROUGH MY
24 NOTES, I'LL BE MORE THAN HAPPY TO DO THAT.

25 Q. WELL, YES, I WOULD, ABSOLUTELY.

1 A. (THE WITNESS REVIEWS HIS FILES.) WE TALKED ABOUT
2 HIS PSYCHOLOGICAL CONDITION. WE TALKED ABOUT A POSSIBLE
3 DEFENSE. WE TALKED ABOUT THE DEFENSE OF ACCIDENTS OR THE
4 DEFENSE OF ACCIDENT. I TOLD YOU EARLIER THAT I DIDN'T
5 REMEMBER WHETHER OR NOT WE TALKED ABOUT HIS MEDICATION, BUT
6 HE TOLD ME AND I WROTE DOWN A NOTE THAT HE HAD NO MEDICINE --
7 HE WAS -- I WROTE DOWN, "NO MEDS," AND I DON'T KNOW IF THAT
8 MEANT HE DIDN'T TAKE HIS MEDS OR HE WASN'T ON ANY MEDS. BUT
9 I ALSO WROTE, "NO ALCOHOL ON THE NIGHT OF THE INCIDENT,"
10 BECAUSE I ASKED HIM IF HE WAS DRUNK.

11 WE TALKED ABOUT HIS PRIOR RECORD, AND WE TALKED
12 ABOUT WHETHER OR NOT THAT WOULD BE ADMISSIBLE. WE TALKED
13 ABOUT -- WE TALKED ABOUT A NEPHEW, CARTER HAMMOND, AND HE WAS
14 HANGING ON TO HIS GUN FOR HIM AND I DON'T REMEMBER IF THAT
15 WAS THE MURDER WEAPON OR NOT. WE TALKED ABOUT LOUBEE
16 (PHONETIC) ALLEN RAYNOL, R-A-Y-N-O-L, AND I WROTE, "BAD
17 WITNESS." AND WE TALKED ABOUT ANY STATEMENTS, ANY PRIOR
18 STATEMENTS, OF THE VICTIM - WHETHER OR NOT THEY WOULD BE
19 ALLOWED.

20 THERE WAS SOME PRIOR INCIDENT, NO FEAR AT PRIOR
21 INCIDENT. WE TALKED ABOUT SUBPOENAING PHIL WILLIAMS. (WE
22 (ALSO DISCUSSED THAT NOBODY -- NOBODY SAW HOW THE GUN GOT INTO
23 THE APARTMENT. ANOTHER CONVERSATION I HAD WITH HIM THAT I
24 TOOK NOTES -- ARE YOU SURE YOU WANT ME TO TELL YOU EVERYTHING
25 THAT HE TOLD ME?

[1] Q. NO. WHAT I WANT TO KNOW IS: DID YOU DO A PROFILE
[2] ON HIM BEFORE YOU JUST TOOK HIM TO A JURY TRIAL? DID YOU --
[3] DO YOU BELIEVE THAT YOU ADEQUATELY PREPARED TO TRY A MURDER
[4] CASE SO THAT YOU COULD COMPETENTLY COUNSEL MR. WILLIAMS AS TO
[5] WHETHER TO PROCEED WITH A JURY TRIAL OR TO PLEAD GUILTY?

[6] A. WELL, HINDSIGHT'S 20/20. AT THE TIME -- AT THE TIME
[7] I THOUGHT WE HAD PREPARED ADEQUATELY. OF COURSE, HE PLED
[8] GUILTY, AND SO IT DIDN'T MATTER WHETHER OR NOT WE PREPARED
[9] ADEQUATELY OR NOT FOR A JURY TRIAL.

10 MR. BOORDA: THANK YOU. I -- THANK YOU. I HAVE NO
11 -- NO FURTHER QUESTIONS, YOUR HONOR.

12 THE COURT: REDIRECT OR CROSS-EXAMINE.

13 CROSS-EXAMINATION

14 BY MS. TODD:

15 Q. MR. GORSKI, WHOSE DECISION WAS IT FOR MR. WILLIAMS
16 TO PLEAD GUILTY?

17 A. HIS DECISION.

18 Q. DID YOU TELL MR. WILLIAMS TO LIE TO THE COURT?

19 A. OF COURSE NOT.

20 Q. AND YOUR NOTES DO NOT REFLECT THAT MR. WILLIAMS EVER
21 TOLD YOU THAT HE WAS ON MEDICATION AT THE DAY OF THE PLEA?

22 A. THE DAY OF THE PLEA? I HAVE NO IDEA IF HE WAS ON
23 MEDICATION OR NOT.

[24] Q. BUT YOU HAVE NO REASON TO BELIEVE THAT YOU THOUGHT
[25] HE WAS ON MEDICATION.

1 A. I -- HE DIDN'T -- HE DIDN'T ACT ANY DIFFERENTLY FROM
2 ANY OTHER TIME. HE WAS EMOTIONAL, BUT HE DIDN'T ACT ANY
3 DIFFERENTLY. HE GAVE ME NO REASON TO BELIEVE THAT SOMETHING
4 WAS UP OR HE WAS OFF HIS MEDS OR ANYTHING LIKE THAT.

5 Q. NOW, DID -- DID YOU EVER TELL MR. WILLIAMS THAT THIS
6 WAS A DEATH PENALTY CASE?

7 A. NO.

8 Q. WAS THIS EVER A DEATH PENALTY CASE?

9 A. NO. WE WERE NEVER -- WE WERE NEVER PUT ON NOTICE BY
10 THE STATE. WE NEVER GOT THE INTENT TO SEEK THE DEATH PENALTY
11 LETTER FROM THE STATE.

12 Q. YOU HAD DISCUSSED ON DIRECT THAT YOU REVIEWED THE
13 STATE'S EVIDENCE. COULD YOU BRIEFLY TELL THE COURT WHAT THE
14 STATE'S EVIDENCE WAS?

15 A. LONG POLICE REPORTS ABOUT WHAT HAPPENED. THERE'S
16 THE -- THERE WAS THE EVIDENCE FROM THE CRIME SCENE. THERE
17 WAS A VIDEOTAPE OF -- OF THE CRIME SCENE AS THE POLICE FOUND
18 IT A FEW MINUTES LATER. NUMEROUS, NUMEROUS WITNESS
19 STATEMENTS OF ALL THE PEOPLE IN AND AROUND THE APARTMENT
20 COMPLEX, NOT ONLY PEOPLE IN THE APARTMENT ITSELF BUT
21 NEIGHBORS AS WELL.

22 Q. SO WHAT -- WHAT WAS THE STATE PREPARED TO PROVE?

23 A. THE STATE WAS PREPARED TO PROVE THAT HE WENT TO HIS
24 WIFE'S APARTMENT, TOOK A SHOTGUN, AND HAD AN ARGUMENT WITH
25 HER AND SHOT HER IN THE CHEST AND SHE WAS KILLED INSTANTLY.

1 Q. AND YOU REVIEWED THE STATE'S EVIDENCE. THE STATE
2 DISCLOSED ITS FILE TO YOU.

3 A. YES.

4 Q. DID YOU REACH ANY OPINION ABOUT THE STATE'S ABILITY
5 TO PROVE ITS CASE?

6 A. IT WAS A VERY GOOD CASE.

7 Q. WHAT DEFENSE WERE YOU PREPARED TO RAISE IN A JURY
8 TRIAL?

9 A. ACCIDENT.

10 Q. AND THAT WOULD BE BASED ON WHAT?

11 A. THAT WOULD BE BASED ON MR. WILLIAMS -- HIS
12 ANTICIPATED TESTIMONY WHEN HE WOULD TAKE THE STAND.

13 Q. WHEN MR. WILLIAMS DECIDED HE WANTED TO PLEAD GUILTY,
14 DID YOU COVER HIS RIGHTS WITH HIM, HIS CONSTITUTIONAL RIGHTS?

15 A. YES.

16 Q. DID HE INDICATE TO YOU, AS HE INDICATED TO THE
17 COURT, THAT HE WISHED TO WAIVE HIS RIGHTS AND PLEAD GUILTY?

18 A. YES.

19 Q. DID HE ADMIT HIS GUILT TO YOU?

20 A. I DON'T KNOW IF HE EVER ADMITTED HIS GUILT TO ME.
21 HE JUST SAID, "I WANT TO PLEAD GUILTY."

22 Q. NOW, LET'S GO BACK TO YOUR -- YOUR MEETINGS WITH THE
23 APPLICANT. DID YOU MEET WITH HIM ON ONE OCCASION?

24 A. MORE THAN ONE OCCASION.

25 Q. MORE THAN ONE OCCASION? DID YOU DISCUSS THE

1 ELEMENTS OF THE CRIME, WHAT THE STATE WOULD BE REQUIRED TO
2 PROVE?

3 A. YES.

4 Q. DID YOU EXPLAIN THE POSSIBLE SENTENCE MR. WILLIAMS
5 WOULD FACE?

6 A. YES.

7 Q. WHAT DID YOU EXPLAIN TO HIM REGARDING THAT?

8 A. THAT HE COULD RECEIVE LIFE WITHOUT PAROLE.

9 Q. DID YOU EXPLAIN TO HIM ANY MANDATORY MINIMUM?

10 A. I DON'T REMEMBER.

11 Q. OKAY. DID YOU AND MR. WILLIAMS TALK ABOUT HIS RIGHT
12 TO AN APPEAL?

13 A. I -- I DON'T REMEMBER.

14 Q. WOULD YOU HAVE ADVISED MR. WILLIAMS -- DO YOU KNOW
15 IF YOU ADVISED MR. WILLIAMS THAT IF HE APPEALED HE COULD JUST
16 GO BACK AND START OVER AGAIN IF HE CHANGED HIS MIND?

17 A. I WOULDN'T HAVE -- I WOULDN'T HAVE SAID THAT. I
18 WOULDN'T HAVE SAID -- I WOULDN'T HAVE SAID, "WELL, IF YOU
19 APPEAL, YOU CAN HAVE A WHOLE NEW TRIAL," BECAUSE WE BOTH KNOW
20 THAT'S NOT TRUE. AND AT THE TIME -- AT THE TIME BACK THEN, I
21 BELIEVE -- I BELIEVE THAT THERE WAS CASE LAW THAT SAID YOU
22 DIDN'T EVEN HAVE TO ADVISE HIM OF THE RIGHT TO APPEAL ON A
23 GUILTY PLEA, BUT THEN IN THE PAST FEW YEARS THE JUDGES HAVE
24 STARTED PUTTING THAT IN ANYWAY. AND SO IF -- IF I DID SAY IT
25 OR IF I DIDN'T SAY IT, I MEAN, I KNOW THE JUDGE SAID IT.

1 Q. NOW, AFTER THE JURY WAS SELECTED AND BEFORE HE PLED,
2 DID YOU THREATEN MR. WILLIAMS?

3 A. NO.

4 Q. DID HE SEEM FRIGHTENED TO YOU?

5 A. I HAVE NEVER SEEN HIM FRIGHTENED, SO I CAN'T -- I
6 CAN'T RELATE IF HE SEEMED FRIGHTENED. I MEAN, HE DIDN'T SEEM
7 FRIGHTENED TO ME, BUT I DON'T KNOW WHAT HE WOULD LIKE LOOK OR
8 HOW HE WOULD ACT BEING FRIGHTENED.

9 Q. DID HE SEEM UNAWARE OF WHAT WAS HAPPENING AT THE
10 GUILTY PLEA?

11 A. HE KNEW WHAT WAS GOING ON. HE DID NOT SEEM -- HE
12 DID NOT SEEM -- HE DID NOT SEEM LIKE HE WAS SPACING OUT OR --
13 OR ANYTHING LIKE THAT.

14 MS. TODD: NO FURTHER QUESTIONS. THANK YOU.

15 THE COURT: ANY REDIRECT?

16 MR. BOORDA: JUST BRIEFLY, YOUR HONOR.

17 REDIRECT EXAMINATION

18 BY MR. BOORDA:

19 Q. MR. GORSKI, IN FACT, THE VICTIM WAS SHOT IN THE
20 NECK, NOT THE CHEST; CORRECT?

21 A. I DON'T REMEMBER.

22 Q. DON'T REMEMBER? NOW, IS IT FAIR TO SAY THAT SOME
23 CASES MAKE LIFELONG IMPACTS ON YOU? ARE THERE SOME CASES
24 THAT YOU WILL ALWAYS REMEMBER?

25 A. BELIEVE IT OR NOT, I REMEMBER EVERY CASE I'VE EVER

1 HAD.

2 Q. BUT THIS ONE YOU JUST DON'T SEEM TO REMEMBER MUCH
3 ABOUT.

4 A. I DON'T REMEMBER THE DETAILS.

5 Q. OKAY. BUT YOU DO REMEMBER THAT HE NEVER ADMITTED TO
6 YOU THAT HE WAS GUILTY, JUST THAT HE WANTED TO PLEAD.

7 A. I HAD SAID I DON'T REMEMBER HIM SPECIFICALLY SAYING,
8 "I'M GUILTY AND I WANT TO GET THIS OVER WITH." I REMEMBER
9 HIM SAYING THAT HE WANTED TO TAKE THE PLEA.

10 Q. AND, OF COURSE, YOU ADVISED HIM THAT OBVIOUSLY YOU
11 CAN'T PLEAD GUILTY TO ANY CHARGE UNLESS, OF COURSE, YOU ARE,
12 IN FACT, GUILTY TO THE CHARGE. YOU ADVISED HIM OF THAT;
13 CORRECT?

14 A. I ADVISE EVERYBODY OF THAT.

15 Q. EVERYBODY. SO YOU HAD THAT LONG CONVERSATION WITH
16 HIM.

17 A. THAT'S A -- THAT'S A -- THAT'S AN AUTOMATIC WITH
18 EVERY GUILTY PLEA. YOU CAN'T -- YOU CAN'T JUST -- YOU CAN'T
19 JUST PLEAD GUILTY TO GET IT OVER WITH BECAUSE THEN YOU'RE
20 HEADING INTO ALFORD TERRITORY AND THAT'S A WHOLE DIFFERENT
21 DISCUSSION.

22 Q. WHAT -- WHEN YOU HAD THAT CONVERSATION WITH HIM,
23 WHAT DID YOU TELL HIM ABOUT HIS JURY TRIAL POSSIBILITIES?

24 A. I TOLD HIM HE HAD A RIGHT TO THE JURY TRIAL. AS A
25 MATTER OF FACT, THERE WAS ONE PICKED AND READY TO GO.

1 MR. BOORDA: THANK YOU. I HAVE NO FURTHER
2 QUESTIONS.

3 THE COURT: ANYTHING FURTHER FROM THE STATE FOR THIS
4 WITNESS?

5 MS. TODD: NO, YOUR HONOR.

6 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, MR.
7 GORSKI.

8 MR. BOORDA: I HAVE NOTHING FURTHER, YOUR HONOR.

9 THE COURT: ALL RIGHT. MS. TODD?

10 MS. TODD: THE STATE HAS NO WITNESSES, YOUR HONOR.
11 THE STATE WOULD MOVE FOR A DIRECTED VERDICT, HOWEVER. THE
12 APPLICANT HASN'T SHOWN THAT---

13 THE COURT: WELL, I'M NOT GOING TO DECIDE THE CASE
14 ON A MOTION. I'LL DECIDE IT ON THE MERITS AND... ANYTHING
15 FURTHER FROM THE APPLICANT?

16 MR. BOORDA: JUST THAT -- YOUR HONOR, JUST THAT IN A
17 MURDER TRIAL HINDSIGHT'S 20/20, NOT TALKING TO OTHER
18 ATTORNEYS, NOT HIRING AN INVESTIGATOR, PREPARING FOR A JURY
19 TRIAL BRIEFLY, AND THEN HAVING YOUR CLIENT PLEAD ALL OF A
20 SUDDEN WITH A LIMITED MEMORY, YOUR HONOR. MR. WILLIAMS
21 DESERVES BETTER COUNSEL FOR SUCH A SERIOUS CHARGE.

22 MS. TODD: YOUR HONOR?

23 THE COURT: ALL RIGHT. MS. TODD?

24 MS. TODD: THE APPLICANT HAS NOT SHOWN WHAT BENEFITS
25 AN ADDITIONAL INVESTIGATION WOULD HAVE PROVIDED TO HIM, WHAT

1 ADDITIONAL DEFENSES WERE AVAILABLE TO HIM. AS TO THE ISSUE
2 OF NO HISTORY OR PROFILE BEING DONE ON THE APPLICANT, HE
3 RECEIVED THE MINIMUM SENTENCE. ANY ISSUES REGARDING
4 MITIGATING FACTORS FROM HIS BACKGROUND WOULD NOT BE RELEVANT
5 TO THIS PROCEEDING. THE APPLICANT HAS NOT SHOWN DEFICIENT
6 PERFORMANCE OR PREJUDICE.

7 THE COURT: ALL RIGHT. I'LL MAKE A DECISION IN THE
8 NEXT FEW DAYS AND NOTIFY COUNSEL OF THAT DECISION AND ASK
9 SOMEONE TO PREPARE ME A PROPOSED ORDER. ALL RIGHT? THANK
10 YOU.

11 MR. BOORDA: THANK YOU, YOUR HONOR.

12 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)
13
14
15
16
17
18
19
20
21
22
23
24
25

I, THE UNDERSIGNED DAPHNE D. HELMS, OFFICIAL COURT REPORTER FOR THE ELEVENTH 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 CIRCUIT COURT FOR LEXINGTON COUNTY, SOUTH CAROLINA, ON THE 27TH DAY OF JUNE, 2005.

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

FEBRUARY 23, 2006

Daphne Helms

 DAPHNE D. HELMS, COURT REPORTER

COPY

FILED

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

2005 AUG 18 11:39 AM IN THE COURT OF COMMON PLEAS

BETH A. CARRIGG)
CLERK OF COURT)
LEXINGTON SC)

2003-CP-32-1863

James Chester Williams, 282929,)

Applicant,)

v.)

ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

The Applicant brought this application for post-conviction relief to challenge his 2002 murder guilty plea. The Application was filed on May 21, 2003 and the State made its Return on May 20, 2005. An evidentiary hearing was held on June 27, 2005 at the Lexington County Courthouse. The Applicant was present and represented by Robert Boorda, Esquire. The State was represented by Sabrina C. Todd of the South Carolina Attorney General's Office.

At the hearing the Applicant testified on his own behalf and called his plea counsel, William Gorski, Esquire as a witness. Additionally, the Court had before it the Application, Return, the Lexington County clerk of Court's records regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, and the Applicant's records from his direct criminal appeal, which include the transcript of his guilty plea.

The records before this Court reflect the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. The Applicant was indicted at the January 2000 term of the Lexington County Grand Jury for

burden of establishing counsel was ineffective. Set forth below are the relevant findings of facts and conclusions of law in accordance with S.C. Code Ann. § 17-27-80 (2003).

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686 (1984); see also Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 689). With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to

MAH 3

trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the proceeding. Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997).

When an Applicant alleges his guilty plea entered with the advice of counsel he may only challenge his plea as unknowing or involuntary by establishing ineffective assistance of counsel. Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

The Applicant testified his plea counsel was ineffective for failing to help decide whether to plead guilty. He alleged counsel only met with him one time and coerced him into pleading guilty by threatening that if he went to trial he would be found guilty and sentenced to death but that if he pled guilty he would receive a twenty-five year sentence. As to allegations of his medication, he alleged he was taking Desyrel, an anti-depressant medication that made him feel drunk and that as a result he did not understand the proceedings or the judge's questions. When questioned on cross-examination about the inconsistencies between his plea testimony and his testimony to this Court, the Applicant testified he lied to the judge at his guilty plea and that counsel had instructed him to do so. When asked whether he was taking any medication that would affect his ability to understand the proceedings before this Court, the Applicant reported he was not, the same answer he gave to the judge who accepted his guilty plea. (Tr.36)

Mr. Gorski testified he had talked with the Applicant several times before the guilty plea, and was prepared to go to trial. He stated the case was never a death penalty case and he never threatened the Applicant with the death penalty or promised the Applicant a particular sentence. On the contrary, the Applicant initially wanted to go to trial understanding the mandatory minimum sentence of thirty years for murder was essentially a life sentence for someone his age. However,

counsel testified that after talking with relatives following jury selection, the Applicant was adamant about pleading guilty. Counsel further testified he talked with the Applicant about his psychological condition but the Applicant denied using alcohol or medications at the time of the plea. Counsel emphatically denied telling the Applicant to lie at his guilty plea.

The Applicant has failed to carry his burden that counsel was deficient in his performance. There is no evidence counsel's actions were less than reasonable under prevailing professional norms. The Applicant has failed to convince this court by a preponderance of the evidence that he pled guilty because of any threats or promises made by his attorney. Instead, the Court finds Counsel was prepared to go to trial and the Applicant decided at the last minute to plead guilty. In reaching this conclusion, the Court notes the Applicant's admission during his testimony that he had lied to the trial judge at his guilty plea does not inspire confidence in his testimony to this Court. By contrast, the Court found Mr. Gorski to be a credible witness. Additionally, the Court finds the Applicant has failed to establish his claim medication he was taking at the time of his plea rendered his plea involuntary or unknowing.

ALL OTHER ALLEGATIONS

Any and all other allegations raised in the Application or at the hearing which are not specifically addressed in this order are waived because the Applicant failed to present sufficient evidence to meet his burden of proof regarding them. Therefore, they are denied and dismissed.

CONCLUSION

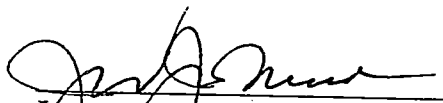
IT IS THEREFORE ORDERED:

1. That the application for post conviction relief be dismissed with prejudice.

DLH 5

- 2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 1 day of August, 2005.


James W. Johnson
Presiding Judge
Eleventh Judicial Circuit

Laneys, South Carolina.

#6

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

INDICTMENT FOR
MURDER
§16-3-10

At a Court of General Sessions, convened in JANUARY, 2000 the Grand Jurors of LEXINGTON County present upon their oath:

MURDER §16-3-10

That JAMES CHESTER WILLIAMS did in Lexington County, on or about September 15, 1999, willfully, feloniously and with malice aforethought shoot one Kathy Aretha Williams, and that the said Kathy Aretha Williams died as a proximate result of the shooting in Lexington County on or about September 15, 1999, in violation of Section 16-3-10 of the South Carolina Code of Laws of 1976, as amended.

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

J. Carroll

Deputy SOLICITOR

113

0045

WITNESSES

LCSD

McIntosh

DOCKET NO. 2000-GS-32- 689

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

JANUARY TERM 2000

THE STATE

vs.

JAMES CHESTER WILLIAMS

ARREST WARRANT NUMBER

G-213779

ACTION OF GRAND JURY

CHUE BILL
George M Thomas Jr.

Foreperson of Grand Jury

Date: *1-17-2000*

VERDICT

CDR# 116

Indictment for

MURDER

§16-3-10

Foreperson of Petit Jury

Date:

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

INDICTMENT FOR
POSSESSION OF A FIREARM DURING THE
COMMISSION OF A VIOLENT CRIME
§16-23-490

At a Court of General Sessions, convened in JANUARY, 2000 the Grand Jurors
of LEXINGTON County present upon their oath:

POSSESSION OF FIREARM OR KNIFE
DURING COMMISSION OF A VIOLENT CRIME
§16-23-490

That JAMES CHESTER WILLIAMS did in Lexington County on or about
September 15, 1999, possess a firearm during the commission of a violent crime, to wit:
Murder, in violation of Section 16-23-490 of the South Carolina Code of Laws of 1976,
as amended.

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

J. Canell
Deputy SOLICITOR

115

0043

WITNESSES

LCSD

McIntosh

DOCKET NO. 2000-GS-32- 688

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

JANUARY TERM 2000

THE STATE

vs.

JAMES CHESTER WILLIAMS

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

George M. Thomas Jr.

Foreperson of Grand Jury

Date: *1-17-2000*

VERDICT

Foreperson of Petit Jury

Date:

CDR# 549

Indictment for

POSSESSION OF A FIREARM DURING
THE COMMISSION OF A VIOLENT
CRIME

§16-23-490

DONALD V. MYERS, SOLICITOR

MTI390D

SCDC OFFENDER MANAGEMENT SYSTEM

07/14/98 116
C023981

MCOMITA

RELEASE DATE SCREEN

SCDC# > 9282929

LOC: LIEBER

WILLIAMS, JAMES CHESTER

SCDC CLASSIFICATION... VIOLENT

OFFENDER TYPE... ADULT-STRAIGHT SENTENCE SEXUAL PREDATOR... NOT APP
DNA STATUS... COMPLETED

TOTAL SENTENCE... 030-00-000 CONSECUTIVE SENTENCE... N
CURRENT SENTENCE... 030-00-000 CURRENT SENT START DATE: 09/16/1999

PROJECTED COMPLETION DATES
MAXOUT DATE... 09/08/2029 CURRENT EWC... 3 F 5
YDA SIX YEAR DATE: / / CURRENT EEC... NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED... 000000 LABOR CREW/WORK PROB DATE: 99/99/9999
TOTAL EARNED WORK CREDITS... 000328 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS... 000000 OFFENSE > CAT 3
TOTAL EXTRA EARNED CREDITS... 000
TOTAL SERVICE TIME EARNED... 001380

PFKEYS: 5: HISTORY OF DATE CHANGES

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 17
INDICTMENT/CASE#

COUNTY OF Wright
STATE VS

2000 GS- 32 - 689

AKA James Chester Williams

A/W# 6213779

Race B Sex M Age 49

Date of Offense 9.15.99

DOB 12/23/52 SS#

S.C. Code § 16.3.10

Address: 4305 Leeds Street
Cole, SC 29210

CDR Code #: 1/1/16

DL# SID# SC00704535

CASE RESTORED

SENTENCE
 PLEA TRIAL

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

in violation of § 16.3.10 of the S.C. Code of Laws, bearing CDR Code # 1/1/16

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

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
[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant

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.

The Defendant is to be given credit for _____ days/months jail time. from Sept. 16, 1999
 CONCURRENT or CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 set by SCDPPPS _____

mis
PTUP _____
_____ days/hours Public Service Employment
Obtain GED _____
Attend Voc Rehab. or Job Corps _____
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: _____

Recipient: _____
*Fine: _____ \$
§14-1-206 (Assessments 100%) . . . \$
§14-1-211(A)(1) (Surcharge) . . . \$ 100.00
§14-1-211(A)(2) (Surcharge) . . . \$
§56-5-2995 (DUI Assessment) . . . \$
3% to County (if paid in installments) . . . \$
TOTAL . . . \$ 100.00

[Signature]
Clerk of Court/Deputy Clerk

PRESIDING JUDGE [Signature]
Judge Code: 0101612
Sentence Date: 3/21/02

James C Williams
248 Gold mine HWY
Kershaw South Carolina 29067

RECEIVED

OCT 16 2015

SC Court of Appeals

South Carolina Court of Appeals
Jenny Abbott Kitching Clerk
Post Office Box 11629
Columbia South Carolina 29211