

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

Deadra L. Jefferson, Circuit Court Judge

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S.C. Supreme Court

REGINALD SHEFTALL,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000781

APPENDIX

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1 STATE OF SOUTH CAROLINA)

2 COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS

3 The State,)

4 -vs-)

5 Reginald Charles Sheftall,)

6 Defendant.)

TRANSCRIPT OF RECORD

2010-GS-42-5722; -5724

December 12, 2011

Spartanburg, South Carolina

10 B E F O R E:

11 HONORABLE J. MARK HAYES, II, JUDGE

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

15 BARRY JOE BARNETTE, ESQ.

16 Attorney for the State

17 TONYA JONES, ESQ.

18 Attorney for the Defendant

23 Margaret A. Woods

Circuit Court Reporter

24 ORIGINAL

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1 (State's Exhibit Nos. 1 through 12 marked for
2 identification.)

3 MR. BARNETTE: May it please the Court, Your Honor. This
4 case State vs. Reginald Sheftall, he's pleading guilty to the
5 following four charges, Your Honor, that's 10-GS-42-5724, Your
6 Honor, which is burglary in the first degree; 10-GS-42-5722
7 it's under A, Your Honor, we had to amend this indictment,
8 Count One's attempted murder and then Count Two is possession
9 of firearm or a knife durin' the commission of violent crime
10 then 10-GS-42-573, Your Honor, is violation of order a
11 protection, all these been true billed to the grand jury, Your
12 Honor, this is a straight up plea. He is rested [sic]
13 Ms. Tonya Jones in this case, Your Honor. I do have 11
14 exhibits, Your Honor, that I've shared with the defense and
15 I'll be -- do you want me to announce those at this time, Your
16 Honor?

17 THE COURT: (No audible response.)

18 MR. BARNETTE: Your Honor, Exhibit 1, Your Honor, is a
19 copy of the incident report, parta the incident reports
20 involved in this case and it consists of five pages, it's from
21 two different officers in the case, Investigator Bryant's
22 notes are the bottom three, Your Honor, Detective Bradley's
23 notes or or Inv. -- or Officer Bradley, Deputy Turner's
24 incident report's the first two pages a that, Your Honor;
25 Number 2, Your Honor, is Brittney Miller's written statement

1 consists of two pages, the victim in this case; State No. 3,
2 Your Honor, is a 1-page statement given by Jacqueline Cash,
3 she was the lady that took him from Greenville County to
4 Boiling Springs where this occurred at; State Exhibit 4, Your
5 Honor, is Marcus [sic] White, Your Honor, he was actually in
6 an apartment complex at 2 -- at Outlook Drive in Boiling
7 Springs here in Spartanburg County and he heard the shots, the
8 one he witnessed in the case; State Exhibit 5, Your Honor, is
9 Nicol Sanders, it consists of three pages, she was the lady
10 that he'd actually after this incident occurred got a cab,
11 drove back to Greenville to McAlister Square and she's the one
12 actually went there and picked him up, paid for the cab ride
13 and where she took him from there; Statement No. 6, Your
14 Honor, is actually a 3-page statement by Kendrik [sic] Goodard
15 [sic], Your Honor, in this case, he was the gentleman that
16 took Mr. Sheftell [sic] to Laurens County after this incident,
17 Your Honor; State Exhibit 7, Your Honor, is a copy of the
18 order of protection of him prior to this incident in Florence
19 County, Your Honor, and it consists of three or four pages;
20 State Exhibit 8, Your Honor, is a picture of the victim Ms.
21 Miller, her face after the incident occurred; State Exhibit
22 9, Your Honor, is a picture of her shoulder where she was
23 actually shot at by the defendant in this case; State Exhibit
24 10, Your Honor, is a copy of the wound to her neck where he
25 actually shot her in the back of the neck, Your Honor; State

1 Exhibit 11, Your Honor, is a co -- is a picture of the baby
2 carriage where the child was in, Your Honor, at the time, and
3 State Exhibit 12, Your Honor, is a copy of the competency
4 evaluation that was done on the defendant in this case, Your
5 Honor, and it consists of eight pages and
6 Dr. Gassen was the one that did that report, Your Honor. I'd
7 like to make these parta the record, Your Honor, parta the
8 facts of the case when I read the facts in the case, Your
9 Honor, and I'll hold onto these till I read the facts at that
10 time, Your Honor, if that's okay.

11 THE COURT: Alright, any objection to those becoming
12 exhibits?

13 MS. JONES: No, Your Honor.

14 THE COURT: Thank you. You are are Mr. Shetfell?

15 THE DEFENDANT: Sheftall.

16 THE COURT: Sheftall?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Sir, if you would, please raise your right
19 hand and let the clerk of court swear you in.

20 REGINALD CHARLES SHEFTALL, having
21 been first duly sworn, testified as follows:

22 EXAMINATION BY THE COURT:

23 Q. Alright. Thank you, sir. Sir, were you able to hear the
24 solicitor when he announced the four charges that are against
25 you?

1 A. Yes, sir.

2 Q. The manner in which he announced those charges to me is
3 that consistent and the same as what you understand you're
4 entering pleas to today?

5 A. Yes, sir.

6 Q. Alright. I mean, it's a -- they've given me a a charge
7 of violation of court order protection, of burglary in the
8 first degree, attempted murder, and possession of a weapon
9 during the commission of a violent crime; those are the
10 charges you intend to plead to?

11 A. Yes, sir.

12 Q. Alright. Alright, sir, if ever durin' this process if
13 you wish to speak to your lawyer, you just let me know and
14 I'll allow you to talk to your lawyer in private, okay?

15 A. I appreciate it.

16 Q. How old are you, sir?

17 A. I am 23.

18 Q. How far did you go in school?

19 A. I went four years at -- to Francis Marion University.

20 Q. Did you get a degree from Francis Marion?

21 A. I was -- I just -- I was about to finish this happened.

22 Q. Are you married? single? divorced? widowed?

23 A. No, I'm single, sir.

24 Q. Do you have children?

25 A. Yes, sir.

1 Q. How many?

2 A. I got one.

3 Q. How old?

4 A. She is 19 months.

5 Q. Prior to being arrested on these charges did you have a
6 job outside of the home?

7 A. Yes, sir, I worked at Francis Marion University over the
8 custodian staff (interrupted by cough) management, oh, and the
9 Boy Scouts at Butler Road in Greenville.

10 Q. Ever serve in the military?

11 A. No, sir.

12 Q. And on these charges how long have you been in jail?

13 A. Since June 19th 2010, 17 months, 3 weeks today, sir.

14 Q. Within the last twenty-four hours have you consumed any
15 type of substance that is adversely or negatively affecting
16 your ability to understand what we're doing today?

17 A. Oh, no, sir.

18 Q. Have you ever been treated for any type of substance
19 abuse for a drug or alcohol problems?

20 A. Oh, no, sir.

21 Q. Are you satisfied with the work that your lawyer has
22 done?

23 A. Yes, sir.

24 Q. Feel like you've had enough time to talk to her about the
25 legal elements of the charges that are against you, the facts

1 behind these ca -- your case and also any possible defenses
2 you might have?

3 A. Oh, yes, sir.

4 Q. Has anybody, has anybody come to you and made any threats
5 to you or have they made any promises to you in order to get
6 you to make the decision to enter the pleas to these
7 charges?

8 A. Oh, no, sir.

9 Q. I am correct in concluding that your decision to enter
10 the plea to these charges is a free and voluntary decision on
11 your part?

12 A. Yes, sir.

13 Q. Sir, I need for you to understand that under the law you
14 are presumed innocent of every one of these charges and you
15 are entitled to have a jury trial on any or all of these
16 charges. At any jury trial that would take place, it would be
17 the State that has the burden of proof and the State would
18 have to convince all twelve members of a jury that you are in
19 fact guilty beyond a reasonable doubt of these charges. Now
20 do you wish to have a jury trial on any of these charges?

21 A. No, sir.

22 Q. Sir, I need for you to understand that there are other
23 very important constitutional rights that you are entitled to
24 but that you have to give up in order to enter these pleas: Ya
25 have to give up your right to confront and cross-examine the

1 State's witnesses, you also have to give up your right to
2 present evidence which you or your lawyer may feel would
3 establish a defense to these charges, you also have to give up
4 your right of subpoena and you also have to give up your right
5 to remain silent; do you understand all those rights?

6 A. Yes, sir.

7 Q. And you wish to give up all those rights and go forward
8 with these pleas?

9 A. Yes, sir.

10 Q. Alright, sir, if you would, I need for you to please
11 listen to the solicitor, he's going to tell me the facts
12 behind these cases and then I'll have some more questions for
13 you so please listen to the solicitor.

14 A. Okay.

15 MR. BARNETTE: Thank, Your Honor, this occurred on June
16 9th 2010, Your Honor, it occurred at [REDACTED]
17 [REDACTED] Your Honor, Boiling Springs in Spartanburg
18 County. At that time the victim in this case, Brittney
19 Miller, she had moved back from Francis Marion, she'd had
20 prior instances with the defendant down there, a matter of
21 fact, there was charges in Florence County that's not part of
22 this plea whatsoever, that she had also got a restraining
23 order in this case, Your Honor, in Florence, she had moved
24 back with her mother in this case, Ms. Miller, and she was at
25 the apartment. That day Mr. Sheftall met with Jacqueline Cash

1 and some of her cousins, asked her to drive her over t --
2 drive him over to Boiling Springs to the apartment complex,
3 Your Honor. As they got outta the car, he was wearing a
4 hoodie, Your Honor. Ms. Cash and the other witnesses in the
5 car also told me that that they saw him wearin' a hoodie,
6 didn't think anything about it. As she went up to the door,
7 she went to knock on, he went around the corner said, I'd like
8 to surprise her, knocked on the door. At the time Ms. Miller
9 thought that they may have went to the wrong door 'cuz she had
10 saw the girl had crossed their sliding glass door outside the
11 patio, she cracked the door open, as she did she was talkin'
12 to Ms. Cash, the defendant came around -- came through the
13 door, shot her in the shoulder, Your Honor, then asked, Why
14 are you doin' this, where's my child, and durin' that time he
15 went for their baby. They had a child in common at that time,
16 the baby was 6 weeks old. She stood between him. She got in
17 a fight with him pushin' and shovin' from there, Your Honor,
18 that's when the suspect hit him in -- hit her in the face with
19 a closed fist. She started fightin' back, they both fell on
20 the couch. The victim got up, went for her child, that's when
21 she heard the second gunshot. She tried to get herself, the
22 child out the screen door. Durin' this time, she saw him mess
23 with the gun tryin' to get it to work. He pointed the gun at
24 his own head and pulled the trigger, it didn't go off. This
25 time she was able to get the screen door open, pulled the baby

1 outside, the baby was sittin' in the play seat at the time and
2 Reginald began tryin' to pull the child back inside the
3 apartment, the victim's pulled the child outside the
4 residence, Your Honor. The victim began screaming, Call 911,
5 someone call 911 and Reginald came and hit her on her head
6 getting Conner (phonetic) to fall to the ground, the child
7 fell outta the seat, the apartment manager came outside and
8 began screamin' at the defendant, Your Honor, he got out and
9 ran behind the apartment building, the victim was able to get
10 someone to call 911 and she was later taken to the hospital
11 for that, Your Honor. In this case, Your Honor, I've got all
12 the exhibits, I'm not gonna go through all the facts, I'd just
13 like to make them parta the facts in the case, Your Honor. If
14 I can pass that up to the Court.

15 (Whereupon, counsel handed the exhibits to the Court.)

16 EXAMINATION BY THE COURT:

17 Q. Sir, were you able to hear the solicitor when he told me
18 the facts that are behind the charges against you?

19 A. Yes, sir.

20 Q. The manner in which he stated the facts to me do you
21 believe that he is substantially correct?

22 A. I'm leave that up to my my my attorney I believe.

23 (Attorney/client discussion held off the record.)

24 Yes, sir.

25 Q. So you do believe that he's substantially correct in

1 regards to the facts?

2 A. Yes, sir.

3 Q. Alright. And let the record reflect that prior to taking
4 the bench the the attorneys came and provided me with copies
5 of these exhibits so I have actually reviewed these exhibits
6 as well.

7 A. Okay.

8 Q. Sir, do you understand that on the burglary in the first
9 degree charge that I could sentence you between 15 years to
10 life on that charge?

11 A. Yes, sir.

12 Q. And, sir, do you also understand that that particular
13 charge carries a classification of both violent and most
14 serious?

15 A. Yes, sir.

16 Q. And you have been able to talk to your lawyer as to the
17 consequences and ramifications of that offense being
18 classified as both a violent and most serious offense?

19 A. Yes, sir.

20 Q. And understanding the possible sentence I could impose as
21 well, as well as the ramifications of those two
22 classifications, you still wish to enter the plea to the
23 burglary in the first degree charge?

24 A. Yes, sir.

25 THE COURT: Attempted murder carries?

1 MR. BARNETTE: Zero to 30, Your Honor.

2 EXAMINATION BY THE COURT:

3 Q. Sir, do ya understand that on the attempted murder charge
4 that that carries a potential sentence of could be up to
5 30 years on that charge?

6 A. Yes, sir.

7 Q. Sir, do ya understand that that charge as well is
8 classified as both a violent and also a most serious offense?

9 A. Yes, sir.

10 Q. And again, you've been able to talk to your lawyer as to
11 the consequences and ramifications of that offense being
12 classified as both a violent and most serious offense?

13 A. Yes, sir.

14 Q. Understanding the possible sentence of up to 30 years on
15 the attempted murder as well as the ramification of the
16 classifications of violent and most serious, you still wish to
17 enter the plea to that charge as well?

18 A. Yes, sir.

19 THE COURT: And a violation of a order a protection?

20 MR. BARNETTE: That's 0 to 30 days, Your Honor.

21 EXAMINATION BY THE COURT:

22 Q. Sir, do ya understand that on that particular charge the
23 violation of the order of protection that that carries up to
24 30 days?

25 A. Yes, sir.

1 Q. You still wish to enter a plea to that charge as well?

2 A. Yes, sir.

3 Q. And, sir, do ya understand that on the possession of
4 weapon during the commission of a violent crime ---

5 MR. BARNETTE: Zero to 5 years, Your Honor.

6 EXAMINATION BY THE COURT:

7 Q. --- ya understand that that carries a possible sentence
8 of up to 5 years?

9 A. Yes, sir.

10 Q. And with that understanding you still wish to enter a
11 plea to that charge as well?

12 A. Yes, sir.

13 Q. Sir, are you in fact guilty of the burglary in the first
14 degree charge?

15 A. Yes, yes, yes, sir.

16 Q. And are you also guilty of the attempted murder charge?

17 A. Yes, sir.

18 Q. And are you also guilty of the possession of weapon
19 during the commission of a violent crime?

20 A. Yes, sir.

21 Q. Are you also guilty of the charge of the violation of the
22 court order of protection?

23 A. Yes, sir.

24 Q. You been able to hear all a my questions?

25 A. Yes, sir.

1 Q. Have all of your answers been truthful and honest?

2 A. Yes, sir.

3 THE COURT: Discovery's been shared with the defense?

4 MR. BARNETTE: Yes, sir.

5 THE COURT: Prior record?

6 MR. BARNETTE: None, Your Honor.

7 THE COURT: Did anyone wish to address the Court on
8 behalf of the victim?

9 MR. BARNETTE: Yes, sir, if I could have everybody stand
10 at first and then ask the three folks who's wantin' to ---
11 everybody here on behalf of the victim please stand.

12 (Whereupon, the people in the gallery complied.)

13 MR. BARNETTE: Thank ya'll, please have a seat. Your
14 Honor, Sharon Miller would like to address the Court first,
15 that's the mother of the victim in this case.

16 THE COURT: Alright, just if you would, just come
17 forward. Ma'am, I just need to let you know we are making a
18 recording of everything that happens here and so please speak
19 up loud enough so that both I and the court reporter can hear
20 you and if you will, just start by givin' us your full name.

21 MS. MILLER: Sharon Veronica Miller.

22 THE COURT: Yes, ma'am, Ms. Miller, be more than happy to
23 hear from ya.

24 MRS. MILLER: There's been a lotta lives torn apart by
25 this incident and in order for my daughter and her baby to be

1 safe he needs to get the max on each count so they can be safe
2 later in life also. I don't blame his family because they
3 they're going through some things too but if you could please,
4 I don't know, if he he needs help so this won't happen to
5 someone else if he does get out but he's been nothin' but
6 good, you know, to Reggie over a period a time. I don't know
7 why it happened, we might never know and that I just feel
8 sorry for him also, that's it.

9 THE COURT: Thank you, ma'am.

10 MR. BARNETTE: Your Honor, Charlie Miller would like to
11 address the Court next, he's the father of the victim in this
12 case.

13 THE COURT: Sir, if you will, just be sure you speak up
14 loud enough so that both the court reporter and I can hear you
15 and start by givin' us your full name.

16 MR. MILLER: My name is Charlie Darnell Miller.

17 THE COURT: Yes, sir, Mr. Miller.

18 MR. MILLER: Your Honor, I just want to to share briefly
19 the account that day when I heard the news that my daughter
20 had got shot in the face and the effects that it has, that it
21 has caused me up until the date because even through this
22 hearing right here I've rehearsed it over and over in my mind
23 while I've been sittin' in in this, in this seat here and, you
24 know, just the, just the thoughts of somebody calling you
25 telling you that your daughter have been shot in the face and

1 not knowing whether she's alive or dead, not knowing whether
2 your granddaughter is alive or dead because nobody had that
3 information and me drivin' from North Spartanburg all the way
4 to Boiling Springs through that whole process and then drivin'
5 to the hospital and waitin' about forty minutes before they
6 could tell me anything, it was terri -- it was a terrible
7 situation. Through this process my daughter's been affected,
8 my whole family has been affected. My mother at 80-years-old
9 was affected because they also called her that same day. This
10 was a day directly after I lost my brother, we buried him the
11 previous day which my mother had lost her son and buried him
12 that previous day and then she heard the news that her
13 granddaughter had got shot in the face. I aks the Court that
14 he receive the maximum penalty for what he has done for to my
15 daughter and for our family. Thank you.

16 THE COURT: Thank you, sir.

17 MR. BARNETTE: Your Honor, just to clarify somethin'
18 Mr. Miller mentioned: They originally thought she was shot in
19 the face 'cuz she'd been hit with a hole there but they found
20 out later it was from the impact of bein' hit with the gun,
21 was actually shot was the backa the neck and the shoulder.
22 Ms. Miller would like to address the Court, Your Honor.

23 THE COURT: Ma'am, if you would, I just need to let you
24 know just please speak up loud enough so that both the court
25 reporter and I can hear you and if you would, start by givin'

1 us your full name.

2 MS. MILLER: My name is Brittney Darniel Miller.

3 THE COURT: Yes, ma'am, Ms. Miller.

4 MS. MILLER: To give everybody a little bit of a
5 background story of what actually happened in that room,
6 previously before that when I left Florence I was pregnant
7 with my child, 9 months pregnant, the night that the incident
8 happened in Florence he said, you know, he would just wait and
9 kill me after the child was born so yes, I -- he -- well I
10 knew so he did go to jail for that, spent one night in there,
11 got out the next day. I was aware, I kept myself protected at
12 the time. After I had the child I made the decision it was
13 botherin' me to have the possibility that I might have to take
14 somebody's life because the law didn't protect me so I made a
15 decision to put the weapons away. When that knock on the door
16 happened that day, my first instinct was to fight for my
17 child, it wasn't for me. I didn't fight for myself that day,
18 it was for her. If I had died in that parking lot that day, I
19 was fine with that 'cuz I had done everything I had to do on
20 this earth so I thought. I walked away with a gunshot to the
21 head, to the arm, punched in the face with a gun, I got to the
22 hospital, stayed in the hospital a hour and a half and I
23 walked out alive, I walked out, so anything that he tried to
24 do it didn't happen, it wasn't possible. I walked out. The
25 nurses were clapping, a person sayin', I'm sure glad you're

1 walkin' outta here, me too, it's not somethin' that you happen
2 every day. Do I think I'm a miracle? no, but a miracle did
3 happen. Families were affected that day but I'm still here.
4 He's still here. I mean, I could've considered killing
5 somebody just because he wanted to kill me but I I did not
6 wanna do that, I didn't wanna live the resta my life bein'
7 bitter towards somebody because of how he treat me and it's
8 fine, I'm fine with that. I don't hate his family, I don't
9 hate him, it's fine. Every day I continue to strive for
10 greatness, that day I reached a little bitta that. One day I
11 may have to tell my child how I was shot in the head, I was
12 shot in the arm, I was punched in the face by your father but
13 we made it so don't hold a grudge towards him or anybody else
14 because of what happened. I don't want her to use that as a
15 crutch because it's not. It's a situation that happened, we
16 live from it and we'll continue to go on.

17 Next next Fall I will be graduated for USC Upstate with
18 my psychology degree, I will go on to get my master's, I will
19 go onto get my doctorate, none a that matters, not etha -- not
20 even the fact that I walked away with bullet wounds, that
21 doesn't matter, I gave birth to a beautiful little girl, she
22 is now 19-months-old. She will be 2 in April. I got to see
23 almost 2 years of her life already. I'm blessed. I'm not
24 lucky, I wasn't lucky to walk away from that, I was blessed to
25 walk away from that and I'm fine with that and I do, like

1 I -- everybody else says, I do want him to get the maximum on
2 everything because nothing that he has done previously has he
3 been held accountable before. It's time to hold him
4 accountable. You can't just do whatever you want to to
5 people, change lives and affect people and think that you can
6 just walk away, you can't just walk away from this not today,
7 not ever so the time is now for him to be held accountable.
8 In March before I left, I mean, he was -- he went ahead and
9 told me if I ever put him in jail, got married, had another
10 child with that person, when he got outta jail, he would come
11 and kill me and my family, that's not gonna happen. If he's
12 held accountable today, maybe I won't have to worry about
13 that. I don't wanna have to look over my shoulder for the
14 next 30 years because a person wants to take my family away
15 from me, I will not let it happen.

16 MR. BARNETTE: Your Honor, she wanted to show you the
17 wounds there if that's, okay, if she could approach the bench.

18 (Whereupon, the victim approached the bench.)

19 (Whereupon, a discussion was held off the record.)

20 THE COURT: Thank you.

21 MS. MILLER: Thank you.

22 MR. BARNETTE: Thank Your Honor.

23 THE COURT: Anything else from the State?

24 MR. BARNETTE: No, sir

25 THE COURT: Yes, ma'am.

1 MS. JONES: Thank you, Your Honor. As Mr. Shefalt [sic]
2 indicated he has been incarcerated since this incident which
3 was June 19th 2010 and by our calculation that is 541 days
4 towards a sentence in this case, Your Honor, and we are
5 requesting credit for that time.

6 Your Honor, this is a very tragic situation and a tragic
7 case. These are always very hard because emotion runs strong
8 on both sides. I will say on behalf of my client he was a a
9 student at Francis Marion down in Florence County where he
10 started having some mental health issues, I think that there
11 were some issues with this relationship, and he sought out
12 counseling from Dr. Lawson at Francis Marion University. He
13 started that on December 2nd 2009 and continued that
14 counseling until June 2010 shortly before this incident, Your
15 Honor. He did not receive a a a diagnosis at that time but it
16 was somebody to talk with about some of his issues, some of
17 his angsts, some of the relationship issues that he was having
18 at the time with the the victim in this particular case, Your
19 Honor, it's my understanding that they were on again off again
20 and I think eventually in March of 2010 prior to this incident
21 they decided to break up so she was counseling him in terms of
22 that, however, Your Honor, his mental health did take a turn
23 for the worst and he was -- he actually presented himself and
24 he was committed to Carolina Health Systems in Florence County
25 from February 22nd 2010 to 3/22/2010 when he was released. He

1 was given some antidepressants and told to go back to the
2 hospital if he did have any other suicidal and/or thoughts of
3 hurting people, that was the basis for his commitment at the
4 time and again it was voluntary. He felt like he was
5 unstable, he wasn't thinking clearly, he was very angry
6 thinking bad thoughts and he decided he didn't want to go
7 along with any of those thoughts so he should commit himself;
8 he was kept there. He eventually returned then to Greenville,
9 he felt that he wasn't doing very well again at his mother's
10 residence and he went back to the Greenville Hospital Sys --
11 System on March 24th 2010 to April 5th 2010 and then they
12 transferred him to Marshall Pickens until approximately March
13 8th 2010 so he
14 could be evaluated and again he was put on some
15 antidepressants and told to continue with his counseling with
16 Dr. Lawson which was a hardship on him because Dr. Lawson was
17 in Florence County but he did attempt to continue that
18 counseling, Your Honor, but he just unfortunately still wasn't
19 real right.

20 The day of the incident or maybe perhaps the day before,
21 I think it was the day of the incident, Your Honor,
22 Mr. Shefalt [sic] was home, he got the mail and there was a
23 letter from Ms. Miller in the mail addressed to his mother.
24 Of course he, curiosity got the best of my client, he opened
25 it up and it was a basically a letter saying, I don't want

1 anything more to do with your son, I've just done, we've had
2 it, this is it, you know, whatever happens happens, you can
3 have a relationship with the child but as far as Mr. Shefall
4 [sic] is concerned it's done. My client didn't take it very
5 well, for a lack of a better term he snapped, that certainly
6 we're not trying to make excuses here, Your Honor, and in
7 regard to that I did have him evaluated to determine whether
8 or not the insanity defense was applicable in this particular
9 case. We did receive that evaluation back a couple weeks ago
10 and it indicated that that would not been applicable, that he
11 did know right from wrong at the time so that would not have
12 been a defense in this particular case, Your Honor.

13 During the heat of this moment, Your Honor, when the gun
14 he shot her, he actually attempted to shoot himself and the
15 gun misfired, it didn't work and you also heard from
16 Ms. Miller indicated looked like he was fiddling with the gun
17 and it wasn't going off. I suspect probably that this was
18 attempt for a murder-suicide or something along those lines,
19 Your Honor. He just was so distraught and so unhappy, he
20 sought out help numerous times, nobody was -- just wasn't
21 getting the appropriate help, Your Honor, and eventually after
22 all of this happened everything settled down. My client
23 actually turned himself into the jail, Your Honor, a few days
24 after this incident where he has been ever since. As
25 Mr. Barnette indicated, we did have him evaluated as well for

1 competency and that came back that he was competent for trial.

2 While he has been in in jail, Your Honor, he's indicated
3 to me that he's been returning to his religious upbringing, he
4 was rage -- raised in the church, came back to that to try and
5 find some inner peace, Your Honor, and to deal with some of
6 his anger issues and I did show Mr. Barnette as well two
7 letters from folks from the community who couldn't be here
8 today indicating or character witnesses for Mr. Shefelt [sic]
9 as well as the fact that he's done programs in the jail: the
10 Four Freedoms as well as Violence is Never the Answer,
11 basically have rotating 6-week programs that he tries to to do
12 and to go to, they're constructive, they keep his time
13 occupied and it also makes Mr. Shefall [sic] a better person,
14 I'd like to hand those up to Your Honor.

15 MR. BARNETTE: And, Your Honor, I've seen 'em.

16 THE COURT: That's alright, put 'em up here.

17 (Whereupon, counsel handed the documents to the Court.)

18 MS. JONES: He also has two people in the audience as
19 well as Mr. Cheek who's counseled him in the jail to speak and
20 if I may, Your Honor, I'd like to call up his mom.

21 THE COURT: Alright, give me just a moment.

22 MS. JONES: Okay. Thank you.

23 (Pause.)

24 THE COURT: Alright, I've reviewed the documents
25 submitted to me by the defense. You say you did have -- his

1 mother wished to address the Court?

2 MS. JONES: Yes, sir.

3 THE COURT: Just come right up here beside Ms. Jones if
4 you would, ma'am. Ma'am, I just need to let you know we are
5 makin' a recording of everything that happens so when you
6 speak, speak up loud enough so that both the court reporter
7 and I can hear you and if you would, start by givin' us your
8 full name.

9 MS. BLUFORD: My name is Caroline Bluford (phonetic).

10 THE COURT: Yes, ma'am, be more than happy to hear from
11 you.

12 MS. BLUFORD: Yeah, I'm I'm Reggie's mom. It has been a
13 trying time for all of us and I'm sorry for what have
14 happened, you know, to Brittney family, whatever. My son has
15 he's been, he's been a good kid, you know, he ha -- he has
16 times, you know, when things are goin' wrong, whatever but
17 he's able to deal with certain things. There was times when
18 he would, he didn't know what to do or how to handle a
19 situation but he learned to know now how to handle things a
20 different way. I raised him up in a, in a church home and I
21 tried my best to raise him. I remarried, my husband and my
22 daughter's here too as well and all I wanna do is ask for, you
23 know, ya'll could show mercy on him because he has been a good
24 kid. He made wrong choices at the time but he has been a good
25 kid and I raised him but I didn't -- I raised him the way I

1 could raise him by myself and I think I did a good job in
2 spite a what happened and I ask for jury and to and people to
3 just show mercy, it's not, it's -- I know it's not been right,
4 I feel I've asked them to forgive him and I forgive him for
5 what he done and I ask the jury just have mercy on him because
6 I know he's been a good kid, it's not been easy for me. I
7 lost my mom in '08, this happened '09 and it's been a hard
8 time, you know, so I ask Your Honor just have mercy and I
9 thank you.

10 THE COURT: Thank you, ma'am.

11 MS. JONES: We also have Mr. McCullough who is with the
12 Upstate Father Program who has counseled Mr. Shefalt [sic] in
13 the jail.

14 THE COURT: Okay. Sir, just need to let you know we are
15 makin' a recording so please speak up loud enough so that both
16 the court reporter and I can hear you and just start by givin'
17 us your full name.

18 MR. MCCULLOUGH: Andrew McCullough.

19 THE COURT: Yes, sir, Mr. McCullough, be more than happy
20 to hear from ya.

21 MR. MCCULLOUGH: Yes. I go to the detention center on a
22 weekly basis, it's been about several months now and
23 Mr. Shef [sic] has attend actively based on character building
24 a healthy relationship and all the many topics that we talk
25 about in regards to just getting your life back on track. I

1 think he's shown great leadership, characterability, also he
2 was very knowledgeable in in regards to from a religious
3 principle and other than that he just showed great great
4 character.

5 THE COURT: Thank you, sir.

6 MR. JONES: And I also have Mr. Cheek wanted to say a few
7 words on behalf of Mr. Shefalt [sic] as well, Your Honor,
8 since he has been in jail for a long period of time. This
9 case did not originate with me, it was actually Ms. Hodges so
10 for a little bitta time I think Mr. Cheek was his attorney for
11 a little bit.

12 MR. CHEEK: May may it please the Court, Your Honor.
13 Your Honor, I just wanted to share this with the Court
14 regarding my observations and my associations with Reginald
15 Sheftall and, Your Honor, I feel the Court might want some of
16 that information that may have been reflected in the documents
17 from the psychologists, I'm not certain but, Your Honor, in my
18 counseling with Mr. Sheftall I made certain that when
19 Ms. Hodges was not here there was a bring between that
20 shifting of our staff and associations and and responsibility
21 so I got to know Reginald Sheftall rather well, Your Honor,
22 and I just want the Court please to have some consideration of
23 mercy in this case.

24 Reginald Sheftall was one of those young men who's beated
25 the odds. He was raised in a home his first years of his life

1 in a very abusive and violent home. His mother has chosen not
2 to share all a that with you and that's her personal reasons
3 for not doing that, Your Honor, but he was not only in a home
4 where he watched his mother be physically abused by his father
5 but also emotionally abused and all the children were
6 emotionally abused. This young man early in life was beating
7 the odds, there were episodes in the family that portend what
8 was gonna happen with him at some point needing to get
9 psychological help. Your Honor, in certain elements of our
10 culture people do not trust and believe that there is any
11 validity to mental health counseling. This young man showed
12 signs very early on that while he was achieving and
13 accomplishing there was some serious mental health issues. It
14 was only when he got to Francis Marion University, Your Honor,
15 that there became apparent that he really needed counseling.
16 He sought that counseling, Your Honor, he also when he came
17 back to Greenville sought and continued counseling. His
18 mother went once or twice to the program with him, the
19 counselor for some reason did not think it would important to
20 bring his mother in to explain to her what he was dealing with
21 and what his psychological state was. Your Honor, we don't
22 owe anybody anything in this world but if we're gonna
23 associate with people then I think that we ought to consider
24 what they're going through. This young man was still
25 achieving against the odds despite his mental health issues.

1 Your Honor, the things he shared with me I feel like I'm
2 compelled to share with the Court so that the victim and her
3 father and her family know that to start healing in this case
4 they need to know the impact they had on his life. Charlie
5 Miller was described as him -- by him as the only man who
6 really took an interest in him and Sharon Miller told him,
7 according to his recollection which she can either confirm or
8 deny today, that she saw him and treated him like a son. He
9 loved her, Brittney Miller, he saw this as the opportunity for
10 them to both accomplish young people, achieve something in
11 life. Your Honor, his way of tryin' to achieve that is
12 consistent what the psychologists says about his personality
13 disorder. This young man Reginald Sheftall is ill and I ask
14 the Court to take that into consideration.

15 I have shared with the Court before that one of the most
16 impressive things in my life were some things I learned as
17 early as high school and Alexander Pope said this: Teach me
18 to feel another's woe, to hide that fault I see; that mercy I
19 to others show, that mercy show to me. Your Honor, I feel
20 very connected to the Miller family, they will tell you that
21 Judy Miller the sister of Charlie Miller and I were classmates
22 from first grade to twelfth grade and we sat in the classroom
23 and we both had to learn that under Lowell Taggart, Teach me
24 to feel another's woe, to hide that fault I see; that mercy I
25 to other's show, that mercy show to me.

1 Your Honor, Reginald Sheftall knows he's goin' to prison,
2 he knows he's got to go at least 15 years. If the Court were
3 to be extremely lenient and merciful to him, he's got to be
4 gone for 15 years which means in that 15 years he will not get
5 the things he want to achieve in life, he will not marry and
6 be a husband to Brittney Miller, he will not be a father any
7 particular substance to Colin, he will not be able to be the
8 man that Charlie Miller is that he emulated and wanted to be
9 like, he will not be able to be the son that he thought he
10 would be to Sharon Miller, that won't happen but, Your Honor,
11 durin' that period a time he will hopefully continue to grow
12 spiritually, continue to adopt and grasp the kind of
13 principles that he needs to make it through life. Your Honor,
14 he goes to prison, a part of this community goes with him and
15 I ask the Court to have mercy on this community, Florence,
16 Spartanburg, Greenville, that this young man was ill and that
17 no professionals took the time to really give him the kind of
18 attention that he needed and had he sought after it not once,
19 not twice but three times he tried. I'm asking the Court to
20 have mercy on him so that God will have mercy on us. We
21 failed this young man but it's not too late. It's late but
22 it's not too late and I'm asking the Court to fashion a
23 sentence today that will remove him from this community, place
24 him in a place where he will be required to show that he knows
25 and appreciates that he made a mistake, that he can grow from

1 this experience if he survives it, that he can come out a
2 better man, a productive man. This is not someone who has not
3 tried and not has tried to achieve and move forward in life;
4 he tried. I am asking the Court for mercy and leniency in
5 sentencing not because what he did right, because what he did
6 was wrong. We're asking the Court that he knows that, we know
7 the Court's got to fashion a sentence, we know that he's got
8 to suffer at a penalty for what he did but, Your Honor, this
9 community goes with him and I ask the Court not only have
10 mercy on him, have mercy on us for we as professionals,
11 psychologists, college administrators and family members
12 failed to do. He showed rage before, he was asked to leave
13 his mother's home under the threat of gun. His step-father
14 had to pull a weapon on him. We learn and we grow by the
15 examples we're given. He was left required to leave his home,
16 security of his home, at gunpoint and he thought that's what
17 you do, young man in college, fraternity, honor student, there
18 is redemption here, Your Honor, and I'm askin' by the grace of
19 God that you consider mercy and leniency in sentencing for
20 Reginald Sheftall, for him and for us. Thank you.

21 THE COURT: Thank you, sir.

22 MS. JONES: Thank you, Your Honor.

23 THE COURT: Sir, is there anything that you would like to
24 say or would want me to know or consider?

25 THE DEFENDANT: Yes please.

1 THE COURT: Be more than happy to hear from ya.

2 THE DEFENDANT: I would like to address everybody in this
3 courtroom today. My name is Reginald Charles Sheftall, Jr.,
4 I'm from Queens, New York, I grew up in a abusive home. Every
5 day I I I see my father beat on my mama, drinkin', screamin'
6 at us every day, every day so I was like 6-years-old my mama
7 was about to go to work well the night before and he punched
8 her in the face and she cried and I was hidin' behind a door,
9 hidin', I was scared and I just came from behind the door and
10 stood in fronta my mother because I didn't want nobody hittin'
11 on my mother and my dad told me that's right, you stand up so
12 I thought that's what you supposed to do so I tried to stand
13 up for what I thought was right which was mines which is my
14 child. See, I wanted to be a father, I wanted to have a
15 family, there's nothin' wrong with that to wanna be happy, to
16 wanna have somethin' I never had in my life: a father figure.
17 My father wasn't there, I don't, I don't know where he at
18 today, he's in New York I know that much and just the fact
19 that I just try to be a father to my child and me and m -- and
20 me and Mrs. Miller, Brittney Miller we had two childs
21 together, the first child got tooke away from me by her yes
22 but it was 'cuz a my my wrongdoin's but nobody know about
23 that. There's a lotta things that I kept in inside so when
24 this first child comes I didn't know she left me December 6th
25 2009, her father done came and moved her outta my apartment.

1 We was livin' together happy. A month later I'm prayin',
2 findin' myself tryin' to do whatever I can do to make myself
3 better, be a father although now I aint know I was -- I had a
4 baby at the time, to be a better person, a better man so I get
5 a phone call on June, July, January 14th at 3:34 and somebody
6 said can I send you somethin' so I hang up, I said, no
7 actually I said yes you can. Then I say who's this, they hang
8 up, call back 3:35 and says why you wanna ask who this is, you
9 know already know who this is, it was the mother a my child
10 after she put a restrainin' order on me askin' she just wanna
11 be a part back with me 'cuz she missed me and I thought God
12 answered my prayers, God cried out 'cuz all that's all I
13 wanted was Brittney Miller back in my life 'cuz we did
14 everything together. I treat -- yes her family was like my
15 other family 'cuz when my mother and them they kicked me outta
16 the house wh -- at at at gunpoint only person I could run to
17 was Ms. Brittney Miller and by the grace of God her mother
18 Sharon had mercy upon me and felt my pain. See, Ms. Sharon
19 Miller been through the same thing my mother been through and
20 I know that. Brittney been through the same thing I been
21 through for bein' raised by a step-father who she did not like
22 and I knew that so I aint wanna have that for my child and she
23 didn't want that neither so I just stand here today to just,
24 you know, to say I'm sorry for everything I did. It was wrong
25 and I know it was wrong but only thing I just wanna do is be a

1 father but how can I be a father if I don't know a father?
2 How can I be a provider for family if I don't know a provi --
3 the provider so that's now bein' in here for 17 months I know
4 who my father is, I know who my provider is and all I wanna do
5 is be a mighty man a God, a wonderful dad and a faithful
6 husband. Yes we all make mistakes and I know these past 17
7 months and 3 weeks I paid for all the sins I did in my life,
8 all the sins, every single last one of them bein' locked in
9 that cell, go on recount every bad thing I did in my mind just
10 askin' God to forgive me for every single last one of them,
11 asking God to just touch Brittney and them heart because he
12 knew that I was just tryin' to be a good man, I was tryin' to
13 be a a great man to her same thing my father wasn't to me,
14 same thing her dad was to her but I thank Brittney for keepin'
15 her promise she made to me that first day we at the hospital
16 when we went to to check for the baby, she said that no matter
17 what happens between us, we made this promise to each other,
18 that she will not keep my child away from my family and I just
19 wanna thank her personally for that and I thank her for that
20 for keepin' her promise and I just just wanna say, Your Honor,
21 I'm wrong and I deserve every bitta bit what they ask for,
22 every single bit 'cuz I am guilty. We all mistakes but it's
23 what you do after your mistake that determine your true
24 character and I ask Your Honor that you judge me not by my
25 reputation what it says on that paper, what Barry Barnette

1 read to you, but I ask you that you judge me by my character
2 which God made me to be. Thank you.

3 THE COURT: Thank you, sir.

4 MR. BARNETTE: Your Honor, if I could just add sumtin'
5 for clarification. He was evaluated twice, one time was sent
6 earlier and I think the second time was done by Ms. Jones to
7 let you know, there one -- the first report's been put in the
8 record, just make that for clarification purposes.

9 THE COURT: And the one I had determined competency.

10 MR. BARNETTE: Yes, sir, it's the first one and I think
11 the second one was done by Ms. Jones on that just to let you
12 know.

13 THE COURT: And that report the the professional found
14 that the defense of insanity would not apply.

15 MS. JONES: That is correct, Your Honor.

16 THE COURT: Lawyers approach a moment.

17 (Whereupon, a bench conference was held off the record.)

18 THE COURT: Alright, I'm gonna ask everyone to stand at
19 ease just for a moment, I'm gonna need to step down. We'll
20 come right back.

21 (Whereupon, a recess was taken.)

22 THE COURT: I will find that there's a substantial
23 factual basis for the plea, I also find that the defendant's
24 decision to enter the plea has been made freely, voluntarily,
25 knowingly and intellectually by him, also find that he has

1 received the services from a very competent and able legal
2 counsel, services that he's indicated to the Court he's
3 satisfied with and has relied on in reaching the decisions
4 that he's made, therefore I will accept the plea. On these
5 charges, these will be concurrent sentences on these cases, on
6 the burglary in the first degree it is a 40-year sentence,
7 he'll receive credit for the 541 days, I've indicated on the
8 sentencing sheet that there are mental health issues, that
9 mental health counseling is needed, it is a 30-year sentence
10 on the attempted murder charge, again I run concurrent, gets
11 credit for the 541 days, a 30-day sentence on the violation of
12 the order a protection, he gets credit for the 541 days and a
13 5-year sentence on the possession of a weapon in the
14 commission of violent crime. In the, in the event there is a
15 time when there would be community supervision, I've indicated
16 that there's not to be any contact with the victim, that would
17 be direct or indirect. Good luck to ya, sir.

18 MS. JONES: Thank you, Your Honor.

19 MR. BARNETTE: Thank Your Honor.

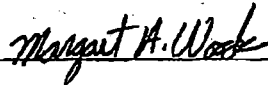
20 (Letters and Four Freedoms information and certificate
21 marked Defendant's Exhibit No. 1 for identification.)
22
23
24
25

CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on December 12, 2011 at the time and place heretofore set forth; and that the foregoing pages numbered from 4 through 37, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

September 20, 2012



Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

FORM 5

STATE OF SOUTH CAROLINA

County of **SPARTANBURG****Reginald Charles Sheftall 348974**

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2012-CP-42-2465

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention **LEE CORRECTIONAL INSTITUTION**
990 Wisacky Highway, Bishopville, South Carolina, 29010
2. Name and location of Court which imposed sentence **Spartanburg County Court**
of General Sessions, Spartanburg, South Carolina, 29303
3. Name(s) of co-defendant(s) (if any) **NONE**
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) **2010-GS-42-05722 -- Attempted Murder -- § 16-03-0620**
 - (b) **2010-GS-42-05722(A) - Poss. Weapon during violent crime - § 16-23-0490**

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(c) 2010-GS-42-05724 - Burglary, First Degree - § 16-11-0311

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

(a) 12/12/11 - 30 years - concurrent - credit for time served (541 days - §24-13-40)

(b) 12/12/11 - 5 years - concurrent - credit for time served (541 days - §24-13-40)

(c) 12/12/11 - 40 years - concurrent - credit for time served (541 days - §24-13-40)

6. Check whether a finding of guilty was made:

(a) after a plea of guilty YES

(b) after a plea of not guilty N/A

(c) after a plea of nolo contendere N/A

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

YES

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

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

i. South Carolina Court of Appeals

ii. _____

iii. N/A

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

i. Appeal denied

ii. _____

iii. N/A

(c) the date of each such result:

i. March 8, 2012

ii. _____

iii. N/A

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

i. N/A

ii. _____

iii. N/A

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

(a) N/A

(b) N/A

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Same as (A) above

(c)

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

(a)

(b)

SEE: ATTACHED

(c)

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

(a)

(b)

SEE: ATTACHED

(c)

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

(a) any petition in a State Court under South Carolina Law? NONE

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NONE

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NONE

(d) any other petitions, motions or applications in this or any other Court? NONE

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

(a) the specific nature thereof:

i.

N/A

ii.

N/A

iii.

N/A

iv.

N/A

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

i.

N/A

ii.

N/A

iii.

N/A

iv.

N/A

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(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

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

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

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

NONE

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

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A

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

- i. N/A
- ii. N/A
- iii. N/A

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

(a) NONE
 (b) N/A
 (c) N/A

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

(a) your arraignment and plea? YES
 (b) your trial, if any? N/A
 (c) your sentencing? N/A
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
NONE

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

(a) the name and address of each attorney who represented you:
 i. Ms. Tanya R. Jones, Esq. Assistant Public Defender
366 N. Church St, Suite 3000, Spartanburg, SC. 29303
 ii. N/A
N/A
 iii. N/A
N/A
 (b) the proceedings at which each such attorney represented you:
 i. arraignment and plea
 ii. N/A
 iii. N/A

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

Withdrawal of Guilty Plea, entered without knowledge and involuntarily

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

I have charges pending, but have not been to Court - Florence County

STATE OF SOUTH CAROLINA)

SPARTANBURG)

County of _____)

VERIFICATION

I, Reginald Charles Sheftall Jr., 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.

Reginald C. Sheftall Jr.
Reginald Charles Sheftall Jr.

SWORN to and subscribed before me this

day of

June

2012

Debra Siner

(L.S.)

Notary Public

My Commission Expires:

11-4-2015

M. HOPE BLACKLEY

2012 JUN 12 AM 9:19

FILED
CLERK OF COURT
SPARTANBURG COUNTY

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

I, Reginald Charles Sheftall, Jr., hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Reginald C. Sheftall Jr.
Applicant

SWORN or affirmed to and subscribed before me this
7 day of June, 2012.

Delma Jones
Notary Public

My Commission Expires: 11-4-2015

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUN 12 AM 9:19
M. HOPE BLACKLEY

ATTACHMENT TO APPLICANT'S
APPLICATION FOR POST-CONVICTION RELIEF

FIRST CAUSE OF ACTION

10(A).....

Applicant was denied the right to effective assistance of counsel - guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and by ARTICLE I, §§ 3 and 14 of the South Carolina Constitution - prior to and during Applicant's guilty plea.

SUPPORTING FACTS

11(A).....

Trial counsel's stewardship prior to and during Applicant's guilty plea was both unreasonable and prejudicial. SEE: STRICKLAND -vs- WASHINGTON, 466 U.S. 668 (1984). Counsel's acts and omissions included, but were not limited to, the following:

1.).....

Applicant's plea of guilty was not "knowingly" or "intelligently" entered, pursuant to BOYKIN -vs- ALABAMA, 395 U.S. 238 (1969), inasmuch as trial counsel failed to, but limited to:

- A. Apprise me to the critical elements of the offenses; nor,
- B. to any direct consequences; nor,
- C. to any waivers to any procedural, jurisdictional or nonjurisdictional defects and defenses; and,

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SPARTANBURG COUNTY
2012 JUN 12 AM 9:51
M. HOPE B. ASKLEY

- D. improperly promised me of a sentence I would receive in return for my plea of guilty; nor,
- E. to the consequences of the sentencing requirements to avoid the two strikes application.

Applicant asserts that there is a reasonable probability that if not for counsel's errors and improper advise, he would have not plead guilty and would have insisted on going to trial. HINSON -vs- STATE, 377 S.E.2d 338 (1989); SHIRLEY -vs- STATE, 411 S.E.2d 215 (1997).

ADDITIONALLY,.... Applicant reserves the right to amend his Application to incorporate any additional issues, if necessary.

APPLICANT FOREVER PRAYS

Respectfully submitted

Reginald Charles Sheftall, Jr.
DOC No: 348974
APPLICANT

This _____ day of _____, 2012.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUN 12 AM 9:45
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
	)	2012-CP-42-2465
Reginald Charles Sheftall, #348974,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed June 12, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the October 2010 term of the Spartanburg County Grand Jury for burglary, 1st degree (2010-GS-42-5724) and attempted murder (2010-GS-42-5722) (amended November 2011 to include charge of possession of firearm or knife during commission of or attempt to commit a violent crime (count 2)). The Applicant was represented by Tonya Jones, Esquire. On December 12, 2011, the Applicant pled guilty before the Honorable J. Mark Hayes II and was sentenced to confinement for concurrent terms of forty years for burglary – 1st degree, thirty years for attempted murder, and five years for possession of weapon during violent crime.

A timely notice of appeal was filed on Applicant's behalf. The South Carolina Court of Appeals dismissed the appeal on March 8, 2012, for failure to demonstrate any issue was raised or ruled upon by the circuit court judge. The Remittitur was returned on March 30, 2012.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, and the appellate court records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to inform Applicant of elements of each offense,
 - b. Counsel failed to advise Applicant of direct consequences,
 - c. Counsel failed "to any waivers to any procedural, jurisdictional and non-jurisdictional defects and defenses,"
 - d. Counsel improperly promised sentence that would be received as a result of guilty plea,
 - e. Counsel failed to advise Applicant of the consequences of sentencing to avoid the two strikes, and
2. Involuntary guilty plea, in that;
 - a. Guilty plea was not knowingly and intelligently entered.

III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

In his second allegation the Applicant alleges that he did not plead guilty freely and voluntarily. The State submits this allegation has no merit. To be knowing and voluntary, a plea

must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The State submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The State submits the Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to this claim, the Respondent submits that the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such.

V.

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

VI.

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

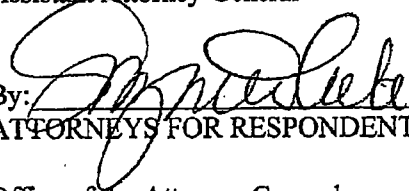
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

July 24, 2013.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT

Reginald Charles Sheftall,

2012-CP-42-2465

Applicant,

v.

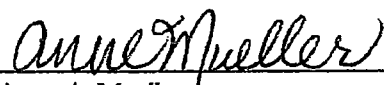
CERTIFICATE OF SERVICE BY MAIL

State of South Carolina,

Respondent.

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

Griffin L. Lynch, Esquire
Harrison White Smith & Coggins, PC
PO Box 3547
Spartanburg, South Carolina 29304



Anne A. Mueller
Legal Assistant for the Respondent

DATED this 24th day of July, 2013.

1 STATE OF SOUTH CAROLINA

2 COUNTY OF SPARTANBURG

} COURT OF COMMON PLEAS NONJURY

3
4 REGINALD CHARLES SHEFTALL,

5 Applicant,

6 vs.

7 THE STATE OF SOUTH CAROLINA,

8 RESPONDENT.

) TRANSCRIPT

) OF

) RECORD

) 2012-CP-42-2465

9
10 January 14th, 2015
11 Spartanburg, South Carolina
12

13 B E F O R E:

14 THE HONORABLE DEADRA L. JEFFERSON, Judge.

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

16 STEPHEN L. DENTON
17 ESQ.
18 Attorney for the Applicant

19 SUZANNE H. WHITE
20 ASSISTANT ATTORNEY GENERAL
21 Attorney for the Respondent

22
23 PAMELA E. GREEN
24 Circuit Court Reporter
25 Seventh Judicial Circuit

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E X H I B I T S

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Tanya Jones - Direct examination
By Ms. White

P R O C E E D I N G S

(WHEREUPON, the following testimony was taken by
phone.)

THE COURT: This is Reginald Charles Sheftall,
2012-2465, versus The State of South Carolina, application
for post-conviction relief.

We're taking the testimony of his trial -- plea counsel
out of order to accommodate her schedule.

Please state -- please raise your right-hand to be
sworn.

TANYA JONES, being first duly
sworn, testified as follows:

THE COURT: And state your full name for the record
spelling your last name for the court reporter.

THE WITNESS: It is Tanya, T-A-N-Y-A, Jones, J-O-N-E-S.

THE COURT: Say that again please.

THE WITNESS: I'm sorry?

THE COURT: Please repeat that.

THE WITNESS: Tanya, T-A-N-Y-A, Jones, J-O-N-E-S.

MS. WHITE: Tanya, I'm sorry. I did something to the
phone.

THE WITNESS: Okay.

THE COURT: Say it one more time.

THE WITNESS: Okay. Tanya, T-A-N-Y-A, Jones,

Tanya Jones - Direct examination
By Ms. White

1 J-O-N-E-S.

2 THE COURT: You may proceed.

3 MS. WHITE: Okay. And thank you, Your Honor. The
4 State will be calling Ms. Jones.

5 DIRECT EXAMINATION

6 BY MS. WHITE:

7 Q Ms. Jones, do you recall representing Mr. Sheftall in
8 this matter?

9 A I do.

10 Q And you were representing him in accordance with your
11 position at the Public Defender's Office here in
12 Spartanburg?

13 A That is correct.

14 Q Okay. The guilty plea was on December 12th, 2011.

15 Do you recall how long you represented him before the
16 guilty plea?

17 A I do not. But I would anticipate or believe it was
18 around a year. I inherited that case from another public
19 defender who left the office.

20 Q Okay. And, at that time, how long had you been
21 practicing law?

22 A I'm sorry. Say that again.

23 Q How long had you been practicing law?

24 A 2011, eleven years.

25 Q Okay. And that's in various, various states, is that

Tanya Jones - Direct examination
By Ms. White

1 correct?

2 A That is correct.

3 Q Okay. And in regards to Mr. Sheftall, he's alleged
4 ineffective assistance of counsel in that counsel failed to
5 inform him of the elements of the offense or of direct
6 consequences.

7 Do you recall any of your conversations with him?

8 A I recall talking about this case with, with him and
9 that would of included going over the elements and what he
10 was charged with.

11 Q Okay. And did you have discovery and have a chance to
12 review that with Mr. Sheftall?

13 A Yes, I did get discovery and I did bring it to the jail
14 on several occasions and we went over it.

15 Q And in, in regards to the facts of the case, what the
16 state had what or what would they present against him?

17 A What was the evidence that they had?

18 Q Yes, I'm sorry.

19 A They had the, the victim who was shot twice. They also
20 had another witness who gave Mr. Sheftall a ride to the
21 apartment of his girlfriend who was later shot. There was,
22 there were other witnesses as well. It wasn't -- this was
23 not going to be a trial case. It never was. The, the
24 evidence was fairly strong against Mr. Sheftall.

25 Q Okay. And, in fact, this was a situation -- you

Tanya Jones - Direct examination
By Ms. White

1 mentioned the victim was an ex-girlfriend of his.

2 So she identified him as the one who shot her?

3 A Yes, and she wrote out a statement.

4 Q Okay. And there was a witness that, that identified
5 him as the person they took to her apartment?

6 A That is correct. That is correct.

7 Q Okay. Now, was he found at or near the scene?

8 Do you recall?

9 A No, I think he'd left the area and he turned himself
10 into the police later on.

11 Q Okay. And in regards to -- you said this was never
12 gonna be a trial.

13 What, what conversations did you have with him and also
14 with the State of trying to work out a plea deal?

15 A Well, initially I had determined in the matter that he
16 was competent and I put that proffer -- the other attorney
17 did not do that. I then had him evaluated to determine
18 whether or not we could do the insanity defense and that was
19 not going to work either.

20 I then spoke with Mr. Barnette who I tried to get a
21 recommendation. Mr. Barnette did not want to do that. He
22 indicated it was basically a life plea or trial.

23 Q Okay. And, and you mentioned -- so he was found
24 competent and not eligible for the insanity defense?

25 A That's correct.

Tanya Jones - Direct examination
By Ms. White

1 Q Okay. In your conversations with him leading up to
2 this plea, did you feel that he understood?

3 obviously there were some issues that led to the
4 evaluation process.

5 But did you feel that he understood what he was facing
6 and what the possibilities of sentencing were?

7 A Yes, I did.

8 Q And did you ever have any conversations with him about
9 consequences of sentencing to -- he, he alleges failure to
10 advise of consequences regarding strikes.

11 Do you recall if you spoke with him about that?

12 A I don't specifically recall the conversations. But
13 that's clearly something I would of talked with all of my
14 clients about. I always inform them what they're charged
15 with, the punishment ranges, and whether it's a violent
16 and/or most serious.

17 Q Okay. And one final question, he's alleged that you
18 promised, improperly promised a sentenced to him.

19 Did you ever promise him a sentence?

20 A No, I never do that.

21 Q Okay. And so when you went to the plea, it was your
22 understanding that he, he understood he faced up to the
23 maximum on all the charges?

24 A He did. We were hoping to get between 20 and 30. I
25 think he ultimately ended up with 40. But, again, we talked

Tanya Jones - Direct examination
By Ms. White

1 about what would be optimistic and what we need to tell the
2 judge to try to mitigate as much as possible, which we did
3 in this particular case. But being hopeful is not saying I
4 promise, I promise.

5 He fully understood that the judge could light him up
6 and we felt that the best way to handle this case was to
7 plead guilty, ask for mercy from the Court, and hope that
8 the judge had mercy.

9 Q Okay. Thank you. That's all I have at this time. I'm
10 gonna turn it over to Steven Denton.

11 A Okay.

12 THE COURT: You may proceed.

13 MR. DENTON: Thank you, Your Honor.

14 THE COURT: You welcome.

15 MR. DENTON: May it please the Court.

16 CROSS-EXAMINATION

17 BY MR. DENTON:

18 Q Ms. Jones, Steve Denton.

19 A Yes.

20 Q First, thanks for taking our call and doing this, first
21 of all.

22 Regarding the critical elements of the offenses, there
23 are three offenses.

24 Do you recall that?

25 A I do. I believe there was attempted murder, and

Tanya Jones - Cross-examination
By Mr. Denton

1 burglary first degree, and I think possession of a weapon
2 during a violent crime.

3 Q And all three of those offenses, I think you've already
4 testified, that you apprised -- you, you let Mr. Sheftall
5 know what each element of each crime was and what the state
6 had to prove.

7 A Right.

8 Q Correct?

9 Okay. And did you also advise him of the amount of
10 time that each, you know, the, the lowest amount, the
11 maximum amount of time that each carried?

12 A Yes. Yes, that would of been standard.

13 Q Okay. And so for burglary first, you would of told him
14 I suspect---

15 A Fifteen to life.

16 Q Fifteen to life.

17 And on the weapons charge?

18 A I think that's another five if memory serves me
19 correctly.

20 Q That's right.

21 And then attempted murder?

22 A Zero to thirty.

23 Q Okay. When you let him know that, did he understand
24 that in your estimation?

25 A The time, yes, I mean we---

Tanya Jones - Cross-examination
By Mr. Denton

1 Q Right.

2 A ---talked about how very serious this was, that the
3 State had an overwhelming case, which is why I was trying to
4 do the best I could with some of the mental health issues
5 that Mr. Sheftall had.

6 Q So you started the, the process of, of having him
7 evaluated, correct?

8 A That's correct.

9 Q And it -- is it also correct that the evaluation came
10 back that he was both competent to stand trial and that he
11 understood right -- legal right from legal wrong?

12 A Yes, that is correct.

13 Q Okay. Regarding any direct consequences and other
14 allegations made in his application, I think your testimony
15 is you don't recall having those conversations, but it would
16 be standard for you to do so, but you just can't recall
17 whether or not you, you actually did it?

18 A Well, yeah, but, again, that's standard stuff. I'm
19 still a public defender in Oklahoma County now and that's
20 just standard. You always advise people of what they're
21 charged with. You go over what the State needs to prove and
22 you tell them how much time they're going to do potentially,
23 their, their punishment ranges. That's just 101.

24 Q Okay. Regarding -- let's, let's go to the
25 investigation of the case and what your obligations are

Tanya Jones - Cross-examination
By Mr. Denton

1 there and duties.

2 Do you remember what kind of time you spent actually
3 investigating the case?

4 A No, I don't. I recall going through it certainly and
5 going through it several times with Mr. Sheftall and it was
6 not -- it was not a good case.

7 Q When you say it's not a good case, could you elaborate?

8 A Well, the -- I think her name was Ms. Miller, Brittany
9 Miller, positively identified him as the person who shot her
10 trying to say that maybe there was a friend of his from
11 Greenville who actually gave him a ride to her apartment.
12 He indicated that or, I'm sorry, she indicated that he
13 wanted to see Ms. Miller, he wanted to see the baby, and
14 that Ms. Miller wasn't letting him see the baby.

15 So they went up -- she -- I'm sorry. I have a little
16 bit of a cold. She then indicated that Mr. Sheftall asked
17 her to go up and knock on the door because if she saw him
18 she probably wouldn't open the door. So this friend knocked
19 on the door, and as soon as Brittany opened the door, the
20 client, according to these two witnesses, burst in, an
21 argument kind of ensued, he shot her, and I think he punched
22 her in the face or he hit her with the weapon, shot her
23 again, and then tried to kill himself.

24 Q Okay. Ms. Jones, also, in regards to any SLED reports,
25 obviously that's a part of the discovery package that I

Tanya Jones - Cross-examination
By Mr. Denton

1 think you have, did you specifically go through those SLED
2 reports like regarding a DNA sample that was taken?

3 A I don't specifically recall that. I did see that when
4 I was preparing for this, but, again, if I had it in my
5 possession I would of shared that with Mr. Sheftall.

6 Q Okay. And you don't have that in front of you now,
7 correct?

8 A No, I don't, but I can find it if you want me to.

9 Q No, that's okay. I'll move along.

10 During the plea, are you aware of anytime that, that
11 maybe there should of been or could of been some objections
12 as to the statements made by the victim during the plea?

13 A I don't recall anything specifically.

14 Q Okay. Did y'all talk about that prior, that if she
15 said maybe something that, that, that you would try to
16 object and kind of keep that off the record?

17 A I don't remember any issue with her testimony.

18 Q Okay. Regarding the discovery, once you received it --
19 after you received it, how long was it before you actually
20 went to the Spartanburg County Detention Facility and meet
21 with Mr. Sheftall and share all that discovery with them?

22 Do you remember that?

23 A I don't have any specific recollection of that.
24 Usually I kept pretty good notes in my office on or defender
25 data and that information was not provided to me.

Tanya Jones - Cross-examination
By Mr. Denton

1 Q okay.

2 A But I don't know -- again -- and I have no idea of --
3 Kathy Hodges had the case before me and I have no idea what
4 she did cause I, I made certain, when I got the case, I
5 already had discovery and it was before me already, but,
6 again, it was six to eight months in.

7 Q Okay. Prior to the plea, at -- if we know that the
8 plea was on December the 12th of 2011---

9 A Uh-huh. (Affirmative).

10 Q ---you don't recall the actual date or have any notes
11 that would tell you when you would of went to the jail?

12 Is that what you said?

13 A That's what I'm saying.

14 Q Could it have been the, the, the week of the plea is
15 the first time you saw his discovery?

16 A I'm sure I went to see him prior to the plea, and I
17 would see him on other occasions as well because they had to
18 get the mental health information from him and the release
19 signed.

20 Q well, let me ask it this way.

21 Could, could he have seen his discovery for the first
22 time the, the week of his plea on, on -- which occurred on
23 December 12th, 2011?

24 A No.

25 Q Okay. So you would of gone way in advance of that?

Tanya Jones - Cross-examination
By Mr. Denton

1 Is that what your testimony---

2 A Whenever, whenever I go to the jail, and, again, this
3 is standard practice, I always take my file. I never go to
4 the, the jail with just a pen in my hand. I always have my
5 file with me and certainly -- and I always opened them up
6 when I sit down to talk with folks as well, and so I do
7 recall having conversations with him with my file open and
8 that, again, is just standard stuff.

9 Q Okay. Do you specifically remember in this case, and I
10 know you've handled -- trust me, I've practiced here, and,
11 as you know, was a police officer here for many years. I
12 know that your case load -- however, can you -- do you
13 remember sitting down with him and where that would of taken
14 place?

15 A I do. I recall sitting down with him on -- talking
16 about mental health issues, the stress that he was going
17 through at the time and that was with his girlfriend, and
18 that basically he just kind of snapped. He read a letter
19 from Brittany that she mailed to his mom on the day of this
20 incident saying basically he didn't or she didn't want
21 anything to do with him anymore, and that's when he decided
22 to go over to her house, and that's when she got shot.

23 Q Okay.

24 A And I also remember, prior to the plea, he was going
25 to -- wanted to read this letter that she wrote. I advised

Tanya Jones - Cross-examination
By Mr. Denton

1 him not to do that if memory serves me correctly, and I
2 don't remember if he actually read that letter or if he
3 tweaked it a little bit. But I do recall going over some of
4 that information with him, advising him not to do that. And
5 when I read over the transcript of the plea, it sounds like
6 he, he did water that down a little bit.

7 So I do have specific recollections.

8 Q Okay. Good.

9 And so specifically you remember, especially with the,
10 the -- even with some of the redacted letters, the second
11 letter, it's still, over your objections, he read it in the
12 open plea?

13 A Mr. Sheftall?

14 Q Yes.

15 A Yes, he read it. I think he might of tweaked it a
16 little bit cause, when I read it dry, it doesn't sound as
17 bad as I remember. But I do remember, in the plea when he
18 was speaking, it almost kind of sounds, sounded like when he
19 got out he would continue to stalk her.

20 Q Okay.

21 A But just from his tone in his voice, which -- and I
22 think if you look on one of the sentencing sheets, you can
23 tell that the judge looks like he changed something from 30
24 to 40.

25 Q Right.

Tanya Jones - Cross-examination
By Mr. Denton

1 A And I recall having a conversation with Mr. Barnette
2 about the fact that that was changed, and Mr. Sheftall
3 didn't sound very remorseful or something along those lines.

4 Q Okay. Regarding an appeal, did you inform Mr. Sheftall
5 the manner and, and the, the method, timeframe, for filing
6 an appeal?

7 A I saw that there was appellate stuff -- and, generally
8 speaking, what we would do basically is they wanted to
9 appeal, I would tell my secretary. She would prepare a -- I
10 think it was Sheila actually. She would prepare a, an
11 appeal packet. I would fill that out and we would get a
12 file.

13 Q And you did that, correct?

14 A I believe yes. I went to look through all the stuff.
15 I could tell that there was appellate stuff in here. So we
16 did do that.

17 Q Okay. Did you ever advise Mr. Sheftall that he also
18 had a, a right to file a motion to reconsider the sentence
19 that he was handed?

20 A I don't have a specific recollection of that.

21 Q Is that part of y'all's packet to, that you would go
22 through that, that as well with the client a plea, after a
23 trial?

24 A No, not all the time. Sometimes we would do, we would
25 ask the client to or we would ask the judge to reconsider.

Tanya Jones - Cross-examination
By Mr. Denton

1 We generally didn't have a lot of luck with that. So I
2 don't know if I advised Mr. Sheftall of that or not. I --
3 it's been years, yeah. So I don't have any independent
4 recollection.

5 Q Okay. Would it be -- would you agree with me that,
6 given that he received 40 years, that filing a motion to
7 reconsider maybe should have been done?

8 A Do I think it should of been done?

9 Q Yes.

10 A I don't really recall the specifics of that or if we
11 talked about it because the question always says it's more
12 and I do recall seeing that that sentencing sheet had been
13 changed and moved up. So always, when you have an issue of
14 reconsidering, there's a chance you're gonna get more time.
15 So I'm sure Mr. Cheek and I possibly talked about it. I
16 just don't remember anymore.

17 Q Mr. Cheek---

18 A But I don't, I don't think it's always in the client's
19 best interest to file something like that, no.

20 Q Okay. And in this particular instance though with 40
21 years that still will be -- you still would believe that it
22 would not be -- been in his best interest to have filed a
23 motion to reconsider?

24 Is that correct?

25 A Given the, given the fact of the case, given the fact

Tanya Jones - Cross-examination
By Mr. Denton

1 of the evidence in the case, the witness testimony, I think
2 Ms. Miller's father worked at the courthouse as well, which
3 is why we kind of brought in Mr. Cheek because he knew that
4 person pretty well, I don't think I would of advised him to
5 file a motion to reconsider because he could end up with
6 life.

7 Q Right. That's correct.

8 Tanya, just one more question.

9 Regarding the, the amount of time that he could of
10 gotten, did you advise him that the judge could of run it
11 consecutive rather than what he did concurrently?

12 A Yes, I did advise him of that.

13 Q Okay.

14 A And I think that's one of the sentencing sheets he
15 started to run something consecutive and then changed his
16 mind again.

17 Q The, the sentencing sheets that, that you, that we all
18 have our clients sign before plea, do you, do you recall
19 how, how much time went between the time you actually had
20 him sign it and, and the actual plea taking place?

21 Would it of been hours or minutes or --?

22 A Depends on when I get the sentencing sheets and I don't
23 recall that Mr. Barnette gave me the sentencing sheets.
24 Sometimes I get them the morning of the plea and then I go
25 into the jail room. There's a little room that we can talk

Tanya Jones - Cross-examination
By Mr. Denton

1 with our clients.

2 I might of done it there or I might of gone to jail if
3 I got them early enough. I don't have a specific
4 recollection.

5 I do know that they were signed and I always go over
6 again with the client the -- what potentially their range
7 is, that they could run it consecutively, that we're gonna
8 ask for credit for time served. I always go over the
9 numbers with them again to ensure that my number is what
10 they feel that they served as well prior to Court. If
11 there's a discrepancy, I always went back to the jail
12 records and, and ensured their accuracy.

13 Q Is there any reason that Mr. Sheftall would of thought
14 he would of gotten less than 40, less than 30, you know,
15 anything less than that?

16 A Well, he might of thought that and we talked about
17 that, the fact that if we show, you know, some serious
18 remorse here, we, we put on the issue of the mental health
19 issue, you know, we would like to get into the 20 to 30
20 range. But, again, I do not make promises that you're gonna
21 get 15 or -- that's just bad practice. That's unethical
22 cause we obviously know that the judge is the one who
23 sentences.

24 I can't promise anything. But we do talk in hope that,
25 you know, so that my client gets use to the fact or

Tanya Jones - Cross-examination
By Mr. Denton

1 understands what their potential range could be so that
2 they're, you know, not going in on something like this,
3 which you're going to be a double digits number, that
4 they're not going in and wondering why they didn't get a
5 year of probation. I don't want that expectation. I'm
6 always pretty honest with my clients in terms of what I
7 think a case is worth.

8 Q Then last question, and I, again, thank you for, for
9 your taking our call and offering this -- your testimony.

10 Was there any hope of any plea negotiations in this
11 case, any indication that the solicitor's Office would of
12 negotiated some sort of certain time?

13 A To my knowledge -- if my memory serves me correctly,
14 and, again, they didn't send me my personal notes. But I --
15 usually when Barry Barnette takes a case, and we know this,
16 he likes to take cases that basically are shooting fish in a
17 barrel. This was that type of case and he also knew Mr. --
18 Ms. Miller's father or grandfather. It was something like
19 that and I'm sure Mr. Cheeks also tried to talk with Mr.
20 Barnette. Mr. Cheek also had some conversations with Mr.
21 sheftall while he was over in the county jail.

22 That's something I certainly would of approached him
23 on. I probably brought up mental health. I mean we always
24 negotiate, try to negotiate. Sometimes, you know, we just
25 can't get anything on the table due to the notoriety and

Tanya Jones - Cross-examination
By Mr. Denton

1 that was one of these -- this was one of these cases.

2 Q Thank you, Tanya. That's all I have.

3 A Okay.

4 THE COURT: Any redirect?

5 MS. WHITE: Nothing, nothing from the State, Your
6 Honor.

7 THE COURT: Okay. Thank you very much.

8 THE WITNESS: All right. Thank you.

9 MS. WHITE: Thank you.

10 THE COURT: All right. We'll resume this shortly.

11 (WHEREUPON, a short recess was taken in this case at
12 this time.)

13 THE COURT: This is Reginal Charles Sheftall versus the
14 State of South Carolina, 2012-2465. It's before the Court
15 on an application for post-conviction relief.

16 He was sentenced by Judge Hayes on 12/12/11 after
17 pleading guilty to the offenses of burglary in the first
18 degree where he received 40 years, attempted murder where he
19 received 30 years, and possession of a firearm during the
20 commission of a violent crime where he received five years.
21 All sentences to run concurrent with one another.

22 A timely appeal was filed and it was dismissed on March
23 8th of 2012, and the remittitur was issued on
24 March 30th of 2012.

25 He alleges that his counsel was ineffective in failing

1 to inform him of the elements of each offense, failed to
2 advise him of direct consequences, failed to -- any waivers
3 to any procedural jurisdictional and non-jurisdictional
4 defects and defenses, counsel improperly promised a sentence
5 that would be received as a result of a guilty plea, failed
6 to advise Applicant of the consequence of sentencing to
7 avoid the two strikes, and then that his plea was
8 involuntary.

9 He is represented by Mr. Denton. The State is
10 represented by Ms. White and we have already taken the
11 testimony out of order of his plea counsel, that being
12 Ms. Tanya Jones, and we'll now resume with any further
13 testimony that the -- as she is moved to Oklahoma and is
14 outside the subpoena power of the Court, and she very
15 generously accommodated us by testifying by telephone
16 earlier, which both the State and the defense had ample
17 opportunity to question and cross-examine her regarding her
18 knowledge of this case and representation of the Applicant.

19 All right. Is the Applicant ready to proceed?

20 MR. DENTON: Your Honor, we are.

21 THE COURT: You may call your first witness.

22 MR. DENTON: Your Honor, the Applicant would call Mr.
23 Sheftall.

24 THE COURT: Sir, if you would come to the stand to be
25 sworn.

Reginald Sheftall - Direct examination
By Mr. Denton

1 (Witness complies.)

2 THE COURT: Sir, raise your right-hand to be sworn.

3 REGINALD SHEFTALL, being first duly
4 sworn, testified as follows:

5 THE COURT: You can put your right-hand down.

6 (Witness complies.)

7 THE COURT: State your full name for the record and
8 spell your last name for the court reporter.

9 THE WITNESS: My name is Reginald Charles Sheftall
10 which is spelled S-H-E-F-T-A-L-L, suffix, Junior.

11 THE COURT: Okay. You may proceed.

12 MR. DENTON: Your Honor, thank you.

13 May it please the Court.

14 DIRECT EXAMINATION

15 BY MR. DENTON:

16 Q Reginald, just, just housekeeping matters, do you
17 sometimes have a stuttering problem?

18 A Yes, sir.

19 Q Okay. Reginald, a little bit about yourself.

20 Were you a college graduate?

21 A I haven't finished school. I did 16 years at Francis
22 Marion University, but I didn't get the chance to finish.

23 Q Okay. So you did 12 years of, of---

24 A High school. I got a high school diploma from
25 Hillcrest High School in Simpsonville, and I went to Francis

Reginald Sheftall - Direct examination
By Mr. Denton

1 Marion for four years and -- but I didn't get a chance to
2 finish.

3 Q Okay. Reginald, when you were charged with the, the
4 three charges, the burglary first, attempted murder, and
5 possession of a firearm during the commission of a violent
6 offense, did you have legal counsel just after those charges
7 here in Spartanburg County?

8 I'm talking about the charges here.

9 A The charges in Spartanburg, I had legal counsel, yes,
10 sir. But my -- that counsel was given to Ms. Kathleen
11 Hodges.

12 Q Okay. Was she with the Public Defender Office's here
13 in Spartanburg?

14 A Yes, sir.

15 Q Okay. Did you meet with Ms. Hodges?

16 A No, sir.

17 Q Okay. How did you know Ms. Hodges represented you?

18 A Due to a letter that was given to me by the South
19 Carolina Public Defender's Office.

20 Q Okay. How long was it before you actually met an
21 attorney?

22 You don't need to go through those right now. Just---

23 A Okay. Well, I want to show you a letter that I wrote.

24 Q Okay. Just answer my questions.

25 okay?

Reginald Sheftall - Direct examination
By Mr. Denton

1 A Okay.

2 Q Stay on---

3 A I -- it wasn't until May 3rd, 2011. I really didn't
4 meet nobody. I just wrote a letter to Ms. Tanya Jones at the
5 fact that Clay T. Allen told me that Kathleen Hodges was no
6 longer with the circuit of Public Defender's Office, and he
7 gave my case over to her, which was May 3rd when I, when I
8 wrote her a letter. But I don't remember exactly when I
9 actually seen her. But I know it was after May 3rd, 2011.

10 Q Okay. Was it days later, months later?

11 A It was probably---

12 Q Which one?

13 A It was probably a month later. But, but then she said
14 on the record that she had my case for a year, and that was
15 untruthful when she said that earlier in the disposition
16 hearing when she said she was my attorney for a year. But
17 it wasn't until after May 3rd, 2011.

18 Q Okay. When you initially met with her then, what were
19 your discussions with her?

20 A She was just trying to get to know me and who I was as
21 a person. That's basically it.

22 Q So when she came over to the Spartanburg County
23 Detention Facility where you were being housed, y'all didn't
24 discuss your case at all?

25 Just who you were and your personality?

Reginald Sheftall - Direct examination
By Mr. Denton

1 A Yeah, she, she was discussing my, my mental health and
2 just where I went to school at and the same questioning you
3 asked me earlier, just earlier.

4 Q Okay. Did she make a return trip at any point?

5 A She, she made a return trip when she wanted to get me
6 to sign some papers, which is probably around -- probably
7 somewhere around September or October of 2011 when she asked
8 me -- she wanted to go get me to a psychiatric evaluation.

9 Q Okay. Have you ever suffered from mental illnesses?

10 A Yes, sir.

11 Q Could you tell the Court what those are?

12 A Well, I -- well, I was housed in Marshall Pickens house
13 and I suffered from personality disorders and anxiety and
14 depression, and my personality disorders were found by a
15 doctor out of Marshall Pickens. I can't remember his name.
16 The -- I can't think of it. It was a D. But it was, it was
17 personality disorder of narcissistic and antisocial
18 behavior.

19 Q So prior to this -- these---

20 A Yes, it was.

21 Q ---allegations?

22 A Yes, prior to the alleged event.

23 Q Okay. So when you talked with Ms. Jones, your, your
24 public defender, your, your legal counsel --

25 A Yes, sir.

Reginald Sheftall - Direct examination
By Mr. Denton

1 Q -- you told her those things?

2 A Yes, sir, she even had me to sign a form so I could
3 waive my -- so I could let her get my medical records and
4 she had -- I'm guessing she had them.

5 Q Okay. And you were transported, at some point, to
6 Columbia, South Carolina?

7 A Yes, sir.

8 Q Okay. And were you evaluated?

9 A Yes, sir.

10 Q Okay. Did a report follow that evaluation?

11 A I didn't receive no report, but I, I think she got one.
12 But I didn't receive none.

13 Q Okay. When you said you didn't receive one, did you
14 ever discuss the report with Ms. Jones?

15 A No, sir, she just said that we going not to use that to
16 defense of, insanity defense cause it was not applicable.
17 That's all she told me.

18 Q Okay. But she did explain to you what all that meant?

19 A No, she never explained to me or gave me a reason why
20 it was not applicable or none of that stuff right there.
21 She never even discussed the report with me, and I, and I
22 asked her to be able to receive a report, but she never gave
23 it to me.

24 Q Well, is there anyway that you would understand that
25 without her advising you of that?

Reginald Sheftall - Direct examination
By Mr. Denton

1 In other words, what I'm asking -- let me rephrase it.
2 If, if -- so she didn't explain it to you.
3 Did you understand what the legal---

4 A No.

5 Q ---issues were on that?

6 A No, I don't -- I ain't understand what the legal issues
7 as far as competency hearing, none of that stuff.

8 Q Okay. And you never saw a report written or otherwise?

9 A No, sir.

10 Q She just said we're not gonna---

11 A Yeah, we're not gonna -- she just said we're not gonna
12 go with the insanity defense and that's basically the
13 only -- I guess that was the only defense she was trying to
14 seek, Your Honor -- I mean yes, sir.

15 Q That's okay.

16 Well, let me ask you this.

17 Since then, have you received those -- the copies of
18 those reports, correct?

19 A Yes, sir, I, I received -- actually I received my whole
20 motion after I actually took and entered this plea, which
21 was in May -- no, hold on. May of 2012. I got an exhibit
22 which I would like to introduce to the Court showing when I
23 actually received my whole Rule 5.

24 Q Okay. We'll, we'll get to that and let's, let's talk
25 about that just a second.

Reginald Sheftall - Direct examination
By Mr. Denton

1 A Okay.

2 Q So when Ms. Jones came to see you at the Spartanburg
3 County Detention Facility on these three, two or three
4 occasions that you've talked about, did she ever bring a
5 packet over, you know, that has documents in it and opened
6 up and show it to you?

7 A No, she, she, she, she just came in her regular clothes
8 with no, no files or nothing in her hand. I think one time
9 she came -- had a photo. Look like the ones you got on your
10 desk with my name on it, but I said she never went and
11 opened her file up with me and go and discussed the
12 documents that was inside the file, and she didn't -- she
13 did not do that.

14 Q Okay. And so I think what your testimony just was is
15 you didn't see that until May, May---

16 A Of 2012.

17 Q ---2012?

18 A Yes, sir.

19 Q And don't -- you don't---

20 A All right. I was just trying to get to the---

21 Q I understand.

22 A All right.

23 Q Just stay with me.

24 So you already pled December 2011?

25 A December 12th, 2011, is when I actually took the plea.

Reginald Sheftall - Direct examination
By Mr. Denton

1 Q Okay. And you didn't see that before you pled?

2 A No, sir.

3 Q She didn't go over those documents with you?

4 A No, sir, she did not disclose those evidence -- those
5 documents with me.

6 Q Police reports?

7 A Police reports, she never disclosed the police reports,
8 the -- she never pursued a DNA analysis, which they, they
9 asked to collect non-testimonial evidence from me, which was
10 basically exculpatory evidence that would -- which would
11 excuse me from the, the crime that I was -- the alleged
12 crime that they say I committed.

13 Q Okay. So, how about -- we discussed police reports.

14 You saw no police reports?

15 A No, sir.

16 Q Spartanburg County, City, or any towns within this
17 jurisdiction?

18 A No, sir.

19 Q Okay. How about SLED reports, any, not just DNA, any
20 SLED reports?

21 A No, I didn't see no SLED reports until after I received
22 my Rule 5 in May of 2012.

23 Q Okay. Ballistics reports since there was a gun
24 involved?

25 A No ballistics. No ballistic reports. None of that

Reginald Sheftall - Direct examination
By Mr. Denton

1 stuff. I ain't seen nothing.

2 Q Telephone records?

3 A No.

4 Q Cell phones?

5 A No, sir.

6 Q 9-1-1 calls?

7 A All that was in my Rule 5 which I got May 2012.

8 Q Okay. So you didn't get to discuss any of these
9 documents that you now have and you received in May before
10 your plea?

11 A No, sir.

12 Q Okay. Before your plea, I want you to think about
13 this, before your plea, how much time do you estimate you
14 actually spent with your appointed attorney?

15 A Before the plea, how much time do I expect that I spent
16 with my appointed attorney?

17 Q Your estimate.

18 A My estimated, probably I met with her on three
19 occasions for approximately three hours.

20 Q Each or just one hour each?

21 A For three, three hours total of all, all three
22 occasions.

23 Q Okay. During those one hour conversations times three
24 different times, two of those times, I believe is your, your
25 testimony, you didn't discuss your case?

Reginald Sheftall - Direct examination
By Mr. Denton

1 A No, it was about mental health stuff.

2 Q Okay. How about the third time?

3 A The third stuff she was just letting me know -- I guess
4 she gonna take me to take a plea. She insisted in
5 instructing me to take -- to go about a plea.

6 Q Okay. What about the plea?

7 What did she tell you?

8 A She just said we just going to plead because she didn't
9 think going to trial would be good for me, which I
10 understand, but I just went with her because she insisted in
11 instructing me to plead guilty.

12 Q Okay. Let's get to the plea date.

13 Okay?

14 A Okay.

15 Q Do you remember -- do you recall the date?

16 Was it December 2011?

17 A December 12th, 2011, yes, sir.

18 Q Okay. All right. Do you remember signing three
19 sheets?

20 A Yeah, I signed those three sheets. Like it was, it was
21 kind of weird because, at the plea, everybody came inside,
22 but they left me in the back and then she came in the back
23 and gave me some papers, and I was just looking at the
24 sentencing sheets and I was trying to see if I seen the
25 dates on there, but it was no dates on it. But she -- I

Reginald Sheftall - Direct examination
By Mr. Denton

1 signed it right before, and after I signed it, I came in and
2 that's -- she just told me to sign these forms and then,
3 after that, I came in.

4 I came in by myself. All the other people that was
5 with me in orange, they was, they was already in and I came
6 by myself, and after I had my plea, I left, but they left me
7 out.

8 MR. DENTON: Your Honor, may I approach?

9 THE COURT: Uh-huh. (Affirmative).

10 Q Mr. Sheftall, do you recognize these three documents?

11 You can take your time, but they're copies. They're
12 not the originals.

13 A Yeah, yeah, I see them. These are sentencing sheets.

14 Q Okay. Do you see your signature on---

15 A On the, on the defendant -- under -- yeah, I see where
16 it says defendant.

17 Q Okay. Look at all three of them. You're looking at
18 one. Look and make sure all three.

19 A Yeah. Yes, sir, I see them. I see my name on it, on
20 all three.

21 Q Okay. Do you remember signing those?

22 That's your signature?

23 A Yeah. Yes, sir.

24 Q Okay. Did Ms. Jones ever tell you, when you looked at
25 these sentencing sheets at the top -- and we've gone over

Reginald Sheftall - Direct examination
By Mr. Denton

1 this, you and I, many times, it has a range of time for each
2 charge. For instance, burglary first can carry -- I believe
3 it's 15 years to life.

4 A No.

5 Q Did she go over that with you?

6 A No, sir, she did not.

7 Q Okay. Did you see it on the sheet?

8 A No, sir, the first time I actually heard about that was
9 during the, during the, during the plea when the judge was
10 telling me.

11 Q Okay. Did you stop -- let's, let's talk about that a
12 minute.

13 Just specifically to the burglary first, did you stop
14 the judge and ask could you, you confer with your attorney
15 or could he explain something more than he hadn't explained?

16 A On the -- if I could show you the, on the, on the plea
17 transcript, when I -- when the judge asked me about the
18 facts and stuff, and I said well, I'm gonna let my attorney
19 I believe answer that I believe and that's what I said.

20 Q Okay. The Court has the transcripts.

21 A Okay.

22 Q Ms. White has the transcripts. I have the transcripts
23 and you have the transcripts. You have the copy and we've
24 gone over those a lot.

25 Okay. So you don't need to refer to them up there?

Reginald Sheftall - Direct examination
By Mr. Denton

1 A Okay.

2 Q Just answer my questions.

3 A All right.

4 Q Okay?

5 A Okay.

6 Q All right. So, on the second, which was -- which would
7 of been your second sentencing sheet, attempted murder, did
8 Ms. Jones go over the range of zero to thirty years with
9 you?

10 A No, sir.

11 Q At, at no time?

12 A No, sir.

13 Q When you signed it prior to---

14 A I, I---

15 Q ---actually---

16 A Prior to coming inside this courtroom.

17 Q Okay. And how about the, the weapon during the
18 commission of a violent crime, did she explain to you how
19 that works?

20 A No, sir.

21 Q Did she tell you zero to five years, the judge can run
22 it consecutive?

23 A No, sir, she didn't tell me nothing and the judge
24 didn't say none of that either. I didn't know he could run
25 it consecutive. I didn't know that neither.

Reginald Sheftall - Direct examination
By Mr. Denton

1 Q Okay. He didn't tell you that during this colloquy
2 with you?

3 A No, sir.

4 Q Okay. Did Ms. Jones, at anytime, one of your
5 allegations that you've made in your petition is that you
6 were promised a sentence.

7 What sentence was that?

8 A It was a sentence of, and my mother could of verify as
9 well, she told me I would receive 20 years suspended to 15
10 years and five years probation, and I have a letter showing
11 where she -- as I could -- if I could introduce that as
12 another exhibit here where she wrote that to another
13 attorney of mines in Florence County.

14 Q Okay. You have that letter with you?

15 A Yes, sir.

16 MR. DENTON: Okay. Your Honor, may I approach?

17 THE COURT: Uh-huh. (Affirmative).

18 Q Do you have a letter from Ms. Jones to your, your
19 attorney?

20 A Yeah, this, this attorney right here is James
21 McBratney, McBratney Law Firm in Florence, South Carolina,
22 and its subject State versus Reginal Sheftall and it's to
23 the assistant solicitor in Florence County, and if would
24 please the Court, can I read the letter out loud?

25 THE COURT: No, sir.

Reginald Sheftall - Direct examination
By Mr. Denton

1 THE WITNESS: Okay.

2 Q Reginald, you said -- I think you said the letter was
3 from Ms. Jones---

4 A Yes, sir.

5 Q ---to your attorney?

6 A Yes, sir.

7 Q Okay. The letter that you're showing me is not from
8 Ms. Jones.

9 A Well, it's, it's between Ms. Jones, my attorney, my
10 attorney, Ms. Jones, and two other people that -- Mr.
11 McBratney and the solicitor of Florence County. It could of
12 got -- maybe look on the back. It got where it's her on
13 there as well.

14 Q So -- okay. So just to be clear, I need to be clear
15 about it, this letter is from James T. McBratney, Junior,
16 who represented you on other charges---

17 A Yes, sir.

18 Q ---in Florence County?

19 A Yes, sir, I was acquitted on those charges.

20 Q Okay. And the letter, it looks like at the top, is
21 addressed December 7th, 2011, which is just a few days
22 prior to your plea?

23 A Yes, sir.

24 Q Okay. It's addressed to Steven Hill, assistant
25 solicitor?

Reginald Sheftall - Direct examination
By Mr. Denton

1 A Uh-huh. (Affirmative).

2 MR. DENTON: Okay. Your Honor, I don't think it -- may
3 we approach?

4 THE COURT: Uh-huh. (Affirmative).

5 (WHEREUPON, a bench conference was held at this time.)

6 THE COURT: Be marked and entered without objection.

7 MR. DENTON: Thank you, Your Honor.

8 THE COURT: But the record should reflect that it does
9 not purport -- that it's not consistent with the witness'
10 testimony that that is a representation by Ms. Jones of a
11 promise of a particular sentence and it is hearsay and it's
12 offered for its truth. But I'm gonna admit it without
13 objection.

14 MR. DENTON: Thank you, Your Honor.

15 THE COURT: You welcome.

16 (WHEREUPON, the letter was marked as Applicant's
17 Exhibit No. 1 and received into evidence at this time.)

18 Q Reginald, is it your understanding then that Ms. Jones
19 had somehow alluded to someone that you would get a sentence
20 of 20 years?

21 A Yes, sir.

22 Q Okay. Is it mainly through this letter?

23 A Yes, sir. Yeah, her name is at the end of it on the
24 second page.

25 Q Okay. No, that, that -- her -- she was copied on it,

Reginald Sheftall - Direct examination
By Mr. Denton

1 is that correct?

2 There's a difference. She didn't write it. She was
3 copied.

4 A Oh, okay.

5 Q I want to make sure we're clear. We're not gonna
6 misrepresent to the Court.

7 A Okay.

8 Q She was copied on it from that attorney.

9 A I don't understand what you're saying.

10 Q Okay. On the second page, you see you're -- Ms. Jones'
11 signature.

12 You see where it says cc?

13 A What does that mean?

14 Q She was copied on it. She was given a copy of this
15 letter.

16 A Okay.

17 Q It's not from her. It's not written by her and that's
18 not her name right there.

19 Okay. But, but the point is, when you received this
20 letter from your attorney, he gave you this letter prior to
21 your plea and received it, correct?

22 This letter?

23 A And I received this -- this was in my Rule 5.

24 Q Okay. So you got it in May then?

25 A I got it in May, yes, sir.

Reginald Sheftall - Direct examination
By Mr. Denton

1 Q Okay. But -- so prior to his -- how did you know that
2 you might be offered 20 years or a judge would give you 20
3 years?

4 A Because she told my mother and my mother told me.

5 Q Okay. Let me ask you this, Mr. Sheftall.

6 Did she, did she ever tell you that there was an offer
7 in your case?

8 A Well, what you talking about?

9 Q That there was an offer from the State. You to plead
10 guilty to a certain amount of a range of time.

11 A Nah, she never told me that.

12 Q Okay. So when you signed these sentencing sheets, you
13 knew it us without negotiations, without recommendations,
14 and that it was what was called an open plea?

15 Did she go over what an open plea, a straight-up plea
16 is?

17 A No, she ain't go over on a straight-up plea. I ain't
18 know you can -- at the time I didn't know you could have a,
19 a recommendation or stuff like that. I ain't know that at
20 the time.

21 Q Okay. And you would -- and how would you know
22 otherwise, correct?

23 A Right.

24 Q I mean you don't have any legal knowledge of that?

25 A Right, no, sir.

Reginald Sheftall - Direct examination
By Mr. Denton

1 Q Okay. Mr. Sheftall, I'm just gonna briefly go over
2 this matter.

3 Did Ms. Jones go over any of the consequences of you
4 pleading to a violent versus a nonviolent versus felony,
5 misdemeanor?

6 Did she clear any of that up with you?

7 A No, sir.

8 Q Even though it's marked on your sentencing sheets, you
9 didn't think to ask her maybe or did---

10 A No.

11 Q ---you have the opportunity to ask her?

12 A No, she -- I probably had the opportunity, but she was
13 pretty much rushing me and she just -- she was moving so
14 fast that morning and she just said sign these papers and
15 that was it. And like, after that, I came straight in here.

16 Q Okay. So you felt compelled to, to---

17 A To sign it, yes.

18 Q ---speed up, sign it, move on, and get in here and---

19 A Yes, sir.

20 Q Okay. All right. So, again, just to be clear on this
21 last point, she told you that you would likely get 20 years
22 or you would get 20 years?

23 A Yeah, she told me -- she basically told me I would get
24 20 years. This is exactly what she told me. I would get 20
25 years suspended to years and five years probation, and, and

Reginald Sheftall - Direct examination
By Mr. Denton

1 the transcript would show, would show even James Cheeks was
2 telling me the same thing. I would get 15 years and no
3 more.

4 Q Okay. All right. Did she -- one of your allegations
5 is she failed to fully investigate. Let's talk about that a
6 minute.

7 what did you -- what was your expectations of, of an
8 attorney with serious charges like this?

9 What kind of investigation are you talking about?

10 Are you talking about her doing, you know, real
11 investigating going out interviewing witnesses or are you
12 talking about investigating the law according to the facts
13 of your case?

14 What exactly were your expectations?

15 A Well, a trial counsel suppose to be investigate
16 possible defenses and, and when she -- if she would had
17 investigated she would have seen the stuff that I seen in my
18 Rule 5 that she, she said she discussed it with me. I mean
19 she would of seen that there was evidence in the Rule 5 that
20 basically that was favorable to -- for me to not have pled
21 guilty. If I would have known that this evidence was
22 existed prior to pleading at trial, I would not have pled
23 guilty and I would have insisted on going to trial.

24 Q Okay. Some of that evidence that you're talking about,
25 tell me -- tell the court --

Reginald Sheftall - Direct examination
By Mr. Denton

1 A Okay.

2 Q -- what you're talking about exactly.

3 A It's the evidence that was -- well, for one, was this
4 letter, which I seen from Mr. James McBratney. For two was
5 the SLED report and she failed to not pursue the DNA
6 analysis, and the DNA analysis show that the unidentified
7 male suspect DNA that was at this crime scene did not match
8 mines, and I have to -- and she never disclosed that
9 material evidence from the DNA results with me.

10 Q You feel like that might of been real important to, to
11 look a little bit further?

12 A Yes, sir, because if she would of seen that she would
13 of had been able to come up with another defense that help
14 me instead of just saying insanity. It was other possible
15 defense that she could of went about going. That was her
16 duty to investigate and she failed to adequately do that.

17 Q Okay. Any other points she failed to investigate that
18 you want to talk about?

19 A Yes, sir, she failed to -- oh, oh, the other stuff was,
20 was the gunshot residue in the case as well. It was also
21 DNA. Oh, and I also look at -- in one of the exhibits that,
22 at the plea, that Mr. Barnette introduced was a statement by
23 a guy named Archavious White, and he described a person as
24 5'9", 5'10", 140 pounds who he seen shooting the alleged
25 victim in this crime, and if I could stand, you could tell

Reginald Sheftall - Direct examination
By Mr. Denton

1 I'm nowhere near 5'9" or 5'10" and nowhere near 140 pounds.

2 Q You don't need to stand.

3 A Okay.

4 Q The Court's seen you and you -- so she can take -- the
5 judge can take notice of that.

6 Okay. How about the, the, the issues, Mr. Sheftall,
7 about a petition -- well, not a petition, but a motion for
8 reconsideration?

9 Did you ever go over anything with Ms. Jones about a --
10 filing a motion to reconsider your sentence after your
11 sentence?

12 A No, she never discussed it. I ain't, I ain't know that
13 until after the -- they gave me my, my thing back to me.
14 My, my, my appeal was denied and I failed to have a motion
15 for reconsideration. I didn't know it until after they
16 denied it. I could of put in for one cause she never
17 discussed that with me, and earlier she said that she felt
18 as though she was compelled to even discuss that cause it's
19 a crime.

20 So I'm trying to figure out how come she wasn't feel
21 compelled because I didn't, I didn't get a chance to ask her
22 some questions I would like to ask her. But I know it's
23 impossible for me asking her now.

24 Q Okay. Mr. Sheftall, how, how about the -- bless you.

25 One thing we did talk about and you were able to hear

Reginald Sheftall - Direct examination
By Mr. Denton

1 Ms., Ms. Jones testimony. She testified that her office
2 filed the appeal timely and obviously they did.

3 You had an opportunity to be heard on the appeal,
4 correct?

5 A Yeah, but under Nelson versus Penn they didn't discuss
6 a Manning method on how we gonna go about seeking an appeal,
7 and under Nelson versus Penn they just filed an appeal
8 because they said I asked for one.

9 Q Okay. But, but you would agree an appeal was filed by
10 Ms. Jones?

11 A Well, it was filed timely, but it was no -- it ain't
12 say nothing on why I wanted to appeal.

13 Q Did you ever talk to any of the appellate defense
14 lawyers?

15 A I ain't talk to nobody.

16 Q Okay. And, again, going back to the motion to
17 reconsider, you realize today when you got your Rule 5
18 stuff, right, and you actually received it, that it was too
19 late to file that appeal I think is what---

20 A Yeah, it was too late. It was too late.

21 Q Okay. Mr. Sheftall, is there anything else you would
22 like the Court to consider, not in great detail as far as
23 going through your paperwork -- we have hit the highlights.
24 I think the Court has the record.

25 Is there anything else you'd like to Court to know

Reginald Sheftall - Direct examination
By Mr. Denton

1 regarding any evidence that you have regarding Ms. Jones
2 representation or lack thereof?

3 A Yes, sir, I got the, I got the letter dated May 23rd,
4 2012, when I finally received my, my Rule 5 where she
5 withheld from me and that was a violation -- a clear
6 violation of my due process clause of my Fourteenth
7 Amendment and she failed to the -- discuss that with me and
8 I got the date right here I'd like to introduce to the
9 Court.

10 Q You have the letter with you?

11 A Okay. That's the letter right here.

12 MR. DENTON: Your Honor, may I?

13 THE COURT: Any objection?

14 MS. WHITE: No objection, Your Honor.

15 THE COURT: Marked and admitted without objection.

16 MR. DENTON: Thank you, Your Honor.

17 THE COURT: You welcome.

18 A And the other is the---

19 Q Okay. Just hold on a second.

20 A Okay.

21 (WHEREUPON, the letter was marked as Applicant's
22 Exhibit No. 2 and received into evidence at this time.)

23 Q Mr. Sheftall, you, you -- you're the one that brought
24 this letter.

25 Tell me what this letter is.

Reginald sheftall - Direct examination
By Mr. Denton

1 A The letter is basically a letter has and signed by
2 Tanya R. Jones stating that enclosed you will find the
3 material that I requested and please note it's copied in no
4 particular order.

5 Q It's dated on May 23rd, 2012?

6 A Yeah, May 23rd, 2012.

7 Q And is it -- is that some six months after your plea,
8 five and a half months after your plea?

9 A Yeah, five, five -- about five and a half months after
10 my plea.

11 Q Okay. Is there something else you wanted the Court to
12 see---

13 A Yeah.

14 Q ---document wise?

15 A This is the results that -- from the DNA report in
16 which they failed to disclose with me as well, and this will
17 show that the Buccal swab that he took from me that, that
18 day allegedly from the -- I got the order too that they got,
19 which, which the judge granted on to collect the DNA sample,
20 and the reason why they said they needed it, and the results
21 which they failed to, to go over with me and to disclose to
22 me and it showed that the DNA that they got from the crime
23 scene was not mines.

24 MR. DENTON: Your Honor, beg indulgence.

25 A And some papers are on the floor. I can't pick it up

Reginald Sheftall - Direct examination
By Mr. Denton

1 for you.

2 MS. WHITE: No objection to this one.

3 THE COURT: Marked and admitted without objection.

4 MR. DENTON: Thank you.

5 THE COURT: You welcome.

6 (WHEREUPON, the SLED report was marked as Applicant's
7 Exhibit No. 3 and received into evidence at this time.)

8 Q Mr. Sheftall, again, you, you're familiar with these
9 documents.

10 What's your understanding of, for instance, this
11 document---

12 A That right there---

13 Q ---from SLED?

14 A That, that -- this document I'm looking at is about the
15 GSR kit talking about the quantities of those found of
16 gunshot residue and that's, that's what I know about that
17 paper. There's other pieces though with it.

18 Q Okay. Let's talk about the GSR.

19 Did they find GSR on your right palm, left palm, any
20 palm, any fingers, any hands according to this report?

21 A Yeah, according to that report they found it on the, on
22 the, on the victim's hands, and according to Art versus Kale
23 that would, that would show the fact that in this alleged
24 crime, whoever shot this person, that this victim might of
25 had a weapon, and also, in the plea transcript, you will see

Reginald Sheftall - Direct examination
By Mr. Denton

1 where the victim stated that she tried to put the weapon
2 down.

3 Q Okay. So this wasn't GSR taking from you?

4 This was GSR taken---

5 A From the victim.

6 Q ---from Ms. Miller?

7 A Yeah, from the victim.

8 Q Gunshot residue, correct?

9 A Yes, sir.

10 Q okay. And the blood analysis --

11 A okay.

12 Q -- they take your DNA?

13 A Yes, sir.

14 Q How so?

15 A Through an order written by---

16 Q No, no, no.

17 Got the order.

18 How did they physically take it?

19 A From a Buccal swab I got at the county jail.

20 Q From your mouth?

21 A Yeah, from my mouth.

22 Q okay. And the results, did you receive these prior to
23 your plea?

24 A I received them on May 23rd, 2012, in my motion for
25 discovery.

Reginald Sheftall - Direct examination
By Mr. Denton

- 1 Q Okay. What's your understanding of the results?
- 2 A The results clearly produce exculpatory evidence that
- 3 would, that would show that I was not the person who they
- 4 said was at this crime scene.
- 5 Q Such as -- let's just make clear.
- 6 This is not your blood---
- 7 A This is---
- 8 Q ---that was found?
- 9 A This, this is not my blood---
- 10 Q Okay.
- 11 A ---on all the DNA that was found at that crime scene.
- 12 Q Okay.
- 13 A It was an unidentified male suspect, which shows --
- 14 clearly shows somebody else had to be there?
- 15 Q Okay. Is there something else?
- 16 A It was just that statement that I made previously about
- 17 that Archavious White, one of the witnesses.
- 18 Q Okay.
- 19 A And how he---
- 20 Q And I'm aware of that statement. I think we'll---
- 21 A I think that's in the, I think that's in the shooting
- 22 as introduced as one of the exhibits already that the State
- 23 have that they should be in there, but it says that 5'9",
- 24 5'10" person who he saying, but I don't know if they got it
- 25 though.

Reginald Sheftall - Direct examination
By Mr. Denton

1 MR. DENTON: Your Honor, may we---

2 MS. WHITE: No objection.

3 MR. DENTON: ---have it marked?

4 THE COURT: Marked and admitted without objection.

5 MR. DENTON: Thank you, Your Honor.

6 THE COURT: Uh-huh. (Affirmative.)

7 (WHEREUPON, the statement was marked as Applicant's
8 Exhibit No. 4 and received into evidence at this time.)

9 Q Okay. Do you know a Mr. Archavious White?

10 A I never met him a day in my life.

11 Q Okay. And you've read the statement.

12 What's your understanding of it?

13 A My understanding basically about putting everything
14 together, this young -- I don't, I don't know who he is, but
15 he -- this man seen a person who he just -- that was 5'9",
16 5'10", 140 pounds, about 19, 20 years old maliciously stand
17 over this victim with a gun and I guess he heard a shot
18 being fired.

19 Q Okay. How tall are you?

20 A I'm 5'5", 124.

21 Q How old you are?

22 A Well, right now, I'm 26 years old.

23 Q At the time how old were you?

24 A I was 22.

25 MR. DENTON: Okay. Your Honor, that's all I have.

Reginald Sheftall - Cross-examination
By Ms. White

1 Mr. Sheftall---

2 THE COURT: Any questions of this witness?

3 MS. WHITE: Just briefly.

4 CROSS-EXAMINATION

5 BY MS. WHITE:

6 Q Mr. Sheftall, you pled guilty and acknowledged --

7 agreed with the facts and admitted your guilty, didn't you?

8 A I pled guilty, yes, I did, Your Honor -- I mean yes, I
9 did.

10 Q Okay.

11 A I pled guilty.

12 Q And, in fact, when you gave your statement at the end
13 of the guilty plea you apologized for what you had did --
14 done?

15 A If you go back and read it, I said I am being punished
16 for all the sins I have committed and I know I'm guilty of a
17 lot of things in my life, and I -- and if you go back and
18 look at mines and show you. But I never once specified that
19 I was guilty of shooting this alleged victim. If you can
20 show me where in the transcript where I said that I'm guilty
21 of shooting this alleged victim I would really appreciate
22 it. But I never once did.

23 I made a vague statement saying yes, I am guilty of a
24 lot of things and I know God is punishing me for all my
25 sins. But that's what -- I know what I said.

Reginald Sheftall - Cross-examination
By Ms. White

1 Q Okay. So, you're stating that when you said that you
2 were wrong and deserved every bit of what they asked, every
3 single bit, because I'm guilty---

4 A Yes, sir. Yes, ma'am.

5 Q ---you're, you're testifying today that that was just a
6 general I'm a bad person statement?

7 A That's a -- that's a general statement that I made, but
8 I never once said I'm guilty of observing -- of, of shooting
9 this alleged victim.

10 Q Okay. And you were identified by the victim
11 immediately when the police arrived as the person who shot
12 her?

13 A Well, I wouldn't have known that.

14 Q Okay. But -- and then you turned yourself in a couple
15 weeks later, didn't you?

16 A I turned myself in because my mother told me there was
17 police looking for me. So I turned myself in.

18 Q Okay. And your testimony today is that you never, in
19 any conversations with your attorney, talked about anything
20 other than just the possibility of a mental health
21 evaluation?

22 A Yes, ma'am.

23 Q Okay. Thank you.

24 That's all I have, Your Honor.

25 THE COURT: Any redirect?

1 MR. DENTON: Your Honor, none.

2 THE COURT: Sir, you may step down.

3 Any further witnesses from the Applicant?

4 MR. DENTON: Your Honor, no, ma'am.

5 THE COURT: Anything from the State?

6 MS. WHITE: No, Your Honor.

7 (Pause.)

8 THE COURT: And argument from the State or defense?

9 MR. DENTON: None, Your Honor.

10 MS. WHITE: Nothing, Your Honor.

11 THE COURT: I find the Applicant has failed to meet his
12 burden of proof. I've reviewed the records in this case.
13 I've reviewed the transcript. I've listened intently to the
14 testimony of both the Applicant and Ms. Jones.

15 I do not find the Applicant's testimony credible. I do
16 find the testimony of Ms. Jones credible.

17 I find her testimony credible that she had, at the time
18 of his plea, practiced for 11 years, that she did advise the
19 Applicant of the elements of the offense as well as the
20 consequences and range of penalty, that she went over
21 discovery with him at the jail several times.

22 What is most compelling in this case, irregardless --
23 well, I'll get to that in a moment. I'm gonna skip over
24 that for a second.

25 That it was clear -- I find her testimony credible that

1 the, that the assistant solicitor in this case had no
2 interest in a plea, that she felt it was a clear trial, and
3 also her testimony that the Applicant was very clear
4 regarding the range of penalty and the consequences of, that
5 she does not recall specifically the discussion regarding
6 strikes, but that, as a matter of course at the plea, she
7 would of gone over that with him, and that she would of
8 discussed with him the elements of the offense, the range of
9 penalties, strikes, violent, and most serious.

10 She denies and I find credible that she ever made a
11 promise to him regarding any sentence, that they were
12 hopeful with a guilty plea, by admitting culpability, that
13 the judge would sentence him in the range of 20 to 30 years,
14 but the judge sentenced him in the range of 40, and that she
15 was well aware she could make no such promises to him, and
16 focused on mitigation as much as possible, and that, that
17 the best approach to this case was a plea and throwing
18 himself on the mercy of the Court, and hoping for the best,
19 that she did go over everything with him, and she fully
20 investigated this case, that she provided thorough
21 representation to him, and fully explored whether an
22 insanity defense would be available to him, and it is clear
23 that he would not have met the Blair nor M'Naghten standard
24 regarding incompetence or insanity, and that she went
25 over -- would of taken her file to the jail with her every

1 time and gone over the discovery with him, and that she did,
2 in fact, share the results of the DNA testing with him.

3 She did, in fact, perfect an appeal for him. That
4 appeal was dismissed as having no merit, and she did not
5 specifically require advising him before -- regarding the
6 motion for reconsideration, but that she would not have done
7 one for him because she would -- it had been her experience
8 that generally there was no luck with that process, and in
9 order to prove she was ineffective, he doesn't -- it is not
10 enough to prove that she simply didn't file a motion, but he
11 would have to -- has a burden of proving he would of had
12 some success on the merits of that, and I agree with Ms.
13 Jones that generally defendants have very little luck, if
14 any, with a motion for reconsideration of sentence.

15 And also I find credible her testimony that it was not
16 in his best interest to file one given the facts and the
17 evidence and the witnesses against him, that it could of
18 well have increased his exposure. I find credible that she
19 advised him of concurrent versus consecutive sentences and
20 that she would of gone over with him all of his records at
21 the jail to make sure that they were accurate regarding
22 credit for any time served.

23 I also find credible her statement that she made
24 absolutely no promises to him, that she could not control a
25 judge's decision, and that she can not be held accountable

1 for his unrealistic expectations and the fact that she did
2 not want him to have unrealistic expectations, and that she
3 made attempts to negotiate regarding this case, but the
4 assistant solicitor had absolutely no interest in that.

5 There is been a great deal made of a failure to
6 investigate DNA and as well as GSR. Let's just say, for
7 argument sake, she didn't investigate it, which I don't
8 believe, but they would not have provided any viable
9 defenses to the defendant, the Applicant in this case,
10 because, quite frankly, there were two eye witnesses. One
11 who drove him to the apartment and both were willing to
12 testify and did, in fact, say, during sentencing that he, in
13 fact, could -- basically, through surreptitious means,
14 gained entry into this apartment and then began to assault
15 the victim in this case and shoot her.

16 So really doesn't matter about the GSR. I don't really
17 know the time lapse between when the GSR test would of been
18 taken, but clearly it could of been washed off in-between
19 and it really, under these circumstances, would have not --
20 would not have exculpated him nor would the DNA, when you
21 have two eye witnesses present regarding an incident, the
22 incident -- the events that led up to the incident and the
23 actual incident itself, and Ms. Jones, in this case, I've
24 read the record, Mr. Cheek made compelling statements for
25 him and so did Ms. Jones regarding mitigation under these

1 circumstances.

2 I think he was his own worse enemy in some of the
3 things he said because I agree with Ms. Jones that a lot of
4 what he said in the sentencing portion really reflects a
5 heart that's unrepentant, one that was dangerous and
6 continued -- and posed a continuing danger to the victim in
7 this case and supported exactly what the judge did in this
8 case, and provides factual support and no abuse of
9 discretion in sentencing.

10 He pled guilty to four charges and I need to correct
11 that for the record. One was a violation of a protection
12 order, which was a Magistrate's level offense, and he had
13 already served more than in excess of that 30 days. So it
14 really -- just needed to you -- correct that for the record.
15 But it has no import in the Court's decision.

16 What is most compelling is the transcript, even if I
17 were to accept that his testimony is credible that she
18 failed to do all of these things, it was corrected by the
19 court because he was clearly advised of all of his rights.
20 He was advised of the charges against him at Page 6 Lines 23
21 through 25 and continuing on Page 7 Lines 1 through 11.

22 He was -- that he was not under the influence of any
23 drugs or alcohol such that he was impaired on Page 8 Lines
24 18 through 20, that he was fully satisfied with his
25 attorney's services at Page 8 Lines 21 through 25 following

1 to Page 14 Lines 10 through 13, that he was made aware of
2 any possible defenses at Page 9 Lines 1 through 3, that
3 there were no threats to him in pleading, Page 9 Lines 4
4 through 8, that his plea was free and voluntary, Page 9
5 Lines 9 through 12, that he was well aware of his right to a
6 jury trial, his general rights, and his Constitutional
7 rights and that he was waiving them. That's Page 9 Lines 13
8 through 25 and Page 10 Line 1 through 9, Lines 1 through 9.

9 He was well aware of the facts in the case and
10 allocuted to them and that's at Pages 10 through 12 Lines --
11 well, Page 10, 11, and 12, and on Page 12, Lines 20 through
12 25, continuing on to Page 13 Lines 1 through 2, that he was
13 well aware of the range of penalty, the violent nature and
14 classification as well as enhancements, and acknowledgment
15 of his guilt at Page 13 Lines 8 through 25, Page 14 Lines 1
16 through 9, Page 14 Lines 14 through 25, and Page 15 Line
17 1 -- Lines 1 through 23.

18 And, again, as I've already indicated, both Ms. Jones
19 and Mr. Cheek gave very eloquent statements in mitigation on
20 his behalf. He also acknowledged that his answers were
21 truthful at Page 16 Lines 1 through 2, and that the
22 discovery was shared with him at Page 16 Lines 1 through 4.

23 Well, he didn't acknowledge that. I apologize.
24 Correct that. The solicitor indicated that he had fully
25 disclosed all the information and there was no contest to

1 that in that neither Mr. Sheftall nor his counsel said that
2 that was inaccurate.

3 So based on what has been presented into the record,
4 record -- based on what has been presented for the record,
5 there's absolutely no evidence that his counsel was
6 ineffective. There's no evidence that his plea was anything
7 other than freely and voluntarily given with a substantial
8 factual basis to support it. There's no evidence that he
9 was not advised of the elements of each offense, that he was
10 not advised of the direct consequences to any waivers, any
11 procedural -- and actually that's abandoned because there
12 was no evidence regarding any jurisdiction, that counsel
13 improperly promised him a sentence. There's no evidence of
14 that. And that she failed to advise him of the consequences
15 of sentencing because the Court, even if she did, the Court
16 certainly advised him of it and he acknowledged it.

17 And while he does sort of dodge the question a little
18 surreptitiously when the Court asked him whether he admits
19 to the facts, he says I'm gonna let my attorney handle it,
20 but in the pages that I referenced he later does admit very
21 directly to the facts or his guilty of the facts -- his --
22 him admitting that that is, in fact, the facts in the case.

23 So the motion is -- the application is denied. The
24 Attorney General is directed to provide the Court with a
25 proposed order within 20 days by email and to provide Mr.

1 Denton with a copy by the same means and at the same time
2 it's presented to the Court after which the Court will issue
3 its final order.

4 Thank you.

5 MS. WHITE: Thank you, Your Honor.

6 MR. DENTON: Thank you, Your Honor.

7

8 * * *END OF REQUESTED TRANSCRIPT OF RECORD* *

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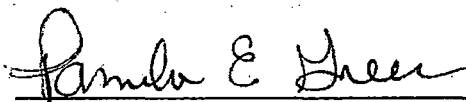
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 14th day of January, 2015.

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

June 13th, 2015

A handwritten signature in cursive script, reading "Pamela E. Green", is written over a horizontal line.

PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Reginald Charles Sheftall, #348974,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2012-CP-42-2465

ORDER OF DISMISSAL

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

Hon. Deadra L. Jefferson
Stephen L. Denton, Esquire
Suzanne H. White, Esquire
Tanya Jones, Esquire
January 14, 2015
Pamela E. Green

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed June 12, 2012; and amended application on January 28, 2014. The Respondent made its Return on or about July 24, 2013. An evidentiary hearing into the matter was convened on January 14, 2015, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Stephen L. Denton, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. By agreement of the parties, Tanya Jones, Esquire, was sworn and testified via telephone.¹ This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the Return the Applicant's appellate records, and the plea transcript.

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PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the October 2010 term of the Spartanburg County Grand Jury for Burglary-First Degree (Dwelling)² (2010-GS-42-5724) and Attempted Murder³ (2010-GS-42-5722). Indictment Number 2010-GS-42-5722 was amended in November 2011 to include the charge of Possession of a Firearm or Knife During Commission of or Attempt to Commit a Violent Crime⁴ (count 2). The Applicant was represented by Tanya Jones, Esquire. On December 12, 2011, the Applicant pled guilty before the Honorable J. Mark Hayes II and was sentenced to confinement for concurrent terms of forty (40) years for Burglary-First Degree, thirty (30) years for Attempted Murder, and five (5) years for Possession of a Weapon During the Commission of a Violent Crime. The Applicant was given credit for five-hundred forty-one (541) days' time served. The plea court further ordered that the Applicant receive mental health counselling and have no contact with the victim.

¹ Tanya Jones, Esquire is no longer employed with the Public Defender's office and at the time of this hearing was employed outside the State of South Carolina.

² "Burglary in the first degree is a [violent, most serious] felony punishable by life imprisonment. For purposes of this section, 'life' means until death. The court, in its discretion, may sentence the defendant to a term of not less than fifteen [(15)] years." S.C. CODE ANN. § 16-11-311(B) (2010); S.C. CODE ANN. § 16-1-60 (2010); S.C. CODE ANN. § 17-25-45 (2010).

³ Attempted murder is a violent, most serious felony punishable by imprisonment "for not more than thirty [(30)] years. A sentence imposed pursuant to this section may not be suspended nor may probation be granted." S.C. CODE ANN. § 16-3-620 (2010); S.C. CODE ANN. § 16-1-60 (2010); S.C. CODE ANN. § 17-25-45 (2010).

⁴ "If a person is in possession of a firearm or visibly displays what appears to be a firearm or visibly displays a knife during the commission of a violent crime and is convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, he must be imprisoned five [(5)] years, in addition to the punishment provided for the principal crime. This five-year [(5)] sentence does not apply in cases where the death penalty or a life sentence without parole is imposed for the violent crime." Further, "[s]ervice of the five-year [(5)] sentence is mandatory unless a longer mandatory minimum term of imprisonment is provided by law for the violent crime. The court may impose this mandatory five-year [(5)] sentence to run consecutively or concurrently." S.C. CODE ANN. § 16-23-490 (2010).

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On December 22, 2010, the Applicant's plea counsel filed a timely notice of appeal on the Applicant's behalf. In an unpublished Order filed with the Clerk of the South Carolina Court of Appeals on March 5, 2012 and with the Spartanburg County Clerk of Court on April 11, 2012, the Court of Appeals dismissed the Applicant's appeal for failure to demonstrate any issue was raised or ruled upon by the circuit court judge, pursuant to Rule 203(d)(1)(B)(iv), SCACR. The Remittitur was issued on March 30, 2012 and filed with the Spartanburg County Clerk of Court on April 11, 2012.

ALLEGATIONS

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

1. Ineffective assistance of counsel, in that:
 1. Counsel failed to inform Applicant of elements of each offense,
 2. Counsel failed to advise Applicant of direct consequences,
 3. Counsel failed "to any waivers to any procedural, jurisdictional and non-jurisdictional defects and defenses,"
 4. Counsel improperly promised sentence that would be received as a result of guilty plea,
 5. Counsel failed to advise Applicant of the consequences of sentencing to avoid the two strikes application,
 6. Counsel failed to fully investigate the case,
 7. Counsel failed to inform the Applicant of the results from the SLED report,
 8. Counsel failed to object to the validity of the statements made by the victim,
 9. Counsel failed to share the motion of discovery with the Applicant,
 10. Failed to petition the court, prior to the Applicant's plea, for a Blair hearing, and
2. Involuntary guilty plea, in that:
 1. Guilty plea was not knowingly and intelligently entered.

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At the hearing, the Applicant proceeded only on grounds 1-2, 4-7, 9-10, and the allegation that his guilty plea was involuntary. This Court finds the Applicant failed to present any testimony or evidence regarding any other claims raised in his Application and Amended Application, therefore, this Court finds all allegations other than those presented at the hearing are deemed abandoned by the Applicant.⁵

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. CODE ANN. § 17-27-80 (2003).

Summary of Testimony and Proceeding

The Applicant testified that at the time of his arrest, he had completed four (4) years at Francis Marion University, but did not graduate. The Applicant testified that he was first appointed Kathy Hodges, Esquire and then Tanya Jones, Esquire (Counsel) from the Spartanburg County Public Defender's office. The Applicant testified that although Kathy Hodges, Esquire was appointed to represent him, he did not meet with her. The Applicant testified Counsel had his case for one (1) year. He testified that he met with Counsel to discuss his personality disorders, depression, narcissistic antisocial behavior, anxiety, and mental health diagnoses. He testified that he was evaluated by the South Carolina Department of Mental Health in Columbia and he told Counsel that he wished to review his medical records, signing a release to that effect. The Applicant testified that he never received or saw his psychiatric evaluation and did not

⁵ The transcript reveals that the Applicant was also indicted for a thirty (30) day magistrate-level offense of violating an order of protection (Tr. 14:19-15:2). The Applicant does not challenge the disposition of this offense on

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discuss the report with Counsel. The Applicant testified Counsel told him that the insanity defense was inapplicable but did not explain why. He further testified that Counsel never had the documents with her and that he never saw the report until May 20, 2012. The Applicant testified he pled guilty on December 12, 2011.

The Applicant testified he never saw the police reports, the DNA analysis or ballistics reports from SLED, or any telephone records, as well as various, additional exculpatory evidence. He alleged he never saw any reports until after Counsel filed a Rule 5 Motion, which he received in May 2012. The Applicant testified that Counsel never reviewed her file or any discovery materials with the Applicant. Overall, the Applicant testified that he met with Counsel three (3) times for a total of three (3) hours. He testified the first two (2) times he met with Counsel they discussed his mental health, and not his case. The third time, the Applicant testified, Counsel "instructed" him to plead guilty and he "went with her advice." He further testified that Counsel advised him that he should accept a plea because a trial would not end in a good result. The Applicant testified that he signed three (3), undated sentencing sheets. The Applicant testified that Counsel never spoke with him about the penalty ranges associated with his offenses. Likewise, he testified Counsel never advised him of the possibility he could receive a sentence of fifteen (15) years to life in prison for Burglary-First Degree. The Applicant testified that the first time he heard that he could possibly serve life in prison was during his plea hearing; however, he did not stop the judge at that point in the hearing. Further, Applicant testified that Counsel never reviewed the sentencing possibilities of zero (0) to thirty (30) years associated with the Attempted Murder charge. The Applicant testified that he was never told about the consequences of the charges classified as violent, serious, or most serious.

The Applicant testified that he was never aware that he could receive consecutive

collateral review before this Court.

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sentences and instead, was promised he would receive a sentence of twenty (20) years, suspended to fifteen (15) years' imprisonment, with five (5) years of probation. The Applicant introduced a letter from his attorney on a separate case (Applicant's Exhibit #1), which he testified would support that claim. It was noted that the letter did not purport to say what the Applicant alleged. The Applicant testified that Counsel never told him about the State's offer. He testified he knew his plea was "open" or "straight up" with no negotiations, but he did not understand the concept at the time. He further testified that he felt Counsel was "rushing." The Applicant affirmed that he was promised the above referenced deal and that Counsel and Mr. James Cheek, Esquire, Counsel's co-counsel at the Public Defender's Office said the same thing: that he would receive "no more than fifteen [(15)] years."

The Applicant testified that he expected Counsel to conduct further investigations to determine whether he had any defenses, specifically, the insanity defense, and to see if there was any exculpatory evidence, specifically because the SLED DNA report indicated that DNA found at the scene was not a match to the Applicant. The Applicant alleged the DNA analysis revealed that the DNA of an unidentified male suspect at the scene did not match his. He testified Counsel never told him about the favorable SLED report and never looked into another possible defense related to the DNA evidence. The Applicant introduced a letter dated May 2012 requesting discovery as Exhibit #2; the SLED reports regarding gunshot residue and DNA as Exhibit #3; and a statement from eyewitness Markevious White as Exhibit #4. He testified the eyewitness' physical description of the assailant did not match his description as a twenty-two-year-old (22) five foot, five inches (5'5") one hundred twenty-four pound (124 lb) male. The Applicant denied shooting the victim and testified that he believed an unidentified male shot her. The Applicant testified that when he pled guilty, he simply said he was guilty, not that he shot the victim.

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The Applicant testified he did not know whether Counsel filed a motion for reconsideration on his behalf. He testified Counsel related that after she filed an appeal, she did not feel compelled to file a motion for reconsideration based on the severity of the crime. The Applicant testified that Counsel's office filed an appeal, but no more. The Applicant alleged that he did not talk to anyone regarding his appeal or motion for reconsideration.

Counsel testified that she had practiced law for approximately eleven (11) years at the time she represented the Applicant and was a Spartanburg County Public Defender. Counsel testified that the Applicant pled guilty on December 12, 2011 and that after the Applicant had been assigned representation from her office for one (1) year, she inherited his file from another Public Defender. Counsel testified that her standard procedure was to bring her files to the jail and that she specifically recalled discussing the elements of the charges with the Applicant and the consequences of his plea. Counsel testified she reviewed the discovery materials with the Applicant several times at the jail. In fact, Counsel testified, the Applicant's prior attorney, Kathy Hodges, Esquire, had already received the discovery materials at the time Hodges represented the Applicant. Although Counsel had no specific recollections of the substance of the discovery materials, which were not provided to her in anticipation of the Applicant's PCR hearing, Counsel testified that she kept specific information in the Public Defender's system for ease of access. Counsel denied that she saw the discovery material for the first time the week before the Applicant's plea. Counsel affirmed that she always had her file when she went to the jail to see the Applicant and would have seen him at the jail prior to his plea.

Counsel summarized the underlying facts of the Applicant's offenses: The Applicant had a third party drive him to the victim's apartment, which he entered armed with a gun. The Applicant's friend Jacqueline Cash and some of her cousins, who witnessed the crime, drove the

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Applicant to the house because Applicant said the victim was not allowing him to see his child. The Applicant used them to gain entry to the apartment by having Cash knock on the victim's door. The Applicant hit the victim, his ex-girlfriend with whom he shared a child, in the face and shot the victim twice. Counsel stated the Applicant then tried to kill himself. The Applicant and victim's six (6) month old child was present during the melee. The Applicant fled the scene of the crime and later turned himself in. Counsel clarified that the victim did not want anything to do with the Applicant, so he went over to her apartment and shot her. Counsel testified that the Applicant informed her that he read a letter from the victim on the day of the incident, which caused him to just snap and go to victim's home.

Counsel testified that the DNA found at the scene was "shared with" the Applicant. She further testified that she found no basis to object to the victim's statement to the court during the plea hearing. Counsel confirmed that she spoke with the Applicant at length regarding the relevant events, his defenses, and the discovery. She testified that the Applicant had written a letter, which over her objections, he read in open plea court. She reviewed the letter in question; read over the letter with the Applicant; advised him to "water" the letter down "a little;" and did not want the Applicant to publish the letter for the record because, in her opinion, from the "tone" of the letter, it sounded as though the Applicant would continue to "stalk" the victim upon his release from prison and that he showed "no remorse." Counsel recalled "it sounding bad."

Counsel testified that she reviewed the facts with the Applicant and conveyed her concerns that the State had an overwhelming case against him. Counsel further affirmed that she "went over everything" with the Applicant. Counsel testified that the evidence against the Applicant was "so strong" that she felt the Applicant's case would "never" go to trial and was "always a plea." She further testified that the Assistant Solicitor Barry Barnette "takes cases that

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are like shooting fish in a barrel" and assessed the Applicant's case as a "clear trial." She further testified that the Assistant Solicitor was reluctant to offer any recommended plea deals and that Mr. Cheek, Counsel's co-counsel would have had conversations with the Solicitor in attempts to negotiate a plea agreement. She testified that she always attempted to negotiate a deal with the Solicitor, but that the Solicitor put no deal on the table because of the notoriety of the case.

Counsel testified that in going forward with trial, one of the main issues would be competency to stand trial and therefore she requested a mental evaluation regarding both competency and insanity. Counsel represented that she "fully" and "thoroughly" investigated the Applicant's sanity and competence. The report indicated that he was competent to stand trial and understood legal right from wrong at the time of the crime. Therefore, Counsel testified that an insanity defense was not viable.

Counsel testified that the Applicant understood the range of penalty and consequences of sentencing. She testified that the Applicant understood that he faced maximum exposure. Counsel testified that although she does not specifically recall whether she advised the Applicant of the three-strikes law, her standard practice is to always discuss each charge and the potential sentence for each and that she would have discussed the three-strikes law, the elements of the offenses, the ranges of penalty, and the violent, serious, and most serious offenses classification scheme with the Applicant. During her testimony, Counsel concluded that the Applicant had no reason to think that he was receiving a twenty (20) to thirty (30) year sentence instead of a thirty (30) to forty (40) year sentence. Counsel testified that her common practice is to "always go over the numbers," penalty ranges, and other details in order to insure against discrepancies. She testified that she does not recall her specific schedule during the period of time between the

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Applicant's execution of the sentencing sheets and his plea, but encouraged the Court to verify her whereabouts on the day the Applicant pled guilty by double checking the jail records.

Counsel emphatically denied ever "promising" the Applicant a sentence. She testified that she told the Applicant that she hoped he would receive between a twenty (20) and thirty (30) year sentence, but the best way to receive that was to plead guilty, ask for mercy during mitigation, and hope for the best. She testified that, unfortunately, the Applicant ended up receiving a forty (40) year sentence. Counsel affirmed that the Applicant was aware of the range of penalty and his exposure and represented to the court that she "mitigated" as much as possible. However, Counsel testified that unfortunately, the Applicant's tone at his plea appeared to not sound very remorseful or accepting of his responsibility. Counsel represented that in order to avoid unrealistic expectations; she is always honest with her clients and explains that she ultimately cannot control the plea court's decision on sentencing. Counsel affirmed that based on ethical considerations, she made no promises to the Applicant. Counsel testified that she did not recall anything said by the victim that would have been objectionable.

Although Counsel had no specific recollection of advising the Applicant to file a motion for reconsideration, she testified that she did file a notice of appeal on the Applicant's behalf. She also had no recollection that the Applicant asked her to file a motion for reconsideration. Counsel testified she does not usually have "luck" with filing motions for reconsideration, so her usual practice was not to file them. She testified that she would not have encouraged the Applicant to file a motion for reconsideration because there was a chance the Applicant could receive more time and possibly life in prison without possibility of parole. Counsel testified she advised the Applicant about the differences between concurrent and consecutive sentences and that the plea judge could "change his mind" and could have run the Applicant's sentences

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consecutively to affect a life sentence. Counsel testified that had she considered filing a motion, she would have discussed her strategy with co-counsel, Mr. Cheek. Counsel confirmed that she did not believe that filing a motion for reconsideration would have been in the Applicant's best interest given the facts, evidence, witnesses, and strength of the State's case.

Ineffective Assistance of Counsel

In a PCR action, "the burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 622, 300 S.E.2d 482, 483 (1983)). Where the Applicant 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, 104 S. Ct. 2052, 2064 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 686, 104 S. Ct. at 2064).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. See Strickland at 690, 104 S. Ct. at 2066. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. See id. 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).

Courts use a two-pronged test to evaluate allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. See id. at 117-18, 386 S.E.2d at 625. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Id. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. at 686, 104 S. Ct. at 2064).

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668, 104 S. Ct. at 2052). 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 (citing *Strickland*, 466 U.S. at 694, 104 S. Ct. at 2068). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial." *Johnson v. State*, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing *Strickland*, 466 U.S. at 694, 104 S. Ct. at 2068).

The Applicant alleges he received ineffective assistance of counsel. This Court finds the testimony of Counsel to be more credible than the testimony of Applicant as to all allegations raised in the Application, the Amended Application, and at the hearing. This Court finds Counsel is a criminal practitioner who has experience in the trial of serious offenses. This Court finds Counsel provided credible testimony during the Applicant's evidentiary hearing. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, Counsel discussed the pending charges, the elements of the charges and what the State was required to prove, the Applicant's constitutional rights, the Applicant's version of the facts, and his possible defenses or lack thereof. The record reflects that Counsel effectively explained the charges, their associated penalty ranges, and the consequences of pleading guilty. The record reflects that the Applicant's plea was entered freely, voluntarily, knowingly, and intelligently.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that the Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. *State v. Pendergrass*, 270 S.C. 1, 5, 239 S.E.2d 750, 752 (1977); *Strickland*, 466 U.S. at 687-88, 104 S.

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Ct. 2052, 2064-65; Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 687-88, 104 S. Ct. at 2064-65, Turner v. Bass, 753 F.2d 342, 348 (4th Cir. 1985), *rev'd on other grounds*, Turner v. Murray, 106 S. Ct. 1683 (1986); Marzullo v. Maryland, 561 F.2d 540, 543 (4th Cir. 1977)). This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, and provided thorough representation. This Court finds that Counsel's representation did not fall below an objective standard of reasonableness. This Court can find no deficiency in Counsel's representation in this matter

Failure to Advise of Penalty and Sentencing Consequences

The Applicant alleges Counsel was ineffective for failing to inform the Applicant of the penalty ranges associated with his charges, the potential sentences he was facing, and the consequences of entering his plea, specifically the "two strikes application." This Court finds this allegation is wholly without merit. This Court finds credible Counsel's testimony that she informed the Applicant of the following: the elements of the charged offenses; the penalty ranges of the offenses; the potential sentences associated with his charges; the three-strikes law; the violent, serious, and most serious classification scheme; the difference between running the charges consecutively or concurrently; and the possibility that the plea court could potentially impose, in effect, a life sentence. This Court finds Counsel was not deficient in this regard and her performance did not affect the outcome of the Applicant's proceeding. See Randall v. State, 356 S.C. 639, 641-42, 591 S.E.2d 608, 609-610 (2004) (citing Jackson v. State, 349 S.C. 62, 562 S.E.2d 475 (2002)) (failure to advise of collateral consequences of parole eligibility before the applicant proceeds to trial not ineffective assistance of counsel); Knox v. State, 340 S.C. 812, 530 S.E.2d 887 (2000), *overruled on other grounds*, State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005) (counsel is not ineffective for failing to advise a defendant regarding parole eligibility

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in connection with his guilty plea because it is a collateral consequence of sentencing); Smith v. State, 329 S.C. 280, 494 S.E.2d 626 (1997) (unless counsel gives erroneous advice, parole information is not a ground for collateral attack of a guilty plea); Brown v. State, 306 S.C. 381, 412 S.E.2d 399 (1991) (guilty plea is not rendered involuntary if the defendant is not informed of the collateral consequences of his sentence).

Moreover, this Court finds that any alleged deficiencies in the Applicant's personal understanding of the ramifications of his plea were cured during the plea court's colloquy. Specifically, the plea court advised the Applicant of the penalty ranges of his offenses and the Applicant affirmed that he understood (Tr. 13:8-11; 14:3-6; 15:3-9). Further, the plea court advised the Applicant that the offenses are both violent and most serious and confirmed that the Applicant had the opportunity to discuss the consequences and ramifications of pleading to violent and most serious offenses with his attorney (Tr. 13: 12-24; 14:1-18). The Applicant affirmed his understanding and told the court he still wished to plead guilty. Id. "A defendant must be advised of a mandatory punishment for the offense to which he is pleading." State v. Hazel, 275 S.C. 392, 271 S.E.2d 602 (1980). Despite counsel's alleged failure to advise his or her client regarding the mandatory minimum sentences, the trial judge cures any misconception by properly advising the defendant of the penalty ranges at the plea hearing. Knox, 340 S.C. at 86, 530 S.E.2d at 889 (citing Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998)). Cf. Smith v. State, 329 S.C. 280, 284-85, 494 S.E.2d 626, 628-29 (1997) (enumerating collateral consequences of burglary conviction and holding that guilty plea not rendered invalid for counsel's failure to advise of each consequence associated with violent crimes). Therefore, this Court finds the Applicant's assertions that Counsel was inefficient for failing to explain all penalty ranges and sentencing consequences without merit.

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Improperly "Promised" Sentence

The Applicant alleges that Counsel was ineffective for improperly promising him a sentence he would receive in return for his guilty plea and therefore his guilty plea was rendered involuntary. Based on Counsel's credible testimony that after her extensive discussions about sentencing and mitigation with the Applicant, she saw no reason for the Applicant to think he was promised a twenty (20) to thirty (30) year deal, this Court finds the Applicant's bald assertion without merit. This Court finds most compelling the transcript of the Applicant's plea colloquy where the Applicant affirmed that he understood the potential sentences he was facing (Tr. 13:8-11; 14:3-6; 15:3-9) and told the court that his decision to plead guilty to the charged offenses was free, voluntary, and induced by no threats or promises (Tr. 9:4-12). See Wolfe v. State, 326 S.C. 158, 164-66, 485 S.E.2d 367, 370-71 (1997) (in finding that plea was not rendered involuntary by the applicant's erroneous assumption that he was promised a deal, the court opined, "[w]ishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made"); see, e.g., Rayford v. State, 314 S.C. 46, 48-49, 443 S.E.2d 805, 806-807 (1994) (transcript of plea hearing refuted applicant's claim that he did not understand the terms of his plea arrangement where plea court cured any possible misapprehensions); Richardson v. State, 310 S.C. 360, 362-63, 426 S.E.2d 795, 797 (1993) (having heard incorrect information regarding plea arrangement, fatal misimpressions were corrected by accurate information from the plea court).

Failure to Fully Investigate

The Applicant claims Counsel was ineffective for failing to fully investigate his case. Consequently, the Applicant argues that Counsel was ineffective for failing to develop additional

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defenses based on potential discovery material. This Court finds the Applicant has failed to show the potential benefit of any further investigation; this Court will not speculate as to the result of such investigation.

"[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012), *overruled on other grounds*, Walker v. State, 407 S.C. 400, 756 S.E.2d 144 (2014). "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result." Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Wiggins v. Smith, 539 U.S. 510, 521-22, 123 S. Ct. 2527, 2535 (2003).

Our Courts have repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (citing Pauling v. State, 31 S.C. 606, 503 S.E.2d 468 (1998); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995); Underwood v. State, 309 S.C. 345, 495 S.E.2d 768 (1998)). The Applicant's mere speculation as to what a witness' testimony would have been by itself cannot satisfy the Applicant's burden of showing prejudice. Id. (citing Glover, 318 S.C. at 498-99, 458 S.E.2d at 540). See Edwards, 392 S.C. at 457, 710 S.E.2d at 65 ("So long as a defendant's attorney conducts a reasonable investigation, including

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interviewing potential witnesses when it is reasonable to do so, his performance will not be deficient.”); Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006) (citing Strickland, 466 U.S. at 691, 104 S. Ct. at 2066) (“Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.”).

This Court finds credible Counsel’s testimony that she “fully” and “thoroughly” investigated the Applicant’s case. This Court further finds credible Counsel’s testimony that she received and reviewed all discovery with the Applicant prior to his plea. This Court finds compelling Counsel’s unwavering belief that the State’s case against the Applicant was so strong and the State’s refusal to enter into a plea bargain so sustained, that she never contemplated the Applicant’s case ending in any disposition other than a plea. Consequently, this Court finds the Applicant’s uncorroborated assertions that the DNA of an unidentified male found at the scene and one witness’ inconsistent physical description of the assailant exonerate him lack credibility, especially in light of the strength of the State’s case and the Solicitor’s proffered eyewitness statements.

Additionally, the record reflects that Counsel received the discovery associated with the Applicant’s case prior to his plea. The Applicant’s first attorney and Counsel’s predecessor in representation and colleague at the Public Defender’s office, Kathleen J. Hodges, Esquire filed a Brady Motion with the Spartanburg County Clerk of Court on June 29, 2010. The record contains two Affidavits of Additional Discovery, filed July 16, 2010 and July 21, 2010, the State delivered the Applicant’s hospital lab reports, the warrant, incident reports, investigation report, statement of the Applicant, witness statement, copy of the Applicant’s prior records, the Solicitor’s Rule 5 mandatory disclosures, photographs, narrative, offense report, canine report,

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crime scene information, bond revocation information to Counsel in July 2010. The State transmitted the results of the SLED DNA and trace evidence tests to Counsel by email on September 27, 2011. See "Affidavit of Service by Email," filed September 28, 2011. In an order filed July 27, 2011, and which was provided to Counsel, the Applicant was ordered to be evaluated by the South Carolina Department of Mental Health for competency to stand trial, pursuant to State v. Blair. Further, Counsel credibly testified that she presented as much mitigating evidence as possible during sentencing. The record further reflects that Counsel and her co-counsel, Mr. Cheek provided extensive mitigating evidence to the sentencing court, which included various details and anecdotes about the Applicant's educational and demographic background, history of mental health challenges, and troubling childhood and home life (Tr. 22:6-32:20). Moreover, the plea transcript reflects that Counsel entered various mitigating documents as exhibits at the hearing, including the Applicant's competency evaluation, letters, and certificates from jail rehabilitation programs, which she had provided to the Court well in advance of sentencing (Tr. 25:2-25).

Therefore, this Court finds that Counsel thoroughly and adequately investigated the Applicant's case and finds no basis to speculate as to the results of any further investigation. Thus, this Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective for failing to fully investigate his case.

Failure to Review Discovery

The Applicant asserts that Counsel was ineffective for failing to review and share discovery materials, including the results from the SLED reports.⁶ Consequently, the Applicant

⁶ During his testimony, the Applicant made a passing reference to telephone records that were ostensibly in Counsel's possession as a part of the discovery, but never turned over to the Applicant. The Applicant made no further argument regarding any telephone records; therefore, this ground for relief is deemed abandoned. This Court notes that the Brady and Rule 5 filings in the Applicant's file do not include descriptions of telephone records.

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argues that Counsel was ineffective for failing to develop additional defenses based on this discovery material. The record reflects that, pursuant to Counsel's predecessor's Brady Motion, Counsel received the discovery, including the results of the SLED DNA and trace evidence tests. See "Affidavit of Service by Email," filed September 28, 2011. This Court finds credible Counsel's testimony that she reviewed "everything" with the Applicant and it was her practice to bring her entire file, including discovery, to the jail in order to review discovery with her clients. The transcript of the plea colloquy where the Solicitor affirmed to the court that he had turned over all discovery prior to the hearing corroborates Counsel's testimony (Tr. 16:3-4). This Court finds that the Applicant has failed to meet his burden of showing that Counsel failed to turn over favorable evidence for his review. Accordingly, this Court finds that Counsel was not ineffective.

Further, the Applicant presented no cogent argument that the results of the SLED DNA report and gunshot residue tests specifically contain exculpatory evidence or support any possible defense to the charges. Cf. Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (citing Pauling v. State, 31 S.C. 606, 503 S.E.2d 468 (1998); Glover v. State, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995); Underwood v. State, 309 S.C. 345, 495 S.E.2d 768 (1998)) (the Applicant's mere speculation as to what a witness' testimony would have been by itself, cannot satisfy the Applicant's burden of showing prejudice). Concurrently,

where the alleged error of counsel is a failure to investigate or discover potentially exculpatory evidence, the determination whether the error "prejudiced" the defendant by causing him to plead guilty rather than go to trial will depend on the likelihood that discovery of the evidence would have led counsel to change his recommendation as to the plea. This assessment, in turn, will depend in large part on a prediction whether the evidence likely would have changed the outcome of a trial. Similarly, where the alleged error of counsel is a failure to advise the defendant of a potential affirmative defense to the crime charged, the resolution of the "prejudice" inquiry will depend largely on whether the affirmative defense likely would have succeeded at trial.

Hill v. Lockhart, 474 U.S. 52, 59, 106 S. Ct. 366, 370-71, 88 L. Ed. 2d 203 (1985). Therefore,

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this Court finds that the Applicant has failed to meet his burden of proving Counsel's representation was ineffective in this regard.

Failure to File Motion for Reconsideration and Perfect Appeal

The Applicant asserts that Counsel was ineffective for failing to file a motion to reconsider the Applicant's sentence and failing to perfect an appeal.

"The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion." State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008) (citing State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981)). "A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed." Hicks, 377 S.C. at 325, 659 S.E.2d at 500.

"[A]bsent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea." Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995). The South Carolina Appellate Court Rules provide the procedure for appealing a guilty plea and sentence from the Circuit Court:

If the appeal is from a guilty plea, an Alford plea or a plea of nolo contendere, a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal. If the appellant fails to make a sufficient showing, the notice of appeal may be dismissed

SCACR 203(d)(1)(B)(iv). See Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995); State v. Thrift, 378 S.C. 70, 661 S.E.2d 373 (2008).

At the hearing, the Applicant alleged he was uncertain why Counsel chose not to file a

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motion for reconsideration and appellate brief on his behalf.⁷ The testimony of the PCR hearing and record of the Applicant's file reflect that Counsel properly and timely filed an appeal at the behest of her client according to the South Carolina Appellate Court Rules, which was later dismissed. See supra. The Court of Appeals' Order dismissing the Applicant's appeal, pursuant to 203(d)(1)(B)(iv), SCACR provides: "Appellant filed a letter regarding his appeal, but Appellant has not made a showing that any issue was raised to or ruled upon by the circuit court judge. Furthermore, Appellant's counsel has asserted that no issues were raised during the guilty plea." The Applicant has provided no authority that requires Counsel to perfect his appeal. This Court finds that Counsel properly advised the Applicant of his right to appeal and followed the procedures outlined in the South Carolina Appellate Court Rules. The Applicant failed to present any meritorious claim supporting his argument that Counsel was obligated to file a motion for reconsideration of his sentence or that any such motion would have been successful. This Court finds credible Counsel's testimony that she could discern no basis to file a motion for reconsideration and, in fact, believed filing a motion for reconsideration would be against her advice and against the Applicant's best interest. Further, the Applicant presented no cogent theory supporting his claim that Counsel was obligated to perfect his appeal or that any such appeal would have been successful. To the contrary, this Court finds that the sentence imposed by the plea court was reasonable, especially in light of the horrific facts of the underlying event, the strength of the State's case should the Applicant proceed to trial, and the Applicant's potential exposure to life imprisonment. Additionally, this Court finds that had the Applicant

⁷ Where an appellant fails to object to his sentence at the time of its imposition, the appellant has waived that issue for appellate review. See State v. Garner, 304 S.C. 220, 222, 403 S.E.2d 631, 632 (1991) (citing State v. Shumate, 276 S.C. 46, 275 S.E.2d 288 (1981); Rule 29, SCRCrIMP (providing parties to criminal actions may file post-trial motions within ten days after the trial court imposes a sentence). However, the Applicant does not argue that Counsel was ineffective for failing to properly preserve error to the Court of Appeals. The Applicant merely argues that Counsel was ineffective for failing to file a motion for reconsideration and for failing to perfect his appeal.

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perfected his appeal, it likely would have been dismissed pursuant to an Anders brief. Anders v. California, 386 U.S. 738, 741-42, 87 S. Ct. 1396, 1398-99 (1967). Accordingly, this Court finds that Counsel was not deficient in this regard.

Failure to Evaluate for Competency and Insanity

The Applicant alleges Counsel was ineffective for failing to have the Applicant mentally evaluated to determine his competency to stand trial prior to his guilty plea and for failing to pursue a not guilty by reason of insanity defense. This Court finds the Applicant has failed to carry his burden of proving Counsel was ineffective in this regard.

Under M'Naghten, "[a]n accused who lacks the capacity to distinguish moral or legal right from moral or legal wrong at the time of the crime is relieved of responsibility for his acts." Davenport v. State, 301 S.C. 39, 40, 389 S.E.2d 649, 649 (1990) (citing S.C. CODE ANN. § 17-24-10 (2014)); State v. Law, 270 S.C. 664, 244 S.E.2d 302 (1978); State v. Cannon, 260 S.C. 537, 197 S.E.2d 678 (1973)).

A defendant must be mentally competent to stand trial to assist Counsel in his defense. Drope v. Missouri, 420 U.S. 162 (1975) ("It has long been accepted that a person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense may not be subjected to a trial.").

In every criminal case, it is presumed the defendant is sane. State v. Milian-Hernandez, 287 S.C. 183, 185, 336 S.E.2d 476, 477 (1985). "This presumption relieves the State of the burden of proving sanity in every case. However, when the defendant offers evidence of insanity, the presumption disappears and it is incumbent on the State to present evidence from which a jury could find the defendant sane. Any evidence of sanity is sufficient to present a jury issue."

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when the defendant relies on the affirmative defense of insanity." *Id.* Insanity is an affirmative defense to a prosecution for a crime. *Id.* South Carolina has adopted the M'Naghten test to determine insanity. *State v. Lewis*, 328 S.C. 273, 277-78, 494 S.E.2d 115, 117 (1997). "A defendant is insane if, at the time of the commission of the act constituting the offense, as a result of mental disease or defect, he lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong." *Id.* (citing S.C. CODE ANN. § 17-24-10(A) (2014)). South Carolina law provides:

(A) It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong.

(B) The defendant has the burden of proving the defense of insanity by a preponderance of the evidence.

(C) Evidence of a mental disease or defect that is manifested only by repeated criminal or other antisocial conduct is not sufficient to establish the defense of insanity.

S.C. CODE ANN. § 17-24-10(A) (2014). "[T]he key to insanity is 'the power of the defendant to distinguish right from wrong in the act itself-to recognize the act complained of is either morally or legally wrong'." *State v. Wilson*, 306 S.C. 498, 506, 413 S.E.2d 19, 23 (1992) (quoting *State v. McIntosh*, 39 S.C. 97, 17 S.E. 446 (1893)).

This Court finds the allegation that Counsel was ineffective for failing to have the Applicant mentally evaluated to determine his competency to stand trial prior to his guilty plea is wholly without merit. In determining whether counsel is ineffective for failing to request a competency hearing, under the second prong of the *Strickland* standard, an applicant must show that a reasonable probability exists that he would be found incompetent at the time of this trial or plea. *Jeter v. State*, 308 S.C.230, 417 S.E.2d 594 (1992). The test of competency to enter a plea is the same as required to stand trial. *State v. Lambert*, 266 S.C. 574, 225 S.E.2d 340 (1976). The

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accused must have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him. Carnes v. State, 275 S.C. 353, 271 S.E.2d 121 (1980). "In a PCR action, the petitioner bears the burden of proof and is required to show by a preponderance of the evidence he was incompetent at the time of his plea." Jeter, 308 S.C. at 222-23, 417 S.E.2d at 596 (citing Webb v. State, 281 S.C. 237, 314 S.E.2d 839 (1984)). Counsel may reasonably rely on his own perceptions in deciding if a client is competent to stand trial. Id.

In order to show an Applicant was prejudiced by Counsel's failure to pursue the defense of insanity, "the petitioner must produce some evidence of insanity or a showing that with the exercise of due diligence, an insanity defense could have been developed." Id. (citing State v. Vickers, 306 N.C. 90, 291 S.E.2d 599 (1982), Daniel v. State, 282 S.C. 155, 317 S.E.2d 746 (1984)).

This Court finds the Applicant has failed to meet his burden of showing that he was incompetent at the time of his guilty plea. Counsel requested and was granted the right to have the Applicant evaluated for competency to stand trial and determined that he would not have a viable insanity defense. See Order for Competency to Stand Trial Evaluation Pursuant to State v. Blair, filed July 27, 2011. Counsel requested and received a competency evaluation pursuant to State v. Blair by Order dated July 26, 2011 and filed with the Spartanburg County Clerk of Court on July 27, 2011, which evaluation was entered into the record at the Applicant's plea hearing and was reviewed by the sentencing court. The only testimony the Applicant provided in support of his contention that he was both incompetent and insane at the time of his plea was that he had suffered from personality disorders, depression, narcissistic antisocial behavior, and anxiety. The transcript of the plea colloquy reveals that the Applicant was evaluated twice: once to determine

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whether he was competent to stand trial and a second time to determine whether the insanity defense applied (Tr. 36:4-15).⁸ The record is completely devoid of any evidence that the Applicant was either incompetent or insane at the time of his plea hearing. Accordingly, this Court finds that the Applicant has failed to meet his burden of proof in this regard.

Involuntary Guilty Plea

In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347, 350 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566, 566 (4th Cir. 1976).

When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill, 474 U.S. at 52, 106 S. Ct. at 366; Roscoe, 345 S.C. at 20, 546 S.E.2d at 419 (citing

⁸ The trial court held an off-the-record bench conference with Counsel and the Assistant Solicitor. Thereafter, the court qualified and accepted the Applicant's plea and sentenced the Applicant as enumerated above (Tr. 36:16).

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Hill, 474 U.S. at 52, 106 S. Ct. at 366; Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994)). To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991) (citing State v. Hazel, 275 S.C. 392, 394, 271 S.E.2d 602, 602 (1980)). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Rolen v. State, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009) (citing Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 650 (2000)). See Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). "Specifically, the voluntariness of a guilty plea is not determined by an examination of a specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea, and also from the record of the PCR hearing." Roddy v. State, 339 S.C. 29, 33, 528 S.E.2d 418, 420 (2000). "In order for a defendant to knowingly and voluntarily plead guilty, he must have a full understanding of the consequences of the plea." Id. (citing Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991); State v. Hazel, 275 S.C. 392, 271 S.E.2d 602 (1980)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993). "Under the procedure, a defendant, before his guilty plea may be accepted, is examined under oath on the voluntariness of his plea, including particularly its freedom from coercion by threat." Edmonds, 546 F.2d at 567. When a defendant pleads guilty on the advice of counsel, the plea may be attacked through only a claim

37:17). The Applicant did not argue this portion of the transcript at the evidentiary hearing before this Court.

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of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citing Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (1999)).

Moreover,

a signed document that informs a defendant of the charges against him, such as a sentencing sheet, gives rise to a presumed regularity in the proceedings and signifies that the defendant has been notified of the charges to which he has pled guilty. . . . In a criminal case, a defendant who chooses to plead guilty has ample opportunity to be fully notified of the charges he is pleading guilty to. . . . [A] defendant may check a box to indicate that he wishes to plead guilty. In addition, a defendant may sign the sentencing sheet, indicating the defendant is informed of the choices and has selected the box that corresponds to the course of action the defendant wants to take in the case. As a result, we believe that all of these factors indicate that the Defendant had notice of the charges to which he chose to plead guilty.

State v. Smalls, 364 S.C. 343, 347, 613 S.E.2d 754, 756 (2005).

This Court finds that the Applicant failed to meet his burden of proof as to this claim. This Court finds the transcript of the guilty plea to be most compelling. The Applicant affirmed that he was pleading guilty to the charges as recited by the Solicitor (Tr. 6:23-7:5). The Applicant thereafter told the plea court that he was twenty-three (23) years old, had attended Francis Marion University for four (4) years, but did not graduate, was unmarried but had one (1) nineteen-month old (19) child, and worked as a custodial manager for Francis Marion University and for the Boy Scouts of America (Tr. 7:23-8:9). The Applicant confirmed that he had not consumed any substances within the past twenty-four (24) hours that would adversely or negatively affect his ability to understand his plea proceedings (Tr. 8:14-17) and had never been treated for any substance abuse or alcohol problem (Tr.8:18-20). The Applicant told the plea court that he was satisfied with his lawyer's services; had enough time to speak with her regarding the elements of the charges, the facts underlying the offenses, and any possible defenses (Tr. 8:21-9:3). The Applicant told the court that his decision to plead guilty to the

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charged offenses was free, voluntary, and induced by no threats or promises (Tr. 9:4-12). The plea court advised the Applicant of his constitutional rights, which the Applicant said he understood (Tr. 9:13-10:9). Thereafter, the Applicant waived his constitutional rights. *Id.* The Applicant allocated to the facts of the offenses as published by the Solicitor (Tr. 12:17-13:2). The plea court advised the Applicant of the penalty ranges of his offenses and the Applicant affirmed that he understood (Tr. 13:8-11; 14:3-6; 15:3-9). Further, the plea court advised the Applicant that the offenses are both violent and most serious and confirmed that the Applicant had the opportunity to discuss the consequences and ramifications of pleading to violent and most serious offenses with his attorney (Tr. 13: 12-24; 14:1-18). The Applicant affirmed his understanding and told the court he still wished to plead guilty. *Id.* Lastly, the Applicant told the plea court that he was able to hear all of his questions, had provided truthful and honest responses (Tr. 15:24-16:2). Thereafter, the court qualified and accepted the Applicant's plea and sentenced the Applicant as enumerated above (Tr. 36:16-37:17). Therefore, this Court finds that the Applicant has failed to meet his burden of showing that his guilty plea was not entered freely, voluntarily, knowingly, and intelligently.

All Other Allegations

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

CONCLUSION

This Court finds in regards to the allegations of ineffective assistance of counsel and involuntary guilty plea, Applicant's testimony as a whole was not credible. This Court further

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finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in her representation, and that Counsel's conduct did not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test specifically that Counsel failed to render reasonably effective assistance under prevailing professional norms. See Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in her representation of the Applicant. The Applicant failed to show that Counsel's performance was deficient. Therefore, this Court need not address whether the Applicant was prejudiced by Counsel's representation. See id. The Applicant's complaints concerning Counsel's performance are without merit and are denied and dismissed.

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

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 454, 409 S.E.2d 395, 396 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. The Applicant's attention is directed to South Carolina Appellate Court Rule 243 for

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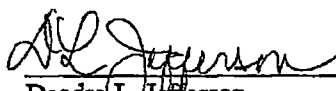
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appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 31st day of March, 2015.



Deadra L. Jefferson
Presiding Judge
Seventh Judicial Circuit

Charleston, South Carolina
At Chambers

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WITNESSES

Spartanburg County Sheriff's Department

T. K. Tilton

ARREST WARRANT NUMBER

M423745

ACTION OF GRAND JURY

Tw. Bill

[Signature]
Foreperson of Grand Jury

Date: *9/30/10*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. -

10-GS-42-5722

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

OCT 11 2010

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THE STATE

vs.

Reginald Sheftall

Indictment for

ATTEMPTED MURDER

SC Code: 16-3-0029

CDR Code: 3410

Class FEL-A

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SPARTANBURG COUNTY

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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on SEP 30 2010 the

Grand Jurors of Spartanburg County present upon their oath:

ATTEMPTED MURDER

That Reginald Sheftall did in Spartanburg County on or about June 9, 2010, with malice aforethought, attempt to kill the victim, Brittney Miller, by shooting her with a gun with the intent of killing her, all in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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

Cindy Crick
ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

TR Wiltsen

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

INDEXED

4. CHECKED WARRANTS

6. CHECKED SIGNATURE

ARREST WARRANT
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

M423745 & *DL* (Amended)

ACTION OF GRAND JURY

TRIC 2011

12-2-2011

David A. Hanna
Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. - 2010-GS-42-5722 (A)

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor.

COURT OF GENERAL SESSIONS

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TERM

THE STATE

v.

REGINALD SHEFTALL

Indictment for

ATTEMPTED MURDER (Count 1)

SC Code: 16-3-0029 CDR Code: 3410

Class FEL-A

**POSSESSION OF FIREARM OR KNIFE
DURING COMMISSION OF OR ATTEMPT
TO COMMIT A VIOLENT CRIME (Count 2)**

SC Code: 16-23-490 CDR Code: 549

Class FEL/F

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2011 DEC -5 PM 4:33

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on NOV 22 2011 the
Grand Jurors of Spartanburg County present upon their oath:

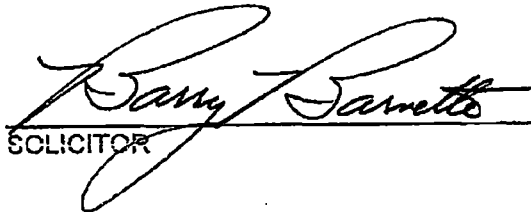
ATTEMPTED MURDER (Count 1)

That Reginald Sheftall did in Spartanburg County on or about June 9, 2010, with malice aforethought, intend and attempt to kill the victim, Brittney Miller, to wit; by shooting her with a gun with the intent of killing her, all in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

**POSSESSION OF FIREARM OR KNIFE DURING COMMISSION
OF OR ATTEMPT TO COMMIT A VIOLENT CRIME (Count 2)**

That Reginald Sheftall did in Spartanburg County on or about June 9, 2010, visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: ATTEMPTED Murder (M423745) and/or Burglary 1st Degree (M121521), in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


SOLICITOR

WITNESSES

Spartanburg Counly Sheriff's Department

1. SENTENCE MADE

2. REPORT END DE

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANT
ARREST WARRANT NUMBER

6. CHECKED SIGNATURE

7. ASSESSMENT
FINE CARD MADE

M121521

8. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

10-GS-42-5724

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

OCT 1 2010

TERM

THE STATE

VS.

REGINALD SHEFTALL

Indictment for

**BURGLARY, FIRST DEGREE
(Dwelling)**

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

COURT OF COUNTY
SPARTANBURG COUNTY

2010 OCT -4 PM 2:12

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on SEP 30 2010, the Grand Jurors of
 Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE**(DWELLING)**

That Reginald Sheftall did in Spartanburg County on or about June 9, 2010, willfully and intentionally enter the dwelling of Brittney Miller located at [REDACTED], Boiling Springs, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant did (1.) enter the dwelling in the nighttime, and/or (2.) in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime was armed with a deadly weapon, or caused physical injury to a person who was not a participant in the crime, or used or threatened the use of a dangerous instrument, or displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; and/or (3.) the defendant has a prior record of two or more convictions for the burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Cindy Crick
 Assistant Solicitor