

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Saluda County
Brooks P. Goldsmith, Circuit Court Judge

RECEIVED
FEB 10 2016
SC SUPREME COURT

JASMINE D. JENNINGS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001426

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

PATRICK SCHMECKPEPER
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEXi

GUILTY PLEA TRANSCRIPT DATED MAY 30, 2013 1

MOTION FOR RECONSIDERATION OF SENTENCE38

ORDER DENYING MOTION TO RECONSIDER SENTENCE39

APPLICATION FOR POST-CONVICTION RELIEF41

RETURN 50

AMENDED APPLICATION FOR POST-CONVICTION RELIEF56

SECOND AMENDED APPLICATION FOR POST-CONVICTION RELIEF DATED APRIL 20,
2015.....58

POST-CONVICTION RELIEF HEARING TRANSCRIPT 61

APPLICANT’S EXHIBIT # 1 (MAIT REPORT).....98

ORDER OF DISMISSAL 110

INDICTMENTS 118

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

State of South Carolina
County of Saluda
Court of General Sessions

State)
)
) Transcript of Record
 v.) 13-GS-41-136
) 13-GS-41-137
 Jasmine D. Jennings)
)
 Defendant.)

May 30, 2013
Saluda, South Carolina

B E F O R E:
The Honorable William P. Keesley, Judge.

A P P E A R A N C E S:
Donald V. Myers, Solicitor
H. Franklin Young, III, Assist. Solicitor
Attorneys for the State

Robert T. Williams, Sr., Esquire
Attorney for the Defendant

Stacy L. Sheppard, RPR
Circuit Court Reporter

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

I N D E X

WITNESS

PAGE

Certificate of Reporter

37

(There were no witnesses.)

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
C-1	Diagram	27	
C-2	Photograph	35	
C-3	Photograph	35	

1 (The following proceedings were held on May
2 30, 2013.)

3 **MR. MYERS:** Your Honor, there are two
4 indictments in this case. State versus Jasmine
5 Deantionette Jennings, indictment 2013-GS-41-136,
6 it's an indictment for reckless homicide. It's been
7 true billed. And indictment 2013-GS-41-137, an
8 indictment for reckless homicide. It's been true
9 billed. Mr. Theo Williams represents the defendant.

10 **THE COURT:** You're Jasmine Deantionette
11 Jennings?

12 **DEFENDANT:** Yes, sir.

13 JASMINE D. JENNINGS,
14 having been duly sworn, testified as follows:

15 **THE COURT:** I have an indictment that charges
16 that in Saluda County, on or about December the
17 15th, 2012, you unlawfully operated a motor vehicle
18 recklessly and with willful or wanton disregard for
19 the safety of other persons or property. It's
20 alleged that you drove at an excessive rate of speed
21 too fast for conditions in a reckless manner and
22 failed to maintain a proper lookout and that that
23 conduct proximately caused the death of Kandi Denise
24 Stone whose death ensued within three years of the
25 injury.

1 Upon your arraignment on this charge, it
2 appears you wish to plead guilty to reckless
3 homicide; is that right?

4 **DEFENDANT:** Yes, sir.

5 **THE COURT:** The other indictment charges that
6 in Saluda County, on or about December the 15th,
7 2012, you unlawfully operated a motor vehicle
8 recklessly and with willful or wanton disregard for
9 the safety of other persons or property. It's
10 alleged that you drove in an excessive rate of speed
11 too fast for conditions and in a reckless manner
12 and/or failed to keep a proper lookout and that that
13 conduct proximately caused the death of Maurice
14 Coleman whose death ensued within three years of the
15 injury.

16 Upon your arraignment of that charge, it
17 appears you wish to plead guilty to reckless
18 homicide; is that correct?

19 **DEFENDANT:** Yes, sir.

20 **THE COURT:** Mr. Williams, have you fully
21 explained to your client the nature and elements of
22 the offense, the possible punishment she may receive
23 and her constitutional rights, including trial by
24 jury?

25 **MR. WILLIAMS:** I have, Your Honor.

1 **THE COURT:** Are you satisfied that there's a
2 factual basis for both pleas?

3 **MR. WILLIAMS:** There is.

4 **THE COURT:** Do you agree with her decision to
5 enter the pleas?

6 **MR. WILLIAMS:** I do.

7 **THE COURT:** Ms. Jennings, today are you under
8 the influence of any medicine, drug, alcohol or
9 anything that affects your thinking?

10 **DEFENDANT:** No, sir.

11 **THE COURT:** Do you suffer from physical or
12 mental conditions that affect your thinking?

13 **DEFENDANT:** No, sir.

14 **THE COURT:** You're clearheaded? You know what
15 you're doing?

16 **DEFENDANT:** Yes, sir.

17 **THE COURT:** When you plead guilty, you give up
18 important rights, including your right to remain
19 silent and your right to a jury trial. Do you know
20 that?

21 **DEFENDANT:** Yes, sir.

22 **THE COURT:** If you wanted a jury trial, you
23 would be presumed to be innocent. The State has to
24 prove you guilty beyond a reasonable doubt to
25 convict you. And you get to see, hear and have your

1 lawyer cross-examine every witness against you. Do
2 you understand that?

3 **DEFENDANT:** Yes, sir.

4 **THE COURT:** In order for you to be convicted of
5 anything in a jury trial, the State would have to
6 prove to all 12 jurors that you are guilty beyond a
7 reasonable doubt. Do you understand that?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** If you plead guilty, you give up
10 all of those rights I discussed with you. You give
11 up your right to a jury trial. You give up your
12 right to remain silent. You give up the presumption
13 of innocence. You give up the requirement that the
14 State has to prove you guilty beyond a reasonable
15 doubt. You give up the right to confront the
16 witnesses against you. You admit the charge is
17 true. You understand?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** If you have defenses in your case
20 that would lessen or excuse your conduct or you have
21 any evidence improperly obtained against you that
22 you could challenge, you give up any defenses and
23 any challenges if you enter this plea. You
24 understand that?

25 **DEFENDANT:** Yes, sir.

1 **THE COURT:** Do you want a jury trial on either
2 of these cases?

3 **DEFENDANT:** No, sir.

4 **THE COURT:** Each of these offenses is a felony.
5 Each carries up to ten years in prison and a 5,000
6 dollar fine as possible punishment, meaning that
7 you're facing a possibility of 20 years in prison
8 and a 10,000 dollar fine. You understand that?

9 **DEFENDANT:** Yes, sir.

10 **THE COURT:** You lose your driver's license
11 automatically for a period of at least five years.
12 You understand that?

13 **DEFENDANT:** Yes, sir.

14 **THE COURT:** You have to provide a DNA sample.
15 Your DNA profile is put in a central computer
16 registry. You understand that?

17 **DEFENDANT:** Yes, sir.

18 **THE COURT:** Have you got the facts, Solicitor?

19 **MR. MYERS:** Your Honor, it's a Highway Patrol
20 case. Trooper Jessie Reynolds has the facts.

21 **THE COURT:** All right. Go ahead.

22 **TROOPER REYNOLDS:** Your Honor, if it please the
23 Court. On December the 15th, 2012, approximately
24 2:13 a.m. in the morning on S.C. 23 between Ridge
25 Spring and Batesburg, there was a motor vehicle

1 accident. We were dispatched. Upon arriving at the
2 scene, it was two vehicles involved. Ms. Jennings
3 was the operator of one and Ms. Stone was the
4 operator of the other.

5 Upon investigation through our MAIT team, it
6 was determined Ms. Stone was attempting to turn
7 left.. Ms. Jennings was attempting to pass. A
8 minimum speed was developed of 93 miles per hour,
9 also was a blood alcohol in Ms. Jennings of .58.
10 She was under 21 years of age. And also Mr. Coleman
11 was a passenger in Ms. Jennings' vehicle. He later
12 died at the hospital a couple days later.

13 **THE COURT:** Ms. Stone was deceased at the
14 scene?

15 **TROOPER REYNOLDS:** Yes, that's correct, Your
16 Honor.

17 **THE COURT:** Ms. Jennings, do you admit you're
18 guilty of these two counts of reckless homicide?

19 **DEFENDANT:** Yes, sir.

20 **THE COURT:** Has anybody forced you, threatened
21 you, coerced you in any way to get you to plead
22 against your will?

23 **DEFENDANT:** No, sir.

24 **THE COURT:** Any plea agreements the State might
25 have made with you, any agreements about dropping a

1 charge or reducing a charge, recommending a
2 sentence, anything like that, they have to tell me
3 about on the record in open court, otherwise, I
4 don't know anything about it, or it has to be part
5 of a written plea agreement that's given into the
6 record so that I can see it, otherwise, whatever
7 they don't let me know about, you lose. You
8 understand that?

9 **DEFENDANT:** Yes, sir.

10 **THE COURT:** Mr. Williams, anything need to be
11 put on the record about plea agreements?

12 **MR. WILLIAMS:** No, sir.

13 **THE COURT:** So, Ms. Jennings, has anybody
14 promised you anything or offered you any hope of
15 reward to get you to plead guilty?

16 **DEFENDANT:** No, sir.

17 **THE COURT:** Are you fully satisfied with your
18 attorney?

19 **DEFENDANT:** Yes, sir.

20 **THE COURT:** Is there anything else you want
21 your lawyer to do on these cases that he hasn't done
22 other than speak for you?

23 **DEFENDANT:** No, sir.

24 **THE COURT:** Have you had enough time to meet
25 with Mr. Williams and discuss things with him so

1 that he can represent you properly?

2 **DEFENDANT:** Yes, sir.

3 **THE COURT:** Have you had enough time to make up
4 your own mind about all of this?

5 **DEFENDANT:** Yes, sir.

6 **THE COURT:** Ms. Jennings has made a free,
7 knowing, voluntary and intelligent decision to waive
8 her rights and plead guilty. She has done so upon
9 the advice of counsel with whom she's fully
10 satisfied. There's a factual basis for her pleas.

11 Okay. Anything else from the State?

12 **MR. MYERS:** Yes, sir, Your Honor. As I was
13 preparing the indictments the other week for the
14 grand jury, the trooper with the Highway Patrol came
15 in and said that the blood reading was 05 and we
16 couldn't proceed on a felony DUI, so the appropriate
17 charge was reckless homicide.

18 At the appropriate time, we have a
19 representative from each family that would like to
20 speak to the Court.

21 **THE COURT:** Go ahead and let them do that.

22 What's your name, ma'am?

23 **MS. WATTS:** My name is Sharon Watts.

24 SHARON WATTS,

25 having been duly sworn, testified as follows:

1 **THE COURT:** What would you like to tell me?

2 **MS. WATTS:** I prayed that when this day come,
3 that God would give me strength to speak for my
4 daughter, Kandi, and my granddaughter, Whitney, who
5 is 14. She's left without her mother. And her
6 daddy died when she was eight months old. She never
7 had an opportunity to know him.

8 On December the 15th at 2:14 a.m., my life,
9 Whitney's life and my family's life changed forever.
10 Kandi was a huge part of my life. She lived with
11 me. Whitney lived with me. And Whitney -- Kandi,
12 she was our caretaker. She took care of everybody.
13 I went to work every day. She took care of home.
14 She took care of Whitney. She took care of me. She
15 cooked. She cleaned. She did everything for us.
16 And I didn't -- I could come from work and I didn't
17 have to worry that things wasn't done, that
18 everything done needed to be.

19 At that time in our lives, we were getting
20 ready for the holidays. We were getting ready for
21 Christmas. Kandi had our house decorated so
22 beautifully. She had such a knack at things. She
23 had our tree up. We had begun the season to
24 celebrate Jesus' birth, and that time of year, you
25 celebrate family and being together and loving each

1 other and sharing. We didn't get to do that.
2 Instead we had to prepare for a funeral instead. So
3 there was no Christmas. There was no holidays, and
4 none of them will ever be the same again, none of
5 them ever.

6 I want you to know, on a personal level, a
7 little bit about my daughter. She loved life. She
8 loved people. She had a huge heart. She'd do
9 anything she could to help anybody. She had a good
10 time wherever she went. It didn't matter. She
11 never met a stranger. It didn't matter, white,
12 black, purple, black, she loved everybody. And she
13 was friends -- she befriended everybody. And if she
14 had met Jasmine on the street and if she had needed
15 help, she would have helped her.

16 This accident -- accidents happen every day.
17 This to me was not an accident. Accident is when
18 there's too much water on the road or a deer crosses
19 in front of you, that's an accident. This was not
20 an accident. This could have been avoided. This
21 was a tragedy that happened because of alcohol,
22 driving 95 miles an hour, almost, down the road.
23 And even if you had had to stop for the little deer,
24 you wouldn't have been able to, and you sure didn't
25 get stopped for my daughter.

1 She sustained multiple, multiple trauma. She
2 didn't deserve this. She was just trying to make a
3 turn. This car was driven at a rate of speed
4 without any care or concern or respect for anything
5 or anybody out on the roads.

6 Whitney's 14. She doesn't have either parent,
7 but what a blessing she is to me, my husband, my
8 family every day. I just hope that we'll be strong
9 enough in the days ahead to take care of her, look
10 out for her and provide for her what she needs and
11 that's mostly love, lots of love and support.

12 There are things that money can buy, but money
13 can't replace her mom. Nothing can replace her mom.
14 She's 14. She's at an age in her life she really
15 needed a mother, really needed her mother. She's
16 going to be facing things in the next few years that
17 every young girl faces if they're lucky. She's
18 going to go to her first dance, her first prom, her
19 first graduation from high school, hopefully a
20 graduation from college, get married, have her first
21 child or just simply have her mom there to wipe a
22 tear from her eye when needed. She won't have that.
23 She won't ever have that again, Your Honor.

24 My granddaughter, she deserved better than
25 this. My daughter deserved better than this. I had

1 talked to her at ten minutes till 2:00. And my
2 husband and I drove down to Monetta because of a
3 transportation problem with Whitney's little friend.
4 And we had been there about five minutes in the
5 backyard and we heard this like a bomb, a crash went
6 off. And I said, My God, to my husband, What in the
7 world was that? He said, I don't know, Sharon, but
8 it didn't sound good.

9 So I backed my vehicle up and pulled out into
10 the yard and he walked on around to the highway.
11 And I could see a ways down the road vehicles and
12 dust and rocks and debris flying everywhere. And I
13 immediately get on the phone and call 9-1-1 to get
14 some help there. The next number I dialed was my
15 daughter's and she didn't answer. And then I text
16 and my text didn't go through. I was texting her to
17 get home quickly, there was a terrible accident
18 right at 3587 Highway 23 close to her property that
19 she owned, to get home quick.

20 By then, my husband had gotten out to the car
21 and he said, I'm going to walk down there. And I
22 said, I don't know if you should because the gas
23 tanks or something might explode because it was such
24 a horrible crash. I'll never forget that sound as
25 long as I live. And he said, Well, I'm going to

1 anyway. And I said -- I saw -- she was driving my
2 vehicle and I saw a little bit of silver under the
3 lights and I said, John, do you think that could be
4 my car? He said, I don't think so, Sissy, but I'm
5 going to see. And he walked down there, and it was
6 my car. It was my child. And he called her. She
7 didn't answer.

8 And nobody would help him. Everybody was
9 focused on the other vehicle because there were a
10 lot of people there that was in the caravan of cars
11 traveling with them from the, my understanding, the
12 Johnston Poolroom from Johnston. There was a
13 caravan like 12 cars just appeared immediately and
14 everybody was focused on the other vehicle and
15 nobody would help him. And he walked back and he
16 told me, he said, Sissy, that is your car and it is
17 Kandi.

18 Whitney and I sat in the car. The highway
19 patrolman came over to us and said -- wanted to know
20 if I was her mother and I said, Yes. He said, This
21 is her daughter in the car with you? And I said,
22 Yes. And he said, Well, please stay right here. He
23 said, I'm going to get back to y'all as quick as I
24 can and we're working as hard as I can.

25 And by then, there was so many ambulances and

1 Highway Patrol and fire trucks and I can't even
2 begin to explain the chaos. And Whitney and I sat
3 in the car. And it was 2:14 when it happened and at
4 4:30, we're still waiting. And I'm asking, Why is
5 nobody trying to help my daughter? Everybody was
6 getting people out of the other vehicle. And I
7 said, When are they going to get her out?

8 And about a quarter of 5:00, my brother, John,
9 and my husband came over to us and said, Why don't
10 you just take Whitney on home and we'll be on?
11 Still not knowing that she was gone. And they came
12 in about 6:00 a.m. after the accident scene had
13 pretty much cleared and gave us the news that Kandi
14 was gone. Jasmine walked away from the accident
15 unharmed. I don't wish that kind of harm on anyone.
16 She spent a night in jail and she's been free ever
17 since. And my daughter's been in the ground ever
18 since, ever since that night.

19 I feel, my family feels, and I'm speaking on
20 behalf of all of them today, that she needs to be
21 accountable for her reckless actions and her acts
22 and her thoughtlessness and her disrespect for
23 everybody involved. And I pray that justice will be
24 served here today and that my daughter did not die
25 in vain. Thank you, Your Honor. That's all I have.

1 **THE COURT:** Thank you, Ms. Watts. Thank you,
2 ma'am.

3 All right, Solicitor.

4 Does your client need to sit, Mr. Williams?

5 **MR. WILLIAMS:** We're good, Judge.

6 **THE COURT:** What's your name please, ma'am?

7 **MS. COLEMAN:** Katina Coleman.

8 **THE COURT:** Would you spell your first name?

9 **MS. COLEMAN:** K-a-t-i-n-a.

10 KATINA COLEMAN,

11 having been duly sworn, testified as follows:

12 **THE COURT:** What would you like to say?

13 **MS. COLEMAN:** Maurice Coleman was my son. But
14 I think Jasmine punished enough because she have to
15 live with this every day of her life. And I feel
16 like it was an accident because I know Jas and she
17 wouldn't hurt nobody. She wouldn't hurt a fly. It
18 was just an accident happened. And I feel like she
19 was just punished enough. And I don't wish for her
20 to do no time because I feel like she's going to be
21 punished all the rest of her life in a way for the
22 situation because she would never hurt nobody. It
23 was an accident. I feel in my heart that's what it
24 was.

25 **THE COURT:** Thank you, ma'am.

1 **MR. MYERS:** That's all the State has, Your
2 Honor.

3 **THE COURT:** Mr. Williams.

4 **MR. WILLIAMS:** Your Honor, it's obvious that
5 this is a tragedy, clearly. I'm from Batesburg. I
6 live in Batesburg. I know the defendant and the
7 families. I know Ms. Coleman. I don't know if she
8 knows I know her, but I know all her kin folk and --
9 because it's a small community there.

10 We -- I checked out and investigated what
11 happened in this particular situation. When I say I
12 checked out, I talked to people who would know and
13 who were there. And the facts are a little
14 different from what is reflected, as I determined,
15 from what is reflected in the MAIT report, but by no
16 means is she innocent of the charge. And I say that
17 because -- and I have expressed that to David Taylor
18 who represents the family and I assume he has passed
19 that on to his family members.

20 As we understand what transpired that night,
21 Your Honor, is that there were a number of people at
22 Johnston's Sports Club. And that particular night a
23 cousin of my client, who was 20 at the time, she was
24 two months shy of becoming 21, purchased some beer
25 for her. And Your Honor's already learned it was

1 .05 and that's why the Solicitor deemed, based on
2 that, I assume, and what all the other facts were,
3 deemed it to be a reckless homicide type of case.

4 From the witnesses that we've talked to, it's a
5 little bit different. What they say is that for
6 whatever reason, the vehicle -- the other vehicle
7 that was struck, my client was actually passing a
8 vehicle which was in front, that vehicle saw the
9 vehicle which the decedent was in and was able to
10 stop. My client never saw, never saw the headlights
11 of the other vehicle that the decedent was in. And
12 just -- I don't know why she didn't see it and why
13 the other vehicle, the other driver saw it.

14 **THE COURT:** Wait a minute. They were going the
15 same direction?

16 **MR. WILLIAMS:** Yes, sir. Which is a
17 discrepancy from what you hear in the MAIT report.
18 I understand that.

19 **THE COURT:** No, I didn't say there was a
20 discrepancy. I understood they were going in the
21 same direction.

22 **MR. WILLIAMS:** As I understand it, Your Honor,
23 there are two vehicles going down Highway 23 going
24 to Batesburg. Coming off of the hill where that
25 church is up on the left, the vehicle, which is in

1 front of my client, sees the vehicle in front,
2 according to him, actually pulls in front, which is
3 different from what I think Mr. Taylor understands
4 it, is able to stop or avoid the vehicle. My client
5 is actually passing that vehicle and all of a sudden
6 the other vehicle is there on the side. And from
7 what I also understand is that that other vehicle,
8 according to the family, was going to turn left into
9 some property that she owned.

10 The bottom line, Your Honor, is if my client
11 had not been speeding, then I don't think it would
12 have happened. I've talked to my client about the
13 speed because she tells me that it was high 60s was
14 what she was doing, which is different from the MAIT
15 report. I don't know that she knows, but by the
16 same token, I don't know that the MAIT report is a
17 hundred percent accurate anyway. It doesn't change
18 anything. My client was going too fast and she
19 struck this young lady and caused her to die.

20 There were numerous people on the scene, Your
21 Honor. They called law enforcement. They called
22 9-1-1.

23 Ms. Coleman, who spoke here earlier, her son is
24 a cousin to my client. In Batesburg, almost
25 everybody's kin to everybody. And she -- he was a

1 cousin. He did not die two days later, Your Honor.
2 He actually died five days later. And what caused
3 his death, because everybody thought he was going to
4 be okay, he had an embolism. He had a fractured rib
5 and an embolism developed from the fractured rib and
6 killed him.

7 Obviously, my client is young. She's -- she
8 had a job working for G.F. -- is it G.F. Food
9 Systems?

10 **DEFENDANT:** U.S. Food Systems.

11 **MR. WILLIAMS:** U.S. Food Systems.

12 **DEFENDANT:** I still work there.

13 **MR. WILLIAMS:** Still works there. I'm sorry.

14 This has been hard for her to stand up here and
15 tell the Court -- and I know Your Honor inquired as
16 to whether or not she was going to be able to go,
17 you know, whether she needed to sit down or not.
18 She has accepted responsibility for what she's done
19 and bravely.

20 I don't know that any amount of time could ever
21 bring back the child that's gone or either one of
22 the children that are gone. I know this, I know
23 that we have tried to help the family in terms of
24 telling them what we knew happened and we'll
25 continue to do so in the future. We can't bring

1 either one of the individuals back, either one of
2 them back.

3 I don't know how you'd make up for that mistake
4 that one morning at 2:15 in the morning with a
5 20-year-old child, and the older I get, Your Honor,
6 the more I realize how young and foolish children
7 are and the consequences that they cause for other
8 people, as well as for their family and themselves.
9 I can only tell you that if she could take that
10 back, she would do it. If she could go back, she
11 would change that night. I'd ask the Court to be as
12 lenient as possible.

13 **THE COURT:** Thank you, Mr. Williams.

14 **MR. WILLIAMS:** Thank you, Your Honor.

15 **THE COURT:** Ms. Jennings, did you want to say
16 anything?

17 **DEFENDANT:** Yes, sir. I want to say I'm sorry.
18 I know it won't bring nobody back, but I wouldn't
19 hurt nobody. If I could bring them back, I would.
20 That's all I have to say.

21 **THE COURT:** Corporal, do you have pictures of
22 the car?

23 **MR. WILLIAMS:** Your Honor, if I could read what
24 she has printed up here.

25 **THE COURT:** Sure.

1 **MR. WILLIAMS:** What she had written on her
2 piece of paper that she was reading from is: This
3 is to all families involved. I take
4 responsibilities for my actions. This is not a win
5 situation for me. If I could bring back each
6 person, I would. I know you may not want to hear
7 this, but I am sorry.

8 That's what she would have completed if she'd
9 been able to finish it.

10 **MR. MYERS:** Your Honor, all of the photographs
11 are on a disk, if you'd like to see the disk, we can
12 hand that up to you.

13 **THE COURT:** Where did it happen? I know it was
14 on Highway 23. Where?

15 **TROOPER REYNOLDS:** Your Honor, between --
16 outside of Monetta.

17 **THE COURT:** Going toward which way? Going
18 toward Batesburg outside Monetta?

19 **TROOPER REYNOLDS:** That's correct.

20 **MR. WILLIAMS:** Your Honor, there's a church up
21 on the left-hand side coming down a hill. I want to
22 say that might -- what's the name of that church?

23 **MS. WATTS:** It's Bethel Baptist.

24 **MR. WILLIAMS:** Bethel Baptist Church up on the
25 left.

1 **THE COURT:** It's on the left if you're going
2 toward Monetta?

3 **MS. WATTS:** Toward Batesburg it's on the right.

4 **MR. WILLIAMS:** You're right. It's on the
5 right. I was backwards.

6 **THE COURT:** All right. So was it -- how close
7 to the church was it?

8 **MR. MYERS:** About a quarter of a mile.

9 **MS. WATTS:** About a quarter of a mile.

10 **THE COURT:** Which direction? Toward the
11 Packing Shed or back toward Monetta intersection?

12 **MR. WILLIAMS:** Toward the Packing Shed, Your
13 Honor.

14 **TROOPER REYNOLDS:** Yeah, toward the Packing
15 Shed.

16 **THE COURT:** That's going up the hill, isn't it?

17 **MS. WATTS:** It was toward the Packing Shed.

18 **THE COURT:** Wait a second. We have to take
19 down everything that's said in the courtroom and I
20 can't have the whole courtroom talking. I apologize
21 to you, but the court reporter will not be happy
22 with me if I let this continue. If y'all need to
23 ask anybody, that's fine.

24 Past the church going up the hill toward the
25 Packing Shed toward Amicks on the right? I mean, I

1 drive that road almost every day for the last 21
2 years. I just want to know where it happened.

3 **MR. WILLIAMS:** Your Honor, my client can
4 describe exactly where it happened.

5 **THE COURT:** Where did it happen, ma'am?

6 **DEFENDANT:** It's like going -- we were going
7 toward Batesburg past the Packing Shed and the
8 church going to be on your right. It's like going
9 toward -- it's kind of like a hill. It's not even.
10 It's kind of like a -- you're going up a hill kind
11 of. It's not even. The road's not really even.

12 **THE COURT:** Well, that's what I'm trying to
13 find out. The Packing Shed has a long straight away
14 in front of it. Now, it's got yellow lines, but
15 it's -- and I'm not trying to judge whether she was
16 on a yellow line or not, but it's straight back down
17 the hill from the church --

18 **DEFENDANT:** Yeah, it was before the church. It
19 happened before the church.

20 **THE COURT:** -- that's going up a hill and
21 around a curve.

22 **DEFENDANT:** It happened before the church. We
23 passed the church.

24 **THE COURT:** So you were going up a hill and
25 around a curve passing at 90 -- well, 60 something

1 miles an hour?

2 **DEFENDANT:** No. We were going on that road,
3 not on the road where you turn to get to the church
4 like going straight, going back towards Batesburg.

5 **MR. WILLIAMS:** I was going to see if he had a
6 diagram of the MAIT report.

7 **TROOPER REYNOLDS:** Yeah, it's in here.

8 **MR. WILLIAMS:** Your Honor, we have no objection
9 if the Court wants to look at this diagram, which
10 has been drawn by MAIT. I don't know if that will
11 help. I'm sure you're concerned about elevation
12 maybe.

13 (Trooper Reynolds hands document to the
14 Judge.)

15 **THE COURT:** I'm going to take a few minutes and
16 I want y'all to confer with whomever you want to
17 confer. Like I said, I've driven that road, because
18 most days I work in Lexington, I live in Edgefield,
19 I drive that road almost every single day. Before
20 that, I drove that road a whole bunch in my life. I
21 want to know, as close as you all can tell me, where
22 it happened in relationship to the church, the
23 Amicks, Packing Shed, if y'all can tell me that.
24 We'll be in recess for a few minutes.

25 (Brief recess.)

1 (Court's Exhibit Number 1, diagram, marked
2 for identification.)

3 **THE COURT:** I don't want to drag this out
4 anymore. I was just trying to figure out where it
5 happened. I thought that was --

6 **MR. MYERS:** Your Honor, we've got a thing that
7 will show you exactly where it happened. And we'll
8 put the disk into evidence and we'll show you the
9 pictures.

10 **THE COURT:** If it's not marked in the record,
11 I'm not looking at it.

12 **MR. MYERS:** We have some photographs and we'll
13 show you the disk.

14 **THE COURT:** What does the disk show?

15 **MR. MYERS:** Shows the wreck that night where
16 the victim was heading towards -- before you get to
17 Amicks, she was taking a left into a driveway.

18 **THE COURT:** Where those gates are?

19 **MR. MYERS:** Pardon me?

20 **THE COURT:** Where those gates are?

21 **MR. MYERS:** No, sir. It's just before you get
22 to that church right up there. We can show you
23 exactly on a Google thing if Mr. Williams has no
24 objection.

25 **MR. WILLIAMS:** I have no objection. I've seen

1 the Google.

2 **THE COURT:** Okay. Fine. I'm trying not to
3 inject myself into any factual thing and --

4 **MR. WILLIAMS:** Judge, I've looked at --

5 **THE COURT:** -- I just thought that if something
6 this traumatic, that it would -- I need Mr. Williams
7 up here.

8 (Solicitor Young showing document to the
9 Judge.)

10 **MR. YOUNG:** This is the church, Your Honor,
11 Bethel Church. This is the residence she was
12 turning into.

13 **THE COURT:** Okay. So it's back up toward the
14 Holsenback's.

15 **MR. YOUNG:** And this is the -- this peach shed
16 on the right and this is Amicks Feed Mill.

17 **THE COURT:** The first peach shed.

18 **MR. YOUNG:** Yes, sir, not Watsons, on further
19 down the road.

20 **THE COURT:** Not where the deputy got killed.
21 So show me where it happened, right there at
22 Holsen --

23 **MR. YOUNG:** Right here at this location. This
24 is the house, turning into. The direction of travel
25 being from left to right.

1 **THE COURT:** Okay.

2 **MR. MYERS:** We'll mark these as exhibits, the
3 victim's car.

4 **THE COURT:** Have you seen these?

5 **MR. WILLIAMS:** Yes, sir. The impact is on the
6 left side of the victim's car, Your Honor. Looked
7 like it rolled. It caught it and pushed it over.

8 (Pause.)

9 **THE COURT:** So Ms. Jennings was driving the car
10 that has the door open here?

11 **MR. WILLIAMS:** Yes, sir.

12 **MR. MYERS:** Yes, sir.

13 **MR. WILLIAMS:** It's a Chrysler, Your Honor.

14 **THE COURT:** And Ms. Stone is driving the one
15 that's turned up on its side?

16 **MR. WILLIAMS:** Yes, sir. I don't know if the
17 pictures were taken before they cut the car open or
18 not, Your Honor, because they used -- it's my
19 understanding they actually used something to cut
20 the car open to get her out.

21 **THE COURT:** Who is her?

22 **MR. WILLIAMS:** The other car, Your Honor.

23 **MR. MYERS:** The victim.

24 **MR. WILLIAMS:** The victim's car. They had --
25 it was dented in. They had to cut it out as they

1 do.

2 **THE COURT:** All right. So you confused me when
3 you said she didn't see the headlights. Why would
4 she be looking for headlights?

5 **MR. WILLIAMS:** Because underneath -- by any
6 token, by underneath, her remembrance and from the
7 other people that we've spoken to, there's an
8 indication that there was a car that she was
9 passing, that car saw the victim's car coming out
10 into the roadway to go right and that that car
11 stopped, avoided hitting the victim. Underneath the
12 MAIT -- and, see, our lady, the defendant,
13 supposedly was in the passing lane, which would have
14 been in the left-hand lane.

15 Underneath the MAIT report version of facts, it
16 would indicate that the victim is turning left into
17 the driveway to some property that she owned. So in
18 either rendition of the facts, the defendant is in
19 the passing lane and she strikes the victim on the
20 left-hand side of the driver's door.

21 And by not seeing the headlights, Your Honor,
22 it was at night, so she didn't see the headlights
23 on.

24 **THE COURT:** She didn't see the lights
25 illuminating the road? What confused me was she's

1 coming from behind, she would be looking at
2 taillights.

3 **DEFENDANT:** No. We wasn't coming from the same
4 way.

5 **THE COURT:** Well, I asked that question 30
6 minutes ago.

7 **MR. WILLIAMS:** Judge, underneath her version of
8 the facts, a car -- the victim's car is pulling left
9 onto Highway 23.

10 **THE COURT:** Coming out of the driveway?

11 **MR. WILLIAMS:** Coming out of another driveway
12 on the right-hand side, which is not the version of
13 the MAIT report. The version of the MAIT report is
14 that the victim is going straight down Highway 23
15 and is making a left-hand turn into property that is
16 owned by the victim.

17 And the reason the headlights was referenced is
18 that my client never sees the car that she struck.
19 Whether it had headlights on, brake lights on or
20 what have you, she never saw any lights whatsoever
21 on that vehicle, to include, I guess, seeing the
22 vehicle that's directly in front of her when she's
23 in the passing lane. That's all that means, Your
24 Honor, is that she never saw that vehicle.

25 **THE COURT:** Her version, the vehicle in front

1 of her was -- saw Ms. Stone pulling out of the
2 driveway and put on brakes?

3 **MR. WILLIAMS:** No. The vehicle which pulled
4 out in front of the car which is in front of her, it
5 supposedly just turns onto Highway 23. So it is
6 consistent with the MAIT report in that both have
7 that vehicle going down Highway 23. It's only --
8 it's a question of timing, I guess, Your Honor.
9 It's a question of how much time is involved. But
10 there's no question but that the victim's car is
11 going down Highway 23 and attempting to turn, or at
12 least that's what we suspect is going to turn left
13 onto the property that the victim owned further down
14 the road.

15 **THE COURT:** So was Ms. Jennings the lead car in
16 the vehicles that had come from the Johnston Sports
17 Bar?

18 **MR. WILLIAMS:** No. She was the second car.
19 The first car did not strike the car involved.

20 **MR. MYERS:** Here's what happened.

21 **THE COURT:** All right. Somebody please help me
22 out. You know, I'm trying not to be dense here, but
23 this is as clear as mud to me right now.

24 **MR. MYERS:** Ms. Stone's going down the road,
25 don't care who's behind her or anything else. She's

1 driving down the road and she's going to turn left
2 into her driveway. Now, why the defendant didn't
3 see anything, I don't know. Why is she driving 95,
4 I don't know. But she's barreling-ass down that
5 road and when the lady turns left, she hits her
6 right in the side.

7 **THE COURT:** That part I understood. That's the
8 State's version of what happened.

9 **MR. MYERS:** Yes, sir.

10 **THE COURT:** The defense's version is that
11 Ms. Stone was coming out of another driveway or had
12 come out of another driveway.

13 **MR. WILLIAMS:** But it doesn't contribute -- her
14 version does not contribute in any way to her
15 defense in that she was speeding, my client was
16 speeding, and she hits the other vehicle who's
17 attempting to turn left.

18 **THE COURT:** Again, I'm not trying to make this
19 difficult, but my question earlier about whether the
20 car in front of her -- I understood you to say,
21 Mr. Williams, that that car had pulled out of the
22 driveway. So there had to have been two cars --

23 **MR. WILLIAMS:** There were.

24 **THE COURT:** -- plus the car that was hit.

25 **MR. WILLIAMS:** No, no -- yes, yes.

1 **THE COURT:** All right. So --

2 **MR. WILLIAMS:** The car in front of her did not
3 strike the other vehicle. It was able to stop and
4 did not strike, and then it pulled over.

5 **THE COURT:** Okay. That's what -- you keep
6 saying able to stop.

7 **MR. WILLIAMS:** Right.

8 **THE COURT:** That means brake lights.

9 **MR. WILLIAMS:** I know. At the time that she
10 was passing that vehicle which stopped, it was to
11 her side.

12 **THE COURT:** You said she was already in the
13 left lane.

14 **MR. WILLIAMS:** Yes. She was already in the
15 left lane passing the vehicle which was in front of
16 her.

17 **THE COURT:** All right. Anything else from the
18 State?

19 **MR. MYERS:** No, sir, unless you've got some
20 more questions about it.

21 **THE COURT:** Well, I didn't really mean to get
22 into all of that.

23 **MR. MYERS:** As to the timing, the timing
24 doesn't make any difference. If she would have been
25 driving the speed limit, nobody would have gotten

1 killed.

2 **THE COURT:** I understand all that, but it makes
3 a difference to me as to -- as to sentencing, it
4 makes a difference to me as to knowing where it
5 happened on that road.

6 **MR. MYERS:** I understand.

7 **THE COURT:** Anything else from the defense?

8 **MR. WILLIAMS:** No, Your Honor.

9 (Pause.)

10 (Court's Exhibit Numbers 2 and 3,
11 photographs, marked for identification.)

12 **THE COURT:** If there's nothing else, the Court
13 accepts the pleas.

14 The sentence on indictment 2013-GS-41-000136,
15 that's reckless homicide involving Ms. Stone, is
16 that you be committed to the South Carolina
17 Department of Corrections for ten years plus costs
18 and assessments. You're given credit for jail time
19 under section 24-13-40. Pay your court costs as
20 provided on indictment 137.

21 Indictment 137, that's reckless homicide as it
22 relates to Maurice Coleman, the sentence is you be
23 committed to the South Carolina Department of
24 Corrections for ten years. Provided that upon the
25 service of three years plus costs and assessments,

1 the balance is suspended with five years probation.
2 This sentence is consecutive to indictment 136. Pay
3 your court costs at \$25 a month beginning 120 days
4 after released from maximum confinement in prison,
5 pass random drug and alcohol screens.

6 The difference in the sentences is based on the
7 family of one victim requesting no prison time.

8 Good luck to you, ma'am.

9 **MR. WILLIAMS:** Thank you, Your Honor.

10

11

END OF PROCEEDINGS

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

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

STATE OF SOUTH CAROLINA
COUNTY OF SALUDA

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the guilty plea of the captioned cause, relative to appeal in the Criminal Court for Saluda County, South Carolina, on the 30th of May, 2013.

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

July 20, 2014

s/Stacy L. Sheppard

Stacy L. Sheppard, RPR
Circuit Court Reporter

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF SALUDA

IN THE GENERAL SESSIONS COURT

THE STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

JASMINE DE ANTIONETTE JENNINGS,

Defendant.

Indictment No(s). 2013GS41000136,
2013GS41000137

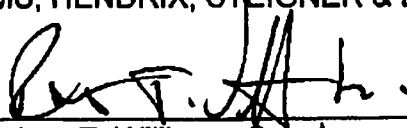
**NOTICE OF MOTION AND MOTION
FOR RECONSIDERATION OF
SENTENCE**

FILED
2013 MAY 31 PM 12:50
CLERK OF COURT
SALUDA CO. S.C.

TO: DONALD V. MYERS, SOLICITOR, ELEVENTH JUDICIAL CIRCUIT:

YOU WILL PLEASE TAKE NOTICE that the Defendant, Jasmine DeAntionette Jennings, by and through her undersigned attorney, hereby moves for a reconsideration of the sentence imposed upon the Defendant on the above captioned charges on the grounds that, under all the facts and circumstances, a lesser sentence should have been imposed.

WILLIAMS, HENDRIX, STEIGNER & BRINK, P.A.

By: 
Robert T. Williams, Sr.
200 East Main Street
Post Office Box 849
Lexington, South Carolina 29071
(803) 359-1550

Attorneys for the Defendant

Lexington, South Carolina

May 30, 2013

FILED

STATE OF SOUTH CAROLINA)
COUNTY OF SALUDA)

2014 MAY 5 AM 11:50 IN THE COURT OF GENERAL SESSIONS

CLERK OF COURT
SALUDA CO. S.C.

THE STATE OF SOUTH CAROLINA,)

-vs-)

JASMINE JENNINGS,)

Defendant.)

ORDER DENYING MOTION
FOR RECONSIDERATION

Case No.: 2013GS4100136 &
2013GS4100137

The defendant seeks a reduction in her sentence. The motion is denied.

On May 30, 2013, the court sentenced the defendant on two counts of reckless homicide. A motion for reconsideration of sentence was filed, but the court was unaware of it until recently. Both sides were notified, pursuant to Rule 29(a), SCRCrimP, that the court would decide the motion on briefs, without oral argument.

WPC
#1

The evidence indicated that the defendant, who was 20 years of age and had no prior criminal record, had been at a sports bar in Johnston, had consumed alcohol, and was operating a vehicle at an excessive rate of speed at around 2:00 a.m. on Highway 23 near Monetta. She began passing another vehicle and struck a third vehicle that was turning into a private drive, killing the driver of that vehicle, Kandi Stone. Ms. Stone apparently died at the scene. A passenger in the defendant's vehicle, whose family asked for a lenient sentence, died later.

Ms. Jennings was originally charged with two counts of felony driving under the influence resulting in death. Pursuant to plea agreement, she pleaded guilty to reckless homicide, which carried the possibility of imprisonment for 10 years on each count. The court sentenced the defendant to imprisonment for 10 years on the charge involving the death of Ms.

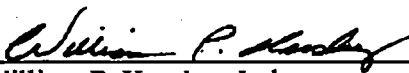
Stone, and a consecutive sentence of 10 years, suspended on service of 3 years, with probation for 5 years on the case involving the death of the passenger.

The court understands why those affiliated with the defense would think that the sentence should be lower. Defense counsel presented all the mitigating factors to the court at the time of sentencing. The only new matters submitted in the brief are that the defendant has given birth to a child since she was sentenced and that she has learned from her incarceration the serious consequences of her actions. It is asserted by the defense that continued incarceration is detrimental to the child and the defendant.

Having reconsidered the matter, the court finds that the motion to reduce the sentence should be denied.

AND IT IS SO ORDERED.

May 1, 2014



William P. Keesley, Judge

#2

FORM 5

STATE OF SOUTH CAROLINA)
)
County of Saluda)
 #355568)
Jasmine D. Jennings)
Full name and prison number (if any) of Applicant)

IN THE COURT OF COMMON PLEAS

Case No. 2013-GS-41-137
2013-GS-41-136

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

2014-CP-41-111

CLERK OF COURT
SALUDA CO. S.C.

2014 MAY 21 PM 3:29

FILED

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Camille Griffin Graham Correctional Institute for Women SRF #26 4450 Broad River Rd Columbia SC, 29210
2. Name and location of Court which imposed sentence Court of General Sessions, Saluda, South Carolina
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) 2013-GS-41-137
 - (b) 2013-GS-41-136

RECEIVED

MAY 27 2014

Referred to PCR ds

Answered _____

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) May 30, 2013 13 years
 - (b) _____
 - (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty ✓ yes
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO appeal filed. A MOTION for reconsideration of time filed.
- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. N/A
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. N/A
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. N/A
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. N/A
 - ii. _____
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) Was it advised by Counsel to do so
 - (b) _____

(c) _____

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

(a) Ineffective Counsel

(b) _____

(c) _____

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

(a) My Attorney did not believe in me and he did not fight hard enough to prove that it was not intentional.

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

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

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

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no

(d) any other petitions, motions or applications in this or any other Court? yes

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

(a) the specific nature thereof:

i. motion for consideration

ii. _____

iii. _____

iv. _____

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

i. Court of General Sessions, Saluda, South Carolina

ii. _____

iii. _____

iv. _____

Additional Facts I would like to argue are as indicated below

- 1) Nothing was in my system at the time of the accident. Nothing that would cause me to be impaired.
- 2) Driver of Car # 2 judgement was impaired by drugs in her system at the time of the accident. Driver # 2 had substantial amount of Drugs in her system.
- 3) The diagram the police + investigators are providing are wrong. Driver # 2 was not traveling in the direction that's indicated on the police/investigator diagram. Driver # 2 actually pulled out in front of me causing me to hit her vehicle.
- 4) I explain to my counsel that the diagram was incorrect but my counsel failed to bring the incorrect diagram to the court attention.

5) The involvement of a 3rd vehicle also contributes to the accident. Driver of 3rd vehicle attempted to file insurance claim against my insurance but was unsuccessful. This also ~~adds~~^{adds} to what actually happened prior to and during the accident, which was not brought to the courts attention. Evidence shows a 3rd vehicle was involved.

6) I've never been in any trouble.

(c) the disposition thereof:

- i. denied
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. may 1, 2014
- ii. _____
- iii. _____
- iv. _____

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

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

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

N/A

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

(a) which grounds have been presented:

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

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

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

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

- (a) Not proper forum
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? N/A
- (c) your sentencing? yes
- (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?
yes

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

- (a) the name and address of each attorney who represented you:
 - i. Williams, Hendrix, Steigner & Brink, P.A.
Attorney at Law: Robert T. Williams, Sr.
 - ii. Post office Box 849 Lexington, SC, 29071
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. arraignment, plea, sentencing, motion
 - ii. _____
 - iii. _____

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

A sentence reduction, probation lifted,
and credit for the time served.

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

No

STATE OF SOUTH CAROLINA)
County of Richland)

VERIFICATION

I, Jasmine Jennings, 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.

Jasmine Jennings

SWORN to and subscribed before me this 20th
day of May, 2014.

Andrew J. Williams (L.S.)
Notary Public

My Commission Expires: August 25, 2015

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

I, Jasmine Jennings, 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.

Jasmine Jennings
Applicant

SWORN or affirmed to and subscribed before me this
20th day of May, 2014.

Julie S. Wells
Notary Public

My Commission Expires: August 25, 2015

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF SALUDA)	ELEVENTH JUDICIAL CIRCUIT
)	
Jasemine D. Jennings,)	C.A. No. 2014-CP-41-111
S.C.D.C. No. 358211,)	
)	
Applicant,)	
)	
v.)	RETURN
)	
State of South Carolina,)	
)	
Respondent.)	

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed May 21, 2014, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Saluda County. Applicant was indicted at the May 2013 term of General Sessions for Saluda County for two counts of reckless homicide (2014-GS-41-136; -137). She was represented by Robert T. Williams (Theo), Esq. On May 30, 2013 Applicant pled guilty as indicted before the Honorable William P. Keesley. Judge Keesley accepted her plea and sentenced to two terms of ten (10) years imprisonment on each count of reckless driving. The sentences were to be served concurrently. Applicant did not appeal her sentences or convictions. Subsequently, Judge Keesley convened a post-plea hearing on Applicant's motion for a reconsideration of her sentence.

Attached herewith and incorporated herein by reference are the records of the Saluda County Clerk of Court regarding the subject conviction(s), Applicant's records from the

Department of Corrections, and a copy of the Applicant's plea transcript Respondent reserves the right to amend its return upon the receipt of other relevant records¹.

II.

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

- I. Ineffective Assistance of Trial Counsel;
 - a. "My attorney did not believe in me and he did not fight hard enough to prove that it was not intentional;"
 - b. "Nothing was in my system at the time of the accident. Nothing would cause me to be impaired;"
 - c. Driver of Car #2 judgment was impaired by drugs in her system at the time of the accident. Driver #2 had substant amount of drugs in her system;"
 - d. "The diagram the police and investigators are providing are wrong. Driver #2 was not traveling in the direction that indicated on the police/investigator diagram. Driver #2 actually pulled out in front of me causing me to hit her vehicle;"
 - e. "I explain to my counsel that the diagram was incorrect but counsel failed to bring the incorrect diagram to court attention."

III.

The Applicant's first and fifth claims constitute an allegation of ineffective assistance of trial counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground

¹ Respondent intends to incorporate a the post-plea transcript from the motion hearing upon receipt.

for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." 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. 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 cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent submits that Applicant's second, third, and fourth claims for Post-Conviction Relief should be summarily dismissed for failure to state a claim cognizable under the Post-

Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.

[Emphasis supplied.] S.C. Code Ann. § 17-27-20 (1976).

Even if the facts alleged by Applicant regarding these claims are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. A “sentence reduction” is not a cognizable claim in this forum.

V.

The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code '17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VII.

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

VIII.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

WALT WHITMIRE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

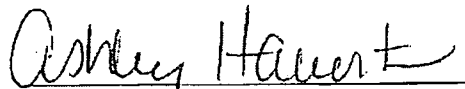
Sept. 22, 2014

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF SALUDA)	
)	
)	2014-CP-41-0111
JASEMINE D. JENNINGS, #358211,)	
)	
Applicant,)	
)	
vs)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	

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

Mrs. Kristy Grafton Goldberg
Law Office of Kristy Goldberg, LLC
1720 Main Street, Suite 301
Columbia, SC 29201

DATED this 23rd day of September, 2014.


 Ashley Haworth, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
 COUNTY OF LEXINGTON)
)
 JASMINE JENNINGS)
 SCDC # 355568,)
 Applicant,)
)
 vs.)
)
)
 STATE OF SOUTH CAROLINA,)
 Defendant.)

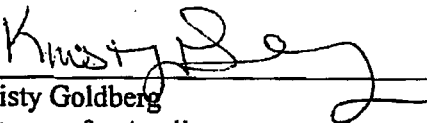
IN THE COURT OF COMMON PLEAS
 2013-CP-41-45

AMENDED APPLICATION
 FOR POST CONVICTION RELIEF

Based upon further investigation and research, the Post-Conviction Relief Application filed on behalf of the above named Applicant is hereby Amended as follows:

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

- (a) Ineffective assistance of trial counsel – failure of trial counsel to request and receive a better plea agreement.
- (b) Ineffective assistance of trial counsel – failure of trial counsel sufficiently represent the Applicant during her guilty plea.



 Kristy Goldberg
 Attorney for Applicant

Kristy Goldberg
 Law Office of Kristy Goldberg, LLC.
 1720 Main Street, Suite 301
 Columbia, SC 29201
 803-252-2299
 803-799-4059 (fax)
 kristy@kristygoldberglaw.com

Columbia, South Carolina

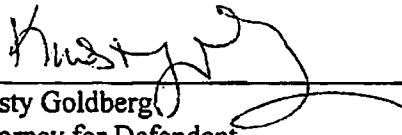
This 8TH day of April, 2015

SOUTH CAROLINA)
 COUNTY OF LEXINGTON)
)
 JASMINE JENNINGS)
 SCDC # 355568,)
 Applicant,)
)
 vs.)
)
)
 STATE OF SOUTH CAROLINA,)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 2013-CP-41-45

AMENDED APPLICATION
 FOR POST CONVICTION RELIEF

I certify that on this date I served the Amended Application for Post-Conviction Relief in this case on The State of South Carolina by delivering a copy of this application to the Office of the Attorney General via U.S. mail at Post Office Box 11549, Columbia, South Carolina 29211-1549.




 Kristy Goldberg
 Attorney for Defendant

Kristy Goldberg
 Law Office of Kristy Goldberg, LLC.
 1720 Main Street, Suite 301
 Columbia, SC 29201
 803-252-2299
 803-799-4059 (fax)
 kristy@kristygoldberglaw.com

Columbia, South Carolina

This 8th day of April, 2015

- (d) Ineffective assistance of trial counsel – failure of trial counsel sufficiently mitigate the Applicant’s case by failing to call character witnesses and failing to adequately explain Ms. Jennings personal details.



Kristy Goldberg
Attorney for Applicant

Kristy Goldberg
Law Office of Kristy Goldberg, LLC.
1720 Main Street, Suite 301 303
Columbia, SC 29201
803-252-2299 667-6633
803-799-4059 (fax)
kristy@kristygoldberglaw.com

Columbia, South Carolina

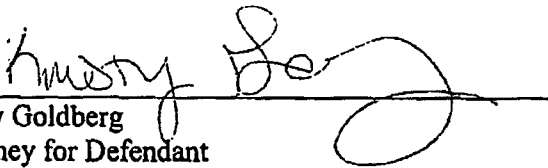
This 15TH day of April, 2015

SOUTH CAROLINA)
 COUNTY OF LEXINGTON)
)
 JASMINE JENNINGS)
 SCDC # 355568,)
 Applicant,)
)
 vs.)
)
)
 STATE OF SOUTH CAROLINA,)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 2013-CP-41-45

CERTIFICATE OF SERVICE

I certify that on this date I served the Second Amended Application for Post-Conviction Relief in this case on The State of South Carolina by delivering a copy of this application to the Office of the Attorney General via U.S. mail at Post Office Box 11549, Columbia, South Carolina 29211-1549.


 Kristy Goldberg
 Attorney for Defendant

Kristy Goldberg
 Law Office of Kristy Goldberg, LLC.
 1720 Main Street, Suite 301 303
 Columbia, SC 29201
 803-252-2299 667-6633
 803-799-4059 (fax)
 kristy@kristygoldberglaw.com

Columbia, South Carolina

This 15th day of April, 2015

1 State of South Carolina) In the Court
 2 County of Lexington) Of Common Pleas
 3 Indictment No.: 2014-CP-41-111.
 4 Jasmine De Antoine)
 5 Jennings,)
 6 Plaintiff,)
 7 vs.) Transcript of Record
 8 State of South Carolina,)
 9 Defendant.)
 10 _____)

April 20, 2015

Lexington, South Carolina

BEFORE:

The Honorable Brooks P. Goldsmith, Judge

APPEARANCES:

Kristy G. Goldberg, Esquire
Attorney for the Plaintiff/Applicant

Walt Whitmire, Assistant Attorney General
Attorney for the Defendant/State

1	INDEX		
2	WITNESS		PAGE
3			
4	JASMINE JENNINGS		
5	Direct Examination by Ms. Goldberg		5
6	Cross Examination by Mr. Whitmire		16
7			
8	ROBERT THEODORE WILLIAMS, SR.		
9	Direct Examination by Mr. Whitmire		22
10	Cross Examination by Ms. Goldberg		28
11	Redirect Examination by Mr. Whitmire		33
12			
13	JUDGE'S RULING		36
14	Certificate of Reporter		38
15			
16			
17	EXHIBITS		
18	NO. DESCRIPTION	ID	EVDS.
19	Plaintiff's		
20	#1 MAIT Report	11	11
21			
22			
23			
24			
25			

1 Thereupon, the following proceedings were had;

2 THE COURT: Please be seated, ladies and gentlemen.
3 Mr. Whitmire, whenever you're ready.

4 MR. WHITMIRE: May it please the Court, Your Honor.
5 The matter before this Court right now is Jasmine De
6 Antoine Jennings v. State of South Carolina. Case number
7 2014-CP-41-111. Ms. Jennings was charged with two counts
8 of driving under the influence resulting in death. She
9 eventually was indicted on two counts of reckless
10 homicide. She was represented by Mr. Theo Williams.
11 Soon after these indictments were true billed, she
12 entered guilty pleas as indicted before the Honorable
13 William Keesley. Judge Keesley accepted her pleas and
14 sentenced Ms. Jennings to one term of ten years
15 imprisonment and a second term of three years
16 imprisonment with a probationary sentence attached.
17 Those sentences were ordered to consecutive. Ms.
18 Jennings is present represented by counsel, has filed a
19 timely application for post conviction relief. In her
20 original application, a pro se application, she alleged
21 four issues which mostly characterizes as a failure to
22 investigate different aspects of the underlying offense.
23 The first amended application filed by counsel go to plea
24 negotiations and the final applications is kind of an
25 amalgamation of both of those. There's an additional two

1 allegations, eight in total. I would be happy to give
2 Your Honor a brief opening statement on the facts. If
3 not, I can turn matters over to Ms. Goldberg.

4 THE COURT: Well, let's go ahead and hear from
5 them.

6 MS. GOLDBERG: Thank you, Your Honor. May it please
7 the Court. The most recent amended application which the
8 Attorney General does have and made reference to was
9 actually filed last week. It was filed on April 15th.
10 I'm not sure if Your Honor has a copy of that, if it has
11 hit the Court's file yet or not. It would be titled
12 second amended application.

13 THE COURT: I do not have that.

14 MS. GOLDBERG: I have got an extra copy. I have
15 actually got the case number wrong on it so however you
16 want to do.

17 MR. WHITMIRE: That's my apologies, Your Honor.

18 MS. GOLDBERG: Should I hand this up?

19 MR. WHITMIRE: Absolutely. They were provided
20 timely notice.

21 MS. GOLDBERG: Thank you, sir. That's just for the
22 Court's convenience. The Applicant does want to go
23 forward as to these issues in the second amended
24 application that partially result in a failure to
25 investigate but mostly relate to a ineffective mitigation

1 argument and we are prepared to call Ms. Jennings at this
2 time.

3 THE COURT: All right. State ready?

4 MR. WHITMIRE: Yes, Your Honor. If I may just put
5 one thing on the record? The victims are here and
6 present to observe this hearing.

7 THE COURT: Okay.

8 Thereupon,

9 JASMINE De ANTIONE JENNINGS

10 after having been first duly sworn, testified as follows,

11 DIRECT EXAMINATION

12 BY MS. GOLDBERG:

13 Q. Ma'am, please state your name for the record.

14 A. Jasmine Jennings.

15 Q. Where are you currently housed? Where are you
16 housed?

17 A. You talking about lock up?

18 Q. Yes, ma'am.

19 A. SCDC.

20 Q. What sentence are you serving?

21 A. 13 years.

22 Q. How is that broken down, do you remember?

23 A. One ten and the other one three.

24 Q. Consecutive? Do you know when your max out date
25 is?

- 1 A. 2019.
- 2 Q. Do you know when you're first up for parole?
- 3 A. 2017.
- 4 Q. What charges were you convicted of?
- 5 A. The first one DUI felony. I plead to reckless
6 homicide.
- 7 Q. Two counts?
- 8 A. Yes, ma'am.
- 9 Q. You said you pled?
- 10 A. Yes, ma'am.
- 11 Q. You pled guilty?
- 12 A. Yeah.
- 13 Q. Who was your attorney?
- 14 A. Theo Williams.
- 15 Q. Do you remember when you were arrested about?
- 16 A. In December.
- 17 Q. What year?
- 18 A. 2013 or '12. It's one of them.
- 19 Q. After you were arrested, were you able to bond
20 out?
- 21 A. Yes, ma'am.
- 22 Q. Were you on bond until you went to court?
- 23 A. Yeah.
- 24 Q. Was Mr. Williams hired or appointed?
- 25 A. Hired.

1 Q. Did he represent you the entire time your charges
2 were pending?

3 A. Yeah. I think so.

4 Q. Did you hire him pretty soon after you got
5 arrested?

6 A. Yeah. I think like in -- Yeah. In the next week I
7 talked to him.

8 Q. You didn't have any other attorney at any point?

9 A. Mmm-mmm.

10 Q. Did you meet with him to prepare what to do with
11 your case?

12 A. Not really. We met a week before they wanted me to
13 plea, was asking for a plea.

14 Q. A week before you went to court?

15 A. Yeah. But other than that we was just talking about
16 the stuff, like all the evidence and what they had and that's
17 it.

18 Q. That was during that meeting?

19 A. No. The other meeting. I think we had like two
20 meetings.

21 Q. Did he investigate your case?

22 A. To me not really.

23 Q. Did he talk to some witnesses?

24 A. One.

25 Q. Who was that?

1 A. Daquon.

2 Q. What's the last name?

3 A. Coleman.

4 Q. How is he related to your case? What was his part
5 in all of this --

6 A. Most of it.

7 Q. -- Mr. Coleman?

8 A. Most of it.

9 Q. Well, just tell -- The Court doesn't know anything
10 so tell him who he is.

11 A. He's the third car. If he - if I would've - if he
12 would've let me get in the lane, none of this would've
13 happened. Ms. Stone wouldn't be dead or my cousin wouldn't be
14 dead.

15 Q. So we'll back up a little bit with the facts. You
16 said you were originally charged with DUI, felony DUI,
17 correct?

18 A. Yes, ma'am.

19 Q. All of this is the result of a traffic accident; is
20 that fair?

21 A. Yeah.

22 Q. Okay. You were driving one of the cars?

23 A. (Witness nodding head.)

24 Q. How many people were in your car?

25 A. Four.

1 Q. And how many other cars were involved?

2 A. For what they say on the paper is one, but it's
3 really three.

4 Q. Total?

5 A. Yeah.

6 Q. Okay. Backing up to your meetings with Mr.
7 Williams, did he talk to you about any attempts he made
8 negotiating with the Solicitor's Office for plea deals?

9 A. No. He told me that they said they'll drop my DUI
10 felony because my system came back clean.

11 Q. I'm sorry?

12 A. They said they'll drop my DUI felony because my
13 whole system came back clean. But he didn't tell me that they
14 couldn't charge me with a DUI felony because I wasn't over the
15 limit so I told him I want to go to trial. He said if you go
16 to trial, you could get about 25 years, and not me wanting to
17 get 25 years, so I pleaded guilty.

18 Q. Did he ever promise you any particular sentence?

19 A. Probably give me probation 'cause I'd never been in
20 trouble.

21 Q. Did he tell you you would definitely get probation,
22 you were likely to get probation?

23 A. Likely to get probation.

24 Q. Likely?

25 A. Yes, ma'am.

1 Q. Is that why you pled guilty?

2 A. Yes, ma'am.

3 Q. Are you unhappy with the result of your case?

4 A. Yes, ma'am.

5 Q. Why?

6 A. Because every fact wasn't brought up. Everything
7 wasn't -- He didn't object to nothing. He claimed to how the
8 wreck happened and everything. I feel like if everything
9 would have been brought on the table, I wouldn't have got that
10 much time.

11 Q. Specifically during your plea they discussed the
12 MAIT report. Do you know what that is?

13 A. Yes, ma'am.

14 Q. And they even offered a diagram from the MAIT report
15 into evidence during the plea; is that right?

16 A. Mm-hmm.

17 Q. Is that one of that things you believe he should
18 have objected to?

19 A. (Witness nodding head.)

20 Q. (Proffering.) Ms. Jennings, what is that document I
21 handed you?

22 A. Saluda County MAIT test.

23 Q. Is that the MAIT report?

24 A. Yes, ma'am.

25 Q. Does that document contain the diagram that you

1 wanted him to object to?

2 A. Yes, ma'am.

3 MS. GOLDBERG: Your Honor, at this time that has
4 been pre-marked as Plaintiff's Exhibit 1 and we would ask
5 to offer that into evidence.

6 THE COURT: Any objection?

7 MR. WHITMIRE: Yes, Your Honor. That came from
8 counsel's files directed towards him. He would be the
9 best witness to authenticate it.

10 MS. GOLDBERG: Your Honor, it was a part of her
11 discovery. She's observed it before.

12 THE COURT: Overruled. I'll allow it.

13 MS. GOLDBERG: Thank you, Your Honor.

14 BY MS. GOLDBERG:

15 Q. Ms. Jennings, please explain what you think the
16 problem with that document is. Is there a page number on the
17 page you are looking at?

18 A. No. It don't say no page number.

19 Q. Can you describe what you are looking at?

20 A. Me and Ms. Stone going down, you know, the same
21 way.

22 Q. Is that a diagram that was offered in your plea?

23 A. They brought it up, but I kept telling him that it
24 was wrong.

25 Q. Is that a black and white diagram?

1 A. No.

2 Q. Is there color on that?

3 A. Yeah, the cars.

4 Q. Okay. All right. Go ahead and explain what your
5 lawyer should have told the Court to explain how that's wrong.

6 A. This has got as, mostly they got as me, me and her
7 coming from the same way and then she was turning and I just
8 went over and hit her, pow. Like I intentionally went and hit
9 her and it didn't happen just like that because she wasn't
10 coming from the same way we was coming from. She was waiting
11 on the side of the road and I felt like that should have been
12 objected.

13 Q. What difference do you think that would have made in
14 the end result of your case?

15 A. A lot because they don't have nothing - they don't
16 say nothing about --

17 MR. WHITMIRE: Objection. Calls for speculation.

18 MS. GOLDBERG: Your Honor, in post conviction relief
19 I think the whole point is she is asserting that there
20 would have been a difference, prejudice, et cetera.

21 THE COURT: Overruled. I'll allow it. Go ahead.

22 MS. GOLDBERG: Thank you, sir.

23 BY THE WITNESS:

24 A. On here, on here they only have, they only have two
25 cars. But on my motion for reconsideration at the time they

1 put the third car in, but on the map they don't have nothing,
2 anything that got to do with the third car.

3 BY MS. GOLDBERG:

4 Q. Why do you think the presence of the third car would
5 have mattered?

6 A. Because mostly it's involved with this whole crime,
7 the serious part of it. It played a role in it.

8 Q. How did the third car play a role in the accident
9 itself?

10 A. Because when I went to go past him, he sped up so I
11 didn't see nobody in front of him or Ms. Stone waiting on the
12 side to come make it to her driveway only until he had stomped
13 on the brakes. That's when I was wondering why he was
14 stomping on the brakes. That's when I saw Ms. Stone and I
15 couldn't do nothing.

16 Q. He was blocking your vision?

17 A. Yeah. He sped up before I could even try to pass
18 him.

19 Q. Is there anything else about that particular report
20 that you need to address?

21 A. No, ma'am.

22 Q. We have put in the amended application that you also
23 believe that your attorney should have objected when the
24 Solicitor interjected his opinion into the facts. Explain
25 that, please.

1 A. Him saying bearing ass. That's his opinion. It
2 don't - it don't have anything to do with my facts of the
3 accident.

4 Q. What was the phrase again?

5 A. Bearing ass.

6 Q. Do you remember what the whole sentence was?

7 A. No. It's in the transcript. I think he said she
8 shouldn't be bearing ass.

9 Q. Down the road?

10 A. Yeah.

11 Q. It was in reference to the speed?

12 A. I think so.

13 Q. Anything else you need to address in that regard?

14 A. No.

15 Q. You have also stated that your attorney was
16 ineffective for failing to call witnesses from the scene to be
17 present at your guilty plea. What do you want to tell the
18 Court in that regard?

19 A. I mean, he called - he called the third car, but he
20 couldn't meet up with him and see how everything would have
21 went down or get him to talk for me or tell his side because
22 he really saw everything and I feel like that would've helped
23 my case, too.

24 MR. WHITMIRE: Objection. Relevance, unless the
25 witnesses are here to testify to it under Glover v. State

1 and Thorn v. State.

2 THE COURT: Overruled. I'll allow it.

3 BY MS. GOLDBERG:

4 Q. Are you unhappy with your sentence?

5 A. Yes, ma'am.

6 Q. Do you have any specific allegation of something
7 your lawyer should have done differently to have you receive a
8 different sentence?

9 A. Agreement on the, uhm, sentence.

10 Q. He should have asked the Solicitor to agree to a
11 particular sentence?

12 A. Mm-hmm or a plea.

13 Q. How old are you?

14 A. 23.

15 Q. Did you have any prior record before this?

16 A. No, ma'am.

17 Q. Do you have any children?

18 A. Yes, ma'am. I just had a son.

19 Q. While incarcerated?

20 A. Yes, ma'am.

21 Q. You were pregnant at the time of the plea?

22 A. No, ma'am.

23 Q. What are you asking this Court to do?

24 A. To give me another chance.

25 Q. To do what? Do you want a new trial?

1 A. Not a new trial.

2 Q. What do you want?

3 A. I just want a chance to be with my son and I ask for
4 forgiveness.

5 Q. Are you asking for a new sentencing hearing?

6 A. Yes, ma'am.

7 MS. GOLDBERG: No further questions.

8 THE COURT: Cross.

9 MR. WHITMIRE: May it please the Court.

10 CROSS EXAMINATION

11 BY MR. WHITMIRE:

12 Q. Good afternoon, Ms. Jennings. I'm a little
13 confused. I believe I just heard you testify that you want a
14 better plea deal?

15 A. (Witness nodding head.)

16 Q. Is that correct?

17 A. Yeah.

18 Q. A negotiated sentence set up in advance?

19 A. (Witness nodding head.)

20 Q. But you also testified that you're really upset your
21 attorney didn't look into the MAIT report and some
22 witnesses?

23 A. (Witness nodding head.)

24 Q. Why would you want a trial?

25 A. I don't want a trial.

- 1 Q. So you're saying you're guilty?
- 2 A. Guilty of speeding but not everything else.
- 3 Q. Guilty of drinking under age? Yes or no?
- 4 A. Yeah.
- 5 Q. Guilty of driving well over the speed limit at 2:00
6 a.m.?
- 7 A. Yeah.
- 8 Q. Was it a minimum of 93 miles an hour according to
9 the experts? Am I correct?
- 10 A. Yeah. That's what they say.
- 11 Q. Now, while you were awaiting, while you picked up
12 these charges, you were out on bond?
- 13 A. (Witness nodding head.)
- 14 Q. You only met with Mr. Williams on two occasions?
- 15 A. Two, yeah.
- 16 Q. Did he make himself available any other time for
17 you?
- 18 A. Yeah. When we go pay for - I mean, pay a little
19 bit. That's it.
- 20 Q. Was there ever a moment when you really wanted to
21 discuss your case or meet with him and he wasn't available to
22 do so?
- 23 A. I mean, we didn't discuss it like I think we should
24 have discussed it. Only a couple minutes.
- 25 Q. Did you let him know that during your

1 consultations?

2 A. No. He should know that. He's an attorney. I
3 don't know the law so...

4 Q. You all talked about the original charges you were
5 facing?

6 A. What, a DUI? Yeah.

7 Q. And you knew how much time that carried?

8 A. Zero to what? 10 to 25?

9 Q. Significant amount of time?

10 A. Yeah.

11 Q. You've never been incarcerated either?

12 A. No.

13 Q. So at no point while you were out on bond do you
14 call him up or go over to his office and really want to talk
15 about your case and your life?

16 A. That's what we hired him for, for him to talk to us,
17 too, right?

18 Q. And he reviewed all the State's evidence with you?

19 A. What State's evidence?

20 Q. The MAIT report from the Highway Department?

21 A. (Witness nodding head.)

22 Q. Met with witnesses on your behalf?

23 A. He didn't meet with nobody. He called.

24 Q. Now, did he ever tell you that he thinks your case
25 might have an OK shot at trial?

1 A. No. He told me if I go to trial, I'll get 25
2 years.

3 Q. Am I understanding he kind of threatened you to take
4 that plea deal with the time hanging over your head?

5 A. Yeah. He really told me to take the plea.

6 Q. During your two meetings with him as you testified
7 to, did he go over the pros and cons of the State's
8 evidence?

9 A. What?

10 Q. The strengths and weaknesses? The report?

11 A. What I wanted to bring up, he didn't want to bring
12 up.

13 Q. So you're telling me you just went and pled guilty
14 after your attorney ignored you?

15 A. Yeah, 'cause I thought he was gonna get me
16 probation. Who would want to do 25 years to life?

17 Q. Judge Keesley told you what you were facing; is that
18 correct?

19 A. Yes. Zero to ten. Yeah.

20 Q. On both charges?

21 A. Mm-hmm.

22 Q. At any point during this plea, I know you have never
23 plead guilty before, did you ever stop and nudge Mr. Williams
24 and say I'm uncomfortable about this and maybe I'm rethinking
25 it?

1 A. No. I just asked him was he going to bring up some
2 evidence.

3 Q. Did he do that for you?

4 A. Huh?

5 Q. Did he do that for you?

6 A. No. He said he didn't want to because of the victim
7 family.

8 Q. Didn't he challenge some aspects of the State's
9 case?

10 A. What's the challenge?

11 Q. Speed?

12 A. Yeah. He agreed with them. He really mostly threw
13 me under the bus with them.

14 Q. After the plea, did you let him know that you were
15 upset?

16 A. I didn't talk to him.

17 Q. Did he file a motion for reconsideration on your
18 behalf?

19 A. Mm-hmm.

20 Q. Were you present there?

21 A. Nope.

22 Q. You're saying here today that you want this Judge to
23 grant you relief because you just want less time?

24 A. And another chance. I've never been in trouble. I
25 don't even have a record. It was a accident.

1 Q. How much time elapsed between the night of this
2 accident and your ultimate guilty plea?

3 A. I got five months.

4 Q. During this five months did you ask him to maybe
5 think about trying to negotiate a better plea deal?

6 A. No. I thought he would be doing that his self. He
7 the one helping me. If you goin' in, you goin' in not knowing
8 the law so you goin' to a man who knows the law so you think
9 he gonna do his best to try to get you probation.

10 Q. Were you honest with Judge Keesley when he went
11 through all those questions with you about your rights?

12 A. What do you mean?

13 Q. Your right to a jury trial?

14 A. Was I honest with him?

15 Q. Mm-hmm.

16 A. Yeah.

17 Q. You were satisfied with Mr. Williams?

18 A. Mm-hmm.

19 Q. This is the last question. You're basically here
20 saying today you just discovered all these things that upset
21 you that you just didn't know about at the time?

22 A. Yeah. No. I mean, he could have put -- I mean,
23 there's some evidence that need to be brought up. Y'all
24 saying, yeah, I was drunk and I was speeding, but look at the
25 other evidence. When the autopsy showed drugs in his system,

1 none of that being brought up.

2 MR. WHITMIRE: No further questions, Your Honor.

3 Thank you, Ms. Jennings.

4 THE COURT: Redirect?

5 MS. GOLDBERG: No, Your Honor.

6 THE COURT: Thank you, ma'am. You may step down.

7 Anything else from the Applicant?

8 MS. GOLDBERG: No, Your Honor.

9 THE COURT: From the State?

10 MR. WHITMIRE: The State calls Mr. Theodore Williams

11 to the stand.

12 Thereupon,

13 ROBERT THEODORE WILLIAMS, SR.

14 after having been first duly sworn, testified as follows,

15 THE CLERK: Please have a seat. After you're
16 seated, please state your full name spelling your last
17 name for the record.

18 THE WITNESS: Good afternoon, Your Honor.

19 THE COURT: Good afternoon.

20 THE WITNESS: Robert Theodore Williams, Senior.

21 DIRECT EXAMINATION

22 BY MR. WHITMIRE:

23 Q. Mr. Williams, just a few questions for the record.

24 How long have you practiced law?

25 A. Since 1976, 39 years.

1 Q. Primary area of practice?

2 A. Since 1997 nothing but criminal.

3 Q. Do you recall your representation in this matter?

4 A. I do.

5 Q. Have you had a chance to review your file?

6 A. I have.

7 Q. Retained or appointed?

8 A. Retained.

9 Q. Do you recall the circumstances of the accident when
10 you first got this case?

11 A. I do.

12 Q. Briefly describe those for the record.

13 A. The accident?

14 Q. Yes.

15 A. My client was driving down Highway 23 going towards
16 Batesburg/Leesville. There was another vehicle in front of my
17 client driven by Daquon Davenport. The vehicle that the dead
18 lady eventually was involved in pulled out of a side road.
19 Mr. Davenport was able to stop. My vehicle, the Defendant's
20 vehicle was passing that particular vehicle at the time,
21 did not stop and hit the deceased on the left front.
22 Subsequently one of the passengers in Ms. Jennings' car died
23 also.

24 Q. When was the first time you were able to meet with
25 Ms. Jennings after you got retained?

1 A. I guess shortly after I was hired.

2 Q. She tell you her version of that accident?

3 A. She did. It's actually argued in the plea.

4 Q. I certainly hope to get to all of that in a second.

5 Another background question for the record. Do you recall how
6 many times you met with Ms. Jennings?

7 A. I don't have any idea. I talked to her mother a lot
8 and maybe her aunt. I think her aunt came in, too.

9 Q. You made yourself available to her when she was out
10 on bond if she wanted to meet with you?

11 A. I did. I know them. They're from Batesburg. I
12 live in Batesburg.

13 Q. This isn't your first DUI or vehicular homicide type
14 of case?

15 A. No. It's not.

16 Q. Experience investigating and dealing with the
17 Highway Department?

18 A. Yes.

19 Q. Did you review the State's evidence with Ms.
20 Jennings?

21 A. I did.

22 Q. Just briefly again talk about the pros and cons of
23 that evidence or the strengths and weaknesses?

24 A. Well, I think the MAIT report was wrong, but it
25 didn't change whether or not she should plead to the charge or

1 not because the MAIT report I don't think included Daquon's
2 vehicle. The MAIT report, if you believe my client and, of
3 course, I did, she said that she was driving in the high 60's.
4 The MAIT report indicates she was going like 90 miles an hour,
5 but it wasn't proximate. It didn't matter. The proximate
6 cause of the damage to the other vehicle was alcohol, speed
7 and failure to maintain a proper lookout when the lady turned
8 left.

9 Q. Now, early on in the representation did Ms. Jennings
10 give you an indication of the ultimate disposition, what she
11 wanted out of this?

12 A. She did not want to go to jail. She wanted as light
13 a sentence as she could get.

14 Q. Had she wavered at any point on getting a light
15 sentence in pleading, would you have taken this case to trial
16 or insisted on more time to prepare the case?

17 A. If anything, people criticize me for trying too many
18 cases, but we thought that it was the best thing for her to do
19 based on the fact that we had two deaths and she acknowledged
20 her guilt as she did earlier today.

21 Q. Describe your plea negotiations, if there were any,
22 with the Solicitor's Office on this case.

23 A. I wanted to get away from felony DUI which I was
24 able to. Obviously I did not want Judge Keesley to ring her
25 up with ten years and then three years. We were hopeful that

1 whatever sentence we would get would be concurrent. What
2 saved her on the second part on the three year sentence was
3 the fact that the mother of the deceased, she appeared and
4 testified in Jasmine's favor, that she felt that Jasmine had
5 suffered enough which is probably why Judge Keesley, I guess,
6 I'm speculating, too, why he didn't sentence her more on the
7 three.

8 Q. This is just a general practice question. Do you
9 take any extra precautions or spend additional time with a
10 client who is wanting to plea guilty who has had no
11 involvement in the system?

12 A. I mean, I explained to her what could happen and
13 this was her best shot. And I don't know that - I don't know
14 that the mother of the deceased was overly aggressive, I
15 guess. She was upset just as anybody would be if their child
16 is dead.

17 Q. Once you all made a decision to take this thing and
18 plea it out, briefly describe your mitigation strategy and
19 efforts you made on her behalf?

20 A. Well, I thought one of the most mitigating factors
21 was the fact that she had no prior convictions. Her blood
22 alcohol level was .058. She was almost of age to drink. She
23 never had a brush -- It was a bad scenario for anyone that
24 night. But in terms of whether or not the judge understood
25 that there were actually three cars involved, when we filed

1 the motion for reconsideration, in the order denying the
2 motion for reconsideration he actually cited in his facts that
3 there was a third car and cited the facts that I argued.

4 Q. Did you explain to Ms. Jennings that when she pleas
5 guilty, she waives the opportunity or the right to present a
6 defense?

7 A. I did.

8 Q. In reviewing preparing for today's hearing, is there
9 any part of the State's case that you felt they got wrong and
10 you really needed to let the Judge know about?

11 A. Well, I'm not sure the Solicitor ever argued the
12 third car situation which is what I argued. I don't know that
13 it makes a difference. Obviously the Judge believed us
14 because he wouldn't have put it in his order if he hadn't
15 believed us. I think it was just -- I don't make those
16 decisions on how much time someone gets. I mean, that's an
17 individual decision and that's why judge's wear a black robe
18 and they make those decisions and I can't always get inside
19 their heads.

20 Q. During your consultations with Ms. Jennings, did she
21 ever - did you ever observe or note that she was unable to
22 grasp the concept that you do not control sentencing at all?

23 A. Well, she knew that. She knew that. She knew that.
24 I mean, it's a shame. Nothing good came from that night. Two
25 people were dead and Ms. Jennings lost a significant portion

1 of her life.

2 Q. Just a few more questions. Did Ms. Jennings express
3 any trepidation, any concerns at the guilty pleading of her
4 desire to go forward?

5 A. With the trial?

6 Q. No. With the plea?

7 A. No.

8 Q. I believe you said you would have had no problem
9 trying the case?

10 A. If I had something to try that I thought -- If we
11 had lost at trial, it would have hurt a lot worse I thought.

12 Q. During your representation, final question, did you
13 represent Ms. Jennings to the best of your ability?

14 A. I did.

15 MR. WHITMIRE: No further questions, Your Honor.
16 Thank you, Mr. Williams. Please answer any question that
17 Applicant counsel may have for you.

18 THE COURT: Cross examination.

19 MS. GOLDBERG: Thank you, Your Honor. May it please
20 the Court.

21 CROSS EXAMINATION

22 BY MS. GOLDBERG:

23 Q. Good afternoon, sir.

24 A. Good afternoon.

25 Q. Did you ever ask the Solicitor to agree to any

1 particular sentence?

2 A. Sure. I asked him if he would agree to probation.
3 I asked him to agree to anything and he would not. I mean, we
4 just -- Once we got him down to off the felony DUI, then it
5 was whatever the Judge said.

6 Q. Why did the Solicitor agree to reduce it from felony
7 DUI to reckless?

8 A. I think the reason he reduced it was because she was
9 a .058 and the fact that she had never been in trouble
10 before.

11 Q. Is there anything in your understanding of the DUI
12 law that meant that he could not have gone forward with the
13 DUI, felony DUI in that case?

14 A. No. I think he could have.

15 Q. If this case had proceeded to trial, do you believe
16 he would have gone forward on the felony DUI?

17 A. Absolutely.

18 Q. Did you tell Ms. Jennings at any point that she
19 would receive a probationary sentence?

20 A. No.

21 Q. Did you tell her anything along those lines, that
22 you would hope for one, you would ask for one, anything like
23 that?

24 A. I don't recall ever saying that. I can tell you if
25 she had tried the case, she would not have gotten probation.

1 Q. Have you reviewed the transcript for today's date?

2 A. I skimmed over it.

3 Q. It appears from the transcript that you did not ask
4 the Judge for a probationary sentence. Does that surprise you
5 or does that go along with your recollection?

6 A. I wouldn't doubt that. As a matter of fact, in only
7 one felony DUI case that I have ever pled did the person not
8 get time. Recently, I just pled somebody recently on a felony
9 DUI which was interesting because they did something like a
10 house arrest and then five years probation, but it was based
11 on a very questionable type of accident where liability may
12 not have been an issue. The key here I think is what caused
13 the wreck.

14 Q. So you did anticipate that Ms. Jennings would likely
15 receive some sort of prison sentence?

16 A. I did. I was surprised on one of them because when
17 the mother, I want to say it's a Coleman who is a cousin maybe
18 stood up for Ms. Jennings, I thought that was good. Like I
19 say, I'm not sure that the mother of the other young lady was
20 out of, you know, out of bounds or anything like that. It's
21 not like -- She was fair.

22 Q. Did you make clear to Ms. Jennings prior to her plea
23 that you anticipated she would receive a prison sentence?

24 A. I told her I didn't know. She wanted to know what
25 -- She wanted to plead guilty because she was guilty.

1 Q. You heard Ms. Jennings testify that she believed the
2 MAIT report was incorrect?

3 A. I agree.

4 Q. You agree with that?

5 A. I agree with that.

6 Q. Do you think you sufficiently explained that during
7 the guilty plea to the Court?

8 A. I do and it was incorporated in the Judge's order.

9 Q. If you did agree that the MAIT report was incorrect,
10 is there any particular reason you didn't object when the
11 State wanted to introduce parts of it into evidence during the
12 plea?

13 A. Because I had argued that the facts were not as what
14 the Solicitor was saying. The Judge obviously was smart
15 enough to understand that the Solicitor was saying one thing
16 and I was saying something else and he had a MAIT report
17 saying a different thing which is why Judge Keesley made the
18 comment in the middle of the plea, well, I don't understand
19 anything. It's as clear as mud. And then we went back
20 through it again. And I think Judge Keesley figured it out,
21 that we had two different version of the facts both of which
22 let to my client striking another car in the wrong lane when
23 she had been drinking.

24 Q. At the end of Ms. Jennings' cross examination she
25 mentioned that you never brought out the information that the

1 victim had drugs in her system that was revealed in the
2 autopsy. Any particular reason you didn't?

3 A. It wasn't the cause of the accident or the cause of
4 the death and it could only make Judge Keesley get angrier
5 about the events. I saw no future in helping her with that.
6 I didn't see that that was going to help her because you
7 couldn't prove how long the cannabinoids had been in her
8 system because I think -- It could have stayed in her system
9 seven days. It wasn't a secret. We had a copy of the
10 autopsy.

11 Q. Ms. Jennings also testified that she believed her, I
12 can't remember the words she used, but her alcohol test came
13 back negative.

14 A. Well, that's just not true.

15 Q. A review of the transcript of the plea shows that
16 no one ever told the Judge that Ms. Jennings did not have any
17 prior record. Do you remember if there was any conversation
18 off the record or would that have been an oversight?

19 A. I felt certain that Judge Keesley knew that she had
20 no prior record to include the order dated, I think it's in
21 the order dated May the 1st of 2014.

22 Q. Does that reference it?

23 A. It references the baby. You know, the baby that she
24 had. And it references -- Maybe that was in the motion for
25 reconsideration where I argued that.

1 Q. Did Ms. Jennings have family support with her at the
2 plea?

3 A. Yes. She had her mother, her aunt. I don't know
4 who else was there. The mother of one of the victims was
5 actually very supportive of her, but I think that's a
6 cousin.

7 Q. This question back tracks a little but just to cover
8 my bases. When you had this case and it was pending, did you
9 investigate it as in speak with witnesses, interview any
10 witnesses in that regard?

11 A. Spoke to the person who was involved in the third
12 car.

13 Q. Was there anyone else that she asked you to talk to
14 that you didn't?

15 A. Just him. That's the one she told me to talk to.
16 She knew who it was.

17 MS. GOLDBERG: No further questions.

18 REDIRECT EXAMINATION

19 BY MR. WHITMIRE:

20 Q. Just a few questions regarding that last bit of
21 inquiry. Was there a civil action going on at the same
22 time?

23 A. David Taylor represented the family of one of the
24 victims and I guess that's all you need to know, I guess.
25 Yes, there was a civil action. I think it's since been

1 settled or been over with.

2 Q. This is a two part further inquiry from that. Is
3 part of your mitigation strategy to have full disclosure and
4 work with the victims in that civil action?

5 A. Well, I hope the victims got every bit of monetary
6 money that they could get, but it never replaces a death. I
7 mean, I don't know what you want to say about something like
8 that.

9 Q. To let the Judge know that as part of the
10 mitigation?

11 A. We weren't obstructionist or anything like that.

12 Q. The second part. Were you able to garner
13 information to help aid you in the investigation of the facts
14 based on a separate civil action?

15 A. I don't know that there was much issue over that.

16 MR. WHITMIRE: No further questions. Thank you, Mr.
17 Williams.

18 MS. GOLDBERG: Nothing further, Your Honor.

19 THE COURT: Thank you, Mr. Williams.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: You may step down. Anything further?

22 MR. WHITMIRE: The State rests and at this time they
23 would also move to release Mr. Williams from his
24 subpoena.

25 MS. GOLDBERG: No objection.

1 THE COURT: Thank you, Mr. Williams.

2 MR. WILLIAMS: Thank you, Your Honor.

3 THE COURT: Anything in reply?

4 MS. GOLDBERG: Nothing in reply, Your Honor, and the
5 Applicant would rest on the testimony.

6 THE COURT: Be glad to hear from you.

7 MS. GOLDBERG: Your Honor, only Ms. Jennings has
8 testified that she believes that the inaccuracies in the
9 MAIT report were not adequately explained. She believes
10 that, she testified that she pled guilty because her
11 lawyer told her probation was likely. She did not
12 believe that the Solicitor's statements were accurate
13 especially some of the opinions that he interjected.
14 Your Honor, the record from the plea is clear that
15 several key pieces of personal information about Ms.
16 Jennings were not included in the plea such as the fact
17 that she has no prior record. Ms. Jennings has asked for
18 a new sentencing hearing. She believes that this case
19 could have been more properly mitigated.

20 THE COURT: I understand.

21 MR. WHITMIRE: May it please the Court. Your Honor,
22 this is a classic case of Wolf v. State, wishful thinking
23 and it's never a basis for relief. There's been no
24 question that she is guilty for the facts. The State had
25 its aggravating factors. Mr. Williams just about tried

1 his mitigation factors in this pre-extensive plea
2 colloquy that Judge Keesley took his time to wade
3 through. At this time, Your Honor, the motion for
4 reconsideration of the sentence and the order before you
5 I would love to have an opportunity to put that before
6 you as part of the record or maybe from the Court's file.
7 I did not know about it. This is a case where you always
8 look to the waivers, the initial part of the guilty plea
9 and she made the decision voluntarily. She knew she was
10 exposed to possibly 20 years if the sentences were run
11 consecutive, and that her attorney advised her of
12 everything. Mr. Williams has made the record today of
13 what he has done, how he went about this case and it's
14 just - she just got a tough sentence, but we strongly
15 believe that she's fallen well, well short of her burden
16 of proving ineffective assistance of counsel in either
17 deficiency or the ultimate prejudice.

18 THE COURT: And, Ms. Goldberg, I am compelled to
19 agree with the position of the State in this case. There
20 was a long discussion between the Judge and Mr. Williams
21 about what were the facts and as related by Mr. Williams
22 the Judge actually took some time to study. I believe he
23 called a recess. But nevertheless, for all the reasons
24 stated by the Attorney General I am compelled to deny the
25 Applicant's motion and ask Mr. Whitmire to prepare an

1 order, if you would.

2 MS. GOLDBERG: Thank you, Your Honor.

3 MR. WHITMIRE: Thank you, Your Honor.

4 END OF PROCEEDINGS.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



South Carolina Department of Public Safety

South Carolina Highway Patrol

FF-119-12

Saluda

County



Foothills

M.A.I.T.

Team Members

Sgt. B. S. Brock
Cpl. A. L. Duncan
Cpl. C.M. Burgess
L/Cpl. K. W. Anderson

FOIA Officer

Leigh P. Watkins
SCDPS Office of General Counsel
Post Office Box 1993
Blythewood, SC 29016
PHONE: (803) 896-7759
FAX: (803) 896-7967
LeighWatkins@scdps.gov

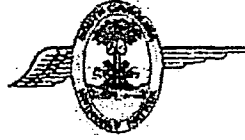
Forward all Subpoenas for MAIT to
the FOIA Officer

EXHIBIT
#1 Applicant's
4-20-15
2014CP41
111

SOUTH CAROLINA HIGHWAY PATROL

MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM

Leroy Smith
Director



M.R. Oliver
Colonel

INVESTIGATIVE REPORT

The South Carolina Highway Patrol Multi-Disciplinary Accident Investigation Team reserves the right to amend, correct, or detract any or all inferences, conclusions, or opinions presented in this report. This report is the intellectual property of the South Carolina Department of Public Safety and shall not be duplicated or copied for distribution, unless written permission is granted by the Office of General Counsel.

MAIT CASE NO:	FF-119-12	CAD/CASE NO:	12GW195897
REQUESTING AGENCY:	SCHP		
TROOP:	2		
COUNTY:	SALUDA	COLLISION LOCATION:	SOUTH CAROLINA 23
INVESTIGATING OFFICER:	S/TPR. B. J. BOLT		
DATE:	12-15-12		
MAIT REGION:	FOOTHILLS	TEAM LEADER:	SGT. B. S. BROCK

1. SPEED CALCULATIONS.

The speed for unit # 1 was calculated to be approximately 93 miles per hour; the speed limit is 55 miles per hour.

2. DRIVER.

The driver of unit #1 was Jasmine Deanionet Jennings.

3. MAPPING / CAD.

MAIT completed a forensic mapping and CAD of the collision scene.

4. LANE LOCATION.

The collision occurred in the westbound lane of South Carolina Primary 23.

5. MECHANICAL.

MAIT conducted a mechanical examination on unit # 1 and concluded that unit # 1 was in proper mechanical condition prior to this collision and that no mechanical failure contributed to this collision.



SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
Post Office Box 1993
Blythewood, SC 29016



6. ACM IMAGE.

MAIT imaged the recorded data on unit # 1's airbag control module. An analysis of the airbag control module data for unit # 1 indicates a speed of 104 miles per hour approximately 5 second before airbag deployment.

7. AUDIO / INTERVIEWS.

MAIT conducted audio recordings during the course of this investigation.

8. PHOTOGRAPHS.

MAIT took digital photographs during the course of this investigation.

9. VIDEO.

MAIT took digital video footage during the course of this investigation.

10. ANIMATION.

MAIT produced an animation of the collision which reflects the findings of the MAIT investigation.

Team Leader / Region Commander

ACTAR Number: 2360



SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
Post Office Box 1993
Blythewood, SC 29016



FATAL

SOUTH CAROLINA DP30HS & DIV USE ONLY		Page # 1	SOUTH CAROLINA TRAFFIC COLLISION REPORT FORM TR - 310 (Rev. 7/2010)			# Of Units 02	<input checked="" type="checkbox"/> Amend Original Report	Accident City Monetta	Reported 0219	Amended 0238	
Date 12-15-2012	Time of Collision 0213	1- Interstate 2- US Primary 3- SC Primary	4- Secondary 5- County 6- PP	Collision Location (Rt # / Name) 523 / HIGHWAY 23		0- Main 1- Alternate 5- Spur	6- Connection 7- Business	Miles .17	Dir. N E S W	In (Near) City or Town of MONETTA	
Lane # / Dir. 1 / 2 2 / (S)W	Distance Offset .09	Direction N E F S W	1- Interstate 2- US Primary 3- SC Primary	4- Secondary 5- County 6- Other	Base Intersection (Rt # / Name) / HOLSTON ST		0- Main 2- Alternate 5- Spur	6- Connection 7- Business 9- Other	GPS COORDINATES 00 00' 00 00" DEGREES MINUTES SECONDS		
RR Id	From N E S W	Ramp Only 1- Entrance 2- Exit	To N E S W	1- Interstate 2- US Primary 3- SC Primary	4- Secondary 5- County 6- Other	Second Intersection (Rt # / Name) / BETHEL RD		0- Main 2- Alternate 5- Spur	6- Connection 7- Business 9- Other	Latitude 33 51 29.77	Longitude 81 36 14.36
E-452732			Driver/Pedestrian's Full Name JENNINGS JASMINE DEANTONET			E-452733			Driver/Pedestrian's Full Name STONE KANDI DENISE		
Unit # 01	Sex F	Race B	Street/R F D	Unit # 02	Sex F	Race W	Street/R F D				
Birth Date 4		City, State, & Zip BATESBURG SC 29006		Birth Date 1		City, State, & Zip MONETTA SC 29105					
State SC		Driver's License #		Class D		Insurance Company UNINSURED		State CN		Driver's License #	
Year 2009		Body 4S		Vehicle Make CHRY		VIN #		Year 1999		Body 4S	
State SC		Year 2013		License Plate #		Owner's D L #		State SC		Year 2013	
Home Telephone ()		Owner's Full Name JENNINGS JASMINE DEANTONET				Home Telephone ()		Owner's Full Name WATTS SHARON			
Bus Telephone (803) 6879594		Street/R F D				Bus Telephone ()		Street/R F D			
Contributed To Collision Yes () No (X)		City, State, & Zip BATESBURG SC 29006				Contributed To Collision Yes () No (X)		City, State, & Zip WARD SC 29166			
Estimated Speed 93	Speed Limit 55	C D L Req Yes () No (X)	T/B S Req Yes () No (X)	Alc/Drg Info (see back) Yes () No (X)	Code F804131	Towrd 99	Code SALUDA MOTOR	Estimated Speed 15	Speed Limit 55	C D L Req Yes () No (X)	T/B S Req Yes () No (X)
State SC		Year		License Plate #		Owner's D L #					
Unit # #	Sex	Race	Street/R F D	Home Telephone ()		Owner's Full Name					
Birth Date		City, State, & Zip		Bus Telephone ()		Street/R F D					
State		Driver's License #		Class		Insurance Company		Contributed To Collision Yes () No ()		City, State, & Zip	
Year		Body		Vehicle Make		VIN #		Estimated Speed		Speed Limit	
Dir. of Travel		Unit 1 (N) S E W		Unit 2 (N) S E W		Unit 3 N S E W		C D L Req Yes () No ()		T/B S Req Yes () No ()	
		Unit 1 Dam.		Unit 2 Dam.		Unit 3 Dam.		Prop. Dam 1		Prop. Dam 2	
		\$18000		\$6000		\$		\$		\$	
Property Owner/Witness						Property Owner/Witness					
Address						Address					
State		Zip		Phone		State		Zip		Phone	
Photo ()		Description What Happened (Refer to Units by Number)									
<p>MAIT INVESTIGATION SEE ATTACHED DIAGRAM INVESTIGATOR: L/Cpl. W.N. NIMMONS Case #: FF-119-12</p>											
<p>UNITS #1 AND #2 WERE TRAVELING NORTHEAST ON SOUTH CAROLINA PRIMARY 23. THE DRIVER OF UNIT #2 WAS SLOWING TO MAKE A LEFT TURN INTO A PRIVATE DRIVE. THE DRIVER OF UNIT #1 WAS ATTEMPTING TO PASS UNIT #2 WHILE DRIVING UNDER THE INFLUENCE. THE DRIVER OF UNIT #2 AND THE PASSENGER IN UNIT #1 WAS FATALLY INJURED IN THE COLLISION.</p>											
<p>1/13/2013: AMENDED INJURY STATUS FOR UNIT #1 OCCUPANT SEAT #3, FATAL. 1/31/2013: SPEED, NARRATIVE, AND DIAGRAM AMENDED.</p>											
<p>NOTICE - THE TR-310 IS FOR STATISTICAL REPORTING PURPOSES ONLY AND IS A REFLECTION OF THE OFFICER'S BEST KNOWLEDGE, OPINION AND BELIEF COVERING THE COLLISION BUT NO WARRANTY IS MADE AS TO THE FACTUAL ACCURACY THEREOF.</p>											
Investigating Officer's Name BOLT - B. J.		Rank S/TRP		Badge # T 6 9 8		Jurisdiction Code H P O 2		Review Date 01-13-2013		Reviewer's Name L S Berry	
Rank CPL		Internal Agency Code 12GW195897									

Unit	Date of Birth	Sex	Race	INJ	Seat	R/S/D	ADD	Eject	LAT	Tran	Name	Street Address	Zip Code
01		F	B	2	01	00	1	3	1	1	JENNINGS JASMINE DEANT	BATESBURG SC	29008
02		F	W	4	01	00	4	3	1	8	STONE KANDI DENIS	MONETTA SC	29105
01		M	B	4	03	00	1	3	1	1	COLEMAN MAURICE J	BATESBURG SC	29008
01		M	B	2	04	00	1	3	1	1	HOLLOWAY JEFFEREY DEMO	BATESBURG SC	29008
01		M	B	2	06	00	1	3	1	8	CULBREAT NIKIA	BATESBURG SC	29008

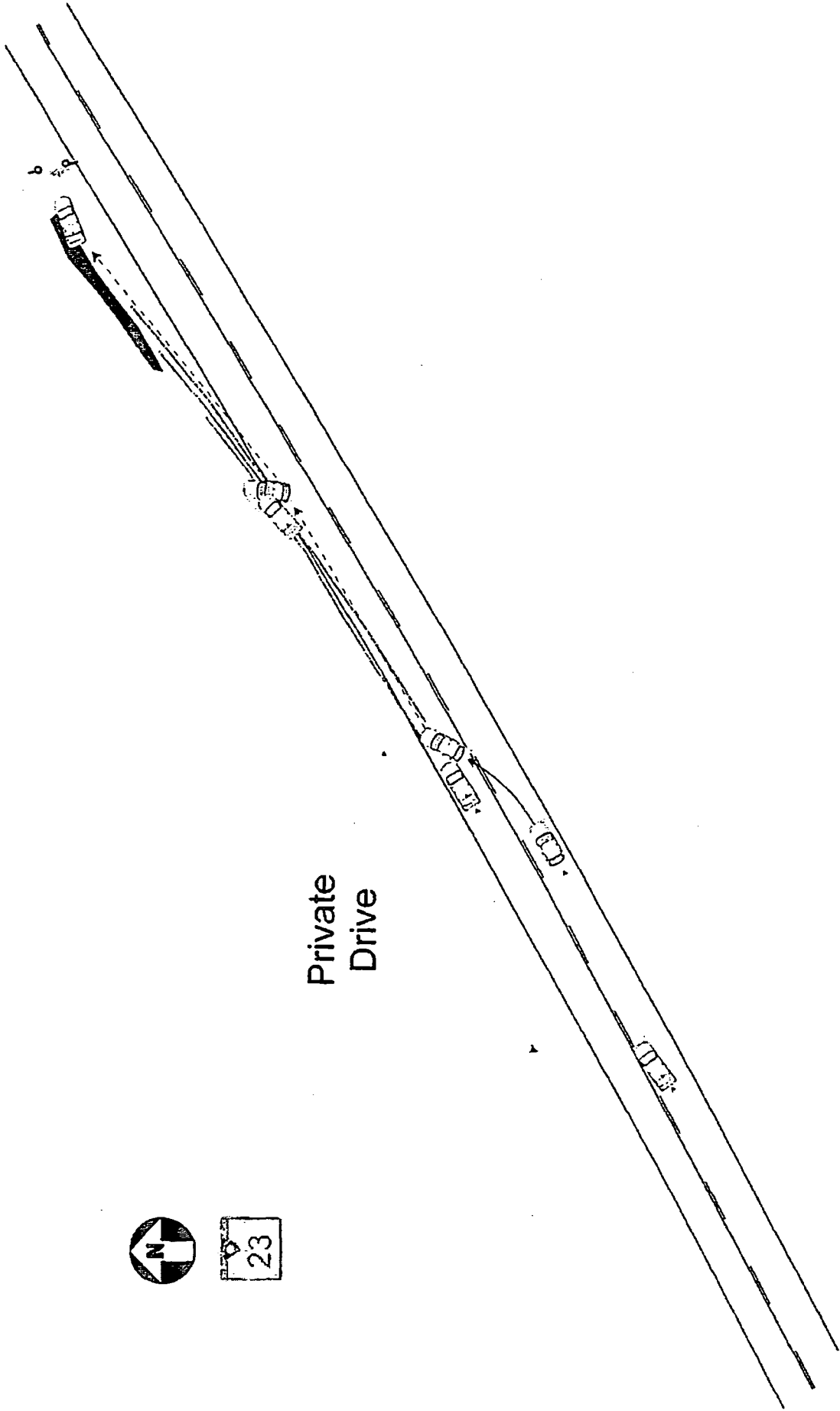
Race	A - Asian/Pacific Islander B - African American C - Hispanic D - Alaska Native or American Indian	W	W Caucasian O - Other U - Unk	a) Injury Status	1 - Non-incapacitating 2 - Incapacitating 3 - Fatal	Seating Loc.	01 02 03 04 05 06 07 08 09	20 Pedestrian 20 Trailing Unit 40 Bus or Van (4th row or higher) 50 Other Enclosed Area (nontrailing) 51-Other Unenclosed Area (nontrailing)	60 Sleeper of Cab 70 Riding on Unit Exterior 80 Lap 90 Unk /NA	Restraint/Safety Device	00 None Used 11 Shoulder belt 12 Lap Belt Only 13-Shoulder & Lap Belt 21-Child 22 Safety Seat 23 Other		
Ar Bag Deployment / Switch	1-Deployed Front 2-Deployed Side 3-Deployed Both 4-Not Deployed 5-Not Applicable 6-Deployment Unk	Ejection	1-Not Ejected 2 Part Ejected 3 Tot Ejected	b) 2 or 3 Wheel Motorized Vehicle	1-Yes 2-No	Location After Impact	1-Not Trapped 2 Ejected (Medical Means) 3-Other	4-Not Applicable	5-Unknown	6) Transported to Medical Facility	1-Yes 2 No 3 Unknown 4 BY 1 EMS 2 Police 3 Other 4 Unk	7) Pedestrian, Motor/Pedalcycle Only	00 None Used 01-Protective Pads 02-Lighting

Non-Collision	01 Cargo Equip Unk or Chgd 02 Class Median Center 03 Damaged Assembly	04 Equipment Failure 05 Fire/Explosion 06 Imbalance 07 Jackknifed	08 Overturn/Rollover 09 Run off Road Left 10 Run off Road Right	11 Separation of Units 12 Spin (No Collision) 13 Other Non-collision 14 Unk Non-collision	Collision, Not Fixed	15 Animal (Deer Only) 16 Animal (All Other) 17 Motor Veh (In Transport) 18 Motor Veh (Stripped) 19 Motor Veh (Other Roadway) 20 Motor Veh (Parklet) 21 Pedalcycle	22 Pedestrian 23 Railway Veh 24 Work Zone/Event Equip 25 Other Movable Object	Collision, Fixed Object	26 Embankment 27 Equipment 28 Fence 29 Concrete End 30 Guardrail Face 31 Highway Traffic Sign Post 32 Impact Attenuator/Crash Cushion 33 Light/Signage Support	34 Hazardous 35 Median Barrier 36 Overhead Sign Support 37 Other (Post, Pole, Support, Etc.) 38 Other (Wall, Ditching, Tunnel, Etc.) 39 Tree 40 Utility Pole 41 Work Zone Hazard Equipment	42 Other
----------------------	---	--	---	--	-----------------------------	---	--	--------------------------------	---	---	----------

Manner of Collision (Strike Veh):	01 Rear to Rear 02 Angle (↘/↗) 03 Rear End 04 Head On 05 Side/Swipe Same Dir 06 Side/Swipe Opposite Dir 07 Backed into 08 Unknown	1st / Most Deformed Area	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72	1st Deformed	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72	Most Deformed	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72
--	--	---------------------------------	---	---------------------	--	----------------------	--

Vehicle Type:	01 Automobile 02 Pickup Truck 03 Truck Tractor 04 Other Truck 15 Full Size Van 16 Mini Van 17 Sport Utility 18 Motorcycle 20 Pedalcycle 21 Animal (Deer Veh) 22 Passenger Bus 23 Animal (Ridden) 24 Pedestrian (Hit and Run Only) 61 School Bus 62 Passenger Bus 63 Other 64 Unk (Hit and Run Only)	Vehicle Use Code:	04 Ambulance 05 Military 06 Driver Training 07 Construction/Maint 09 Farm Use 10 Transport Passengers 11 Transport Property 12 Fire Fighting 13 Logging 14 Police 15 Pedestrian 16 School Tanker 17 Petroleum Tanker 18 Lowboy Trailer 19 Autocarrier Trailer 20 Other Tanker 21 Flai Bcd 22 Lowboy Traders 23 Other	Vehicle Attachment:	4-Utility Trailer 5-Farm Trailer 6-Mobile Home 7-Semi-Trailer 8-Towed Motor Vehicle 9-Petroleum Tanker A-Lowboy Trailer B-Autocarrier Trailer C-Other Tanker D-Flai Bcd E-Twin Traders F-Other	Action Prior to Impact (Vehicle):	01 Backing 02 Changing lanes 03 Backing traffic lane 04 Leaving traffic lane 05 Making U-turn 06 Movements Essentially Straight Ahead 07 Overtaking/passing 08 Other 09 Parked 10 Slowing or Stopped in traffic 11 Turning left 12 Turning right 13 Straight Ahead	Action Prior to Impact (Non-motorist):	21 Approaching Leaving Vehicle 22 Erection/Crossing Location 23 Playing/Working on Vehicle 24 Pushing Vehicle 25 Standing 26 Walking/Playing/Cycling 27 Working 28 Other	Weather Condition:	1 Clear (no adverse conditions) 2 Rain 3 Cloudy 4 Steel Hail 5 Snow 6 Fog Smog, Smoke 7 Blowing Sand 8 Severe Crosswinds 9 Unk 0f Dirt or Snow	Light Condition:	1 Daylight 2 Dawn 3 Dusk 4 Dark (Lighting Unspecified) 5 Dark (Street Lamp Lit) 6 Dark (Street Lamp Not Lit) 7 Dark (No Lights)	Junction Type:	01 Five-way Point 02 Four-way Intersection 03 Driveaway 04 Five-way Intersection 05 Railway Grade Crossing 06 Traffic Circle 07 Shared Use Paths or Trail 08 T-Intersection 09 Traffic Circle 10 Intersection 11 Nonjunction 12 Unk	Primary Contributing Factors:	01 Disregarded Signs Signals Etc 02 Distracted/Inattention 03 Driving Too Fast for Conditions 04 Exceeded Authorized Speed Limit 05 Failed to Yield Right of Way 06 Ran off Road 07 Fatigued/Asleep 08 Followed Too Closely 09 Made an Improper Turn 10 Medical Related 11 Aggressive Operation of Vehicle 12 Over-correcting/Over steering 13 Swerving to Avoiding Object 14 Wrong Side or Wrong Way 15 Under the Influence 16 Vision Obstructed (Worn Unit) 17 Improper Lane Usage/Change 18 Cell Phone 19 Talking 20 Other Improper Action 21 Unk	Roadway:	30 Debris 31 Non highway Work 32 Obstruction in Roadway 33 Road Surface Condition (i.e. Wet) 34 Rut Holes Bumps 35 Shoulders (None Low Soft High) 36 Traffic Control Device (i.e. Missing) 37 Work Zone (Const Maint Utility) 38 Worn, Travel Path/Smooth Surface 39 Other	Non-Motorist:	40-Other 41-Other 42-Other 43-Other 44-Other 45-Other 46-Other 47-Other 48-Other 49-Other 50-Other 51-Other 52-Other 53-Other 54-Other 55-Other 56-Other 57-Other 58-Other 59-Other 60-Other 61-Other 62-Other 63-Other 64-Other 65-Other 66-Other 67-Other 68-Other 69-Other 70-Other 71-Other 72-Other 73-Other 74-Other 75-Other	Environmental:	60-Animal in Road 61-Glare 62-Obstruction 63-Wet/Sloppy Cond 64-Other 65-Other 66-Other 67-Other 68-Other 69-Other 70-Other 71-Other 72-Other 73-Other 74-Other 75-Other	Vehicle Defect:	76-Brakes 77-Steering 78-Engine 79-Exhaust System 80-Other 81-Other 82-Other 83-Other 84-Other 85-Other 86-Other 87-Other 88-Other 89-Other 90-Other 91-Other 92-Other 93-Other 94-Other 95-Other 96-Other 97-Other 98-Other 99-Other
----------------------	---	--------------------------	--	----------------------------	---	--	--	---	---	---------------------------	---	-------------------------	---	-----------------------	--	--------------------------------------	--	-----------------	---	----------------------	--	-----------------------	---	------------------------	--





CASE NUMBER: FF-119-13

Comments: Calculated speed of Unit #1.

**** LINEAR MOMENTUM ****

$$W1 \times V1 + W2 \times V2 = W1 \times V3 + W2 \times V4$$

$$4534.0000 \times V1 + 3636.0000 \times 10.0000 = 4534.0000 \times 58.7900 + 3636.0000 \times 58.0800$$

$$4534.0000 \times V1 + 36360.0000 = 266553.8600 + 211178.8800$$

$$4534.0000 \times V1 + 36360.0000 = 477732.7400$$

$$4534.0000 \times V1 = 477732.7400 - 36360.0000$$

$$4534.0000 \times V1 = 441372.7400$$

W1 = The Wt of Veh 1 in Pounds.

W2 = The Wt of Veh 2 in Pounds.

V1 = The Speed of Veh 1 in MPH.

V2 = The Speed of Veh 2 in MPH.

V3 = The Spd After Impact, Veh 1.

V4 = The Spd After Impact, Veh 2.

$$V1 = \frac{441372.7400}{4534.0000}$$

$$V1 = 97.3473$$

INPUTS:

RESULTS:

The Wt of Veh 1 (lbs) is: 4534.0000
 The After Impact Speed of Veh 1 is: 58.7900
 The Wt of Veh 2 (lbs) is: 3636.0000
 The Impact Spd of Veh 2 is: 10.0000
 The After Impact Speed of Veh 2 is: 58.0800

The Spd of Veh 1 in MPH is: 97.3473
 The Vel of Veh 1 in FPS is: 142.7760

<u>IS V2</u>	<u>Speed</u>
10.0000	97.3473
11.0000	96.5453
12.0000	95.7434
13.0000	94.9414
14.0000	94.1395
15.0000	93.3376
16.0000	92.5356
17.0000	91.7337
18.0000	90.9317
19.0000	90.1298
20.0000	89.3279

INCREMENTATION CALC's:

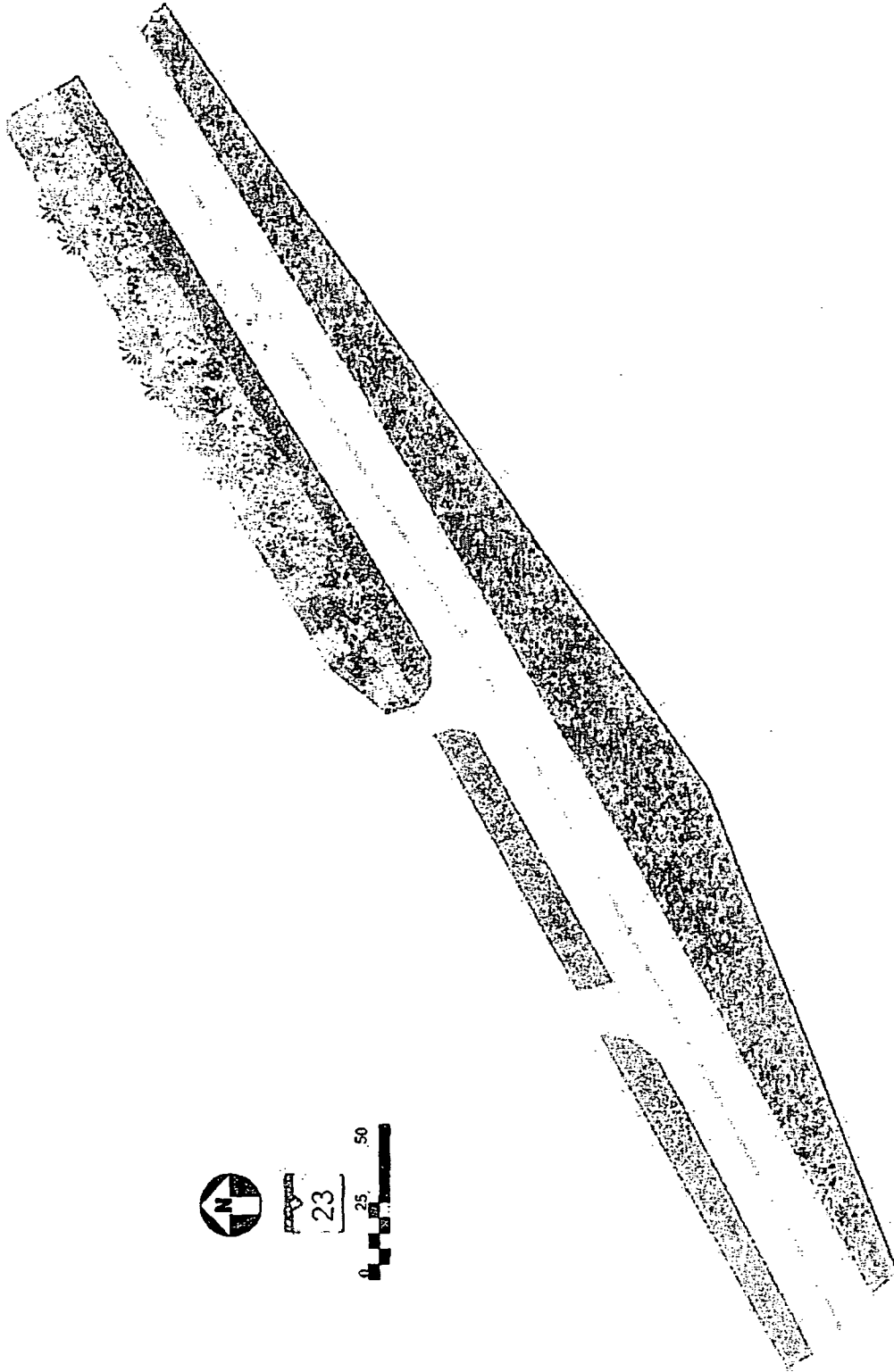
IS V2 Speed

SCHP/Piedmont MAT
 33 Vito Rd., Suite 200, Box 115
 Greenville, SC 29601
 Phone: 864-552-5028
 Fax: 864-232-8577

Printed: 1/31/2013

FF-119-12

Finding #3



SOUTH CAROLINA HIGHWAY PATROL
 MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM
 Foothills
 DATE DRAWN: 12/18/2012

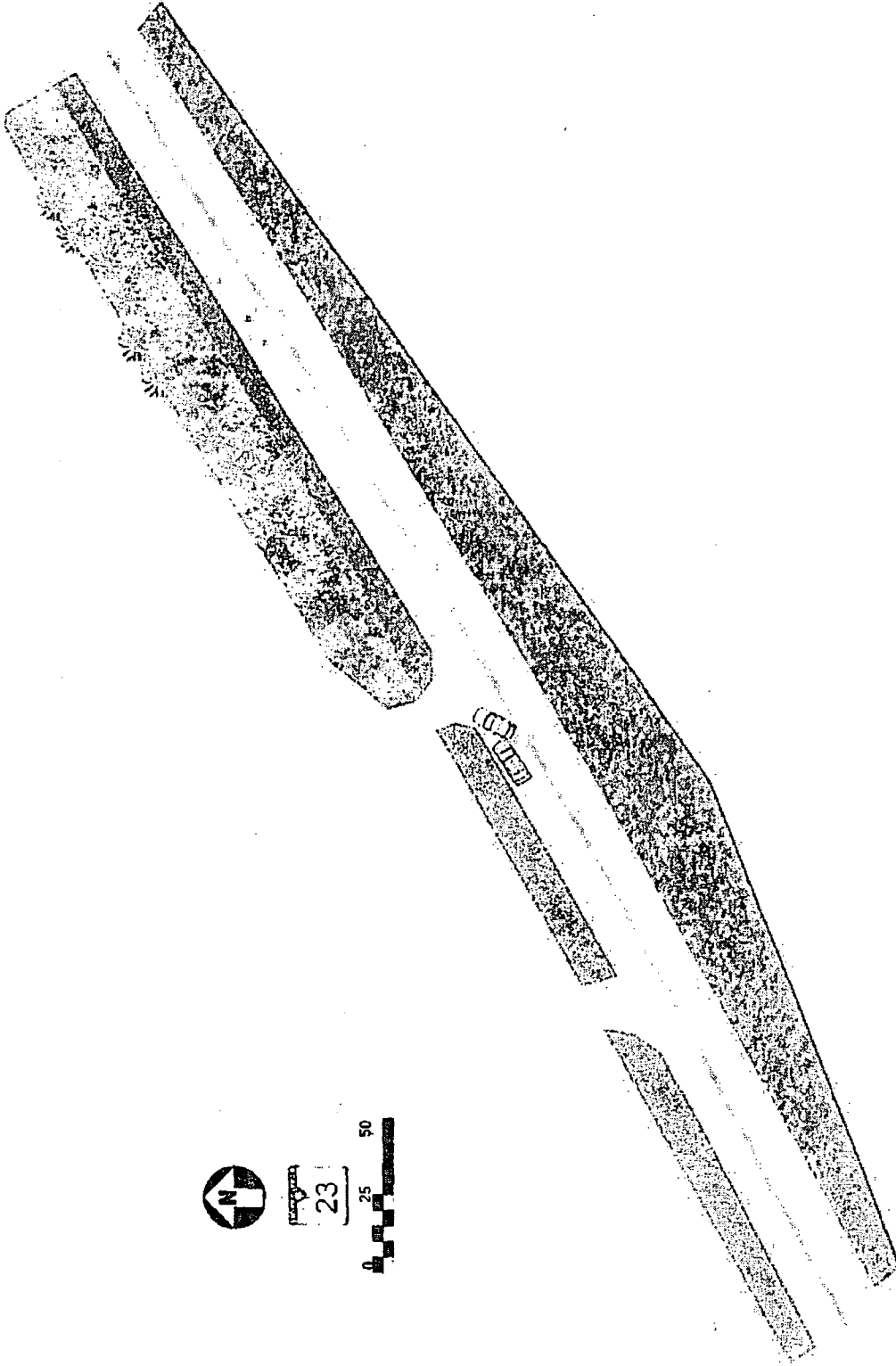
TROOP 2 / SALUDA
 OCCURRED ON: 12/15/2012
 FF-119-12

ROADWAY



FF-119-12

Finding #3



TROOP 2 / SALUDA
OCCURRED ON: 12/15/2012
FF-119-12

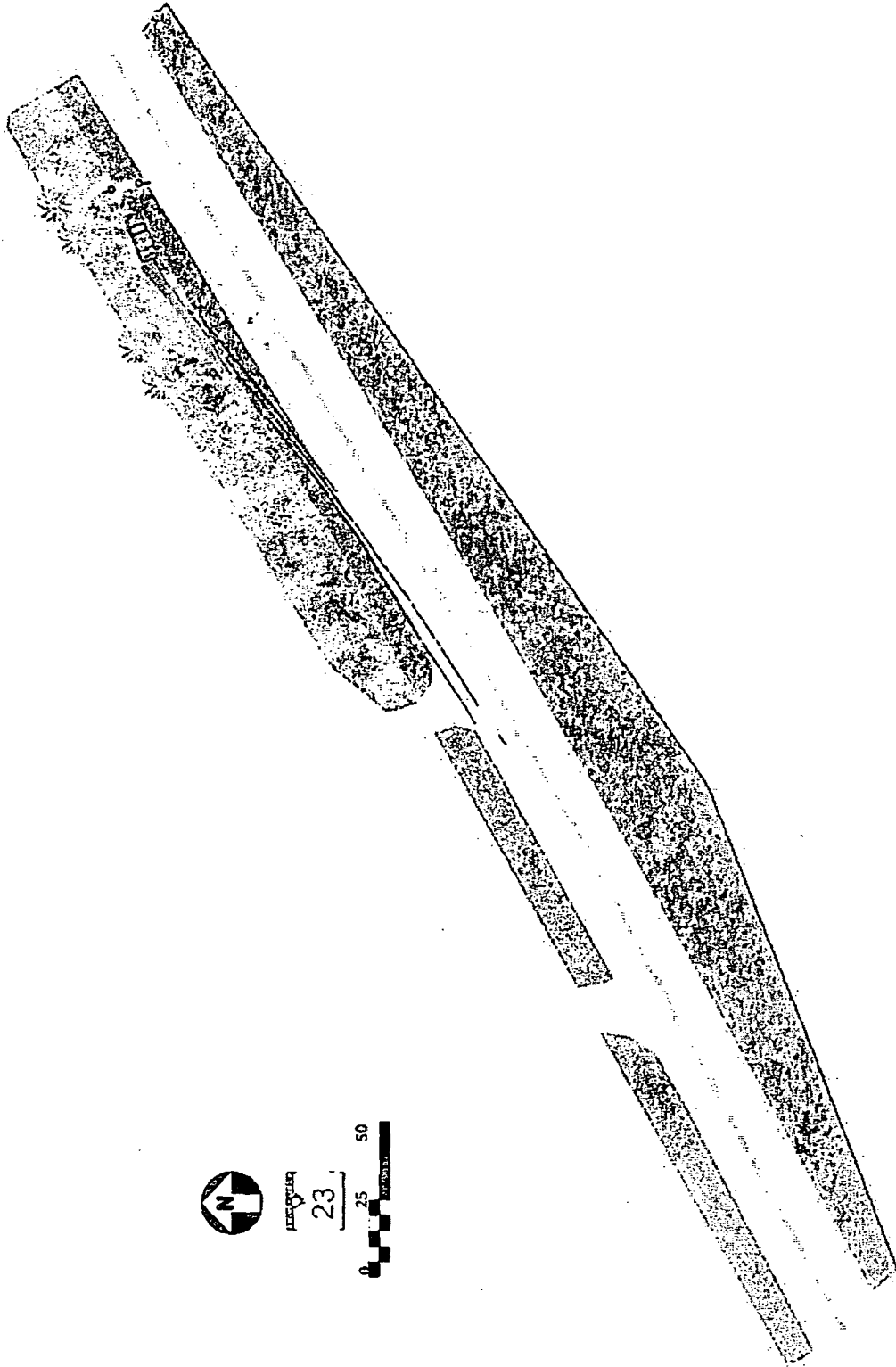
IMPACT

SOUTH CAROLINA HIGHWAY PATROL
MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM
FOOTHILLS
DATE DRAWN: 12/18/2012



FF-119-12

Finding #3



SCALE

23



SOUTH CAROLINA HIGHWAY PATROL
 MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM
 Foothills
 DATE DRAWN: 12/18/2012

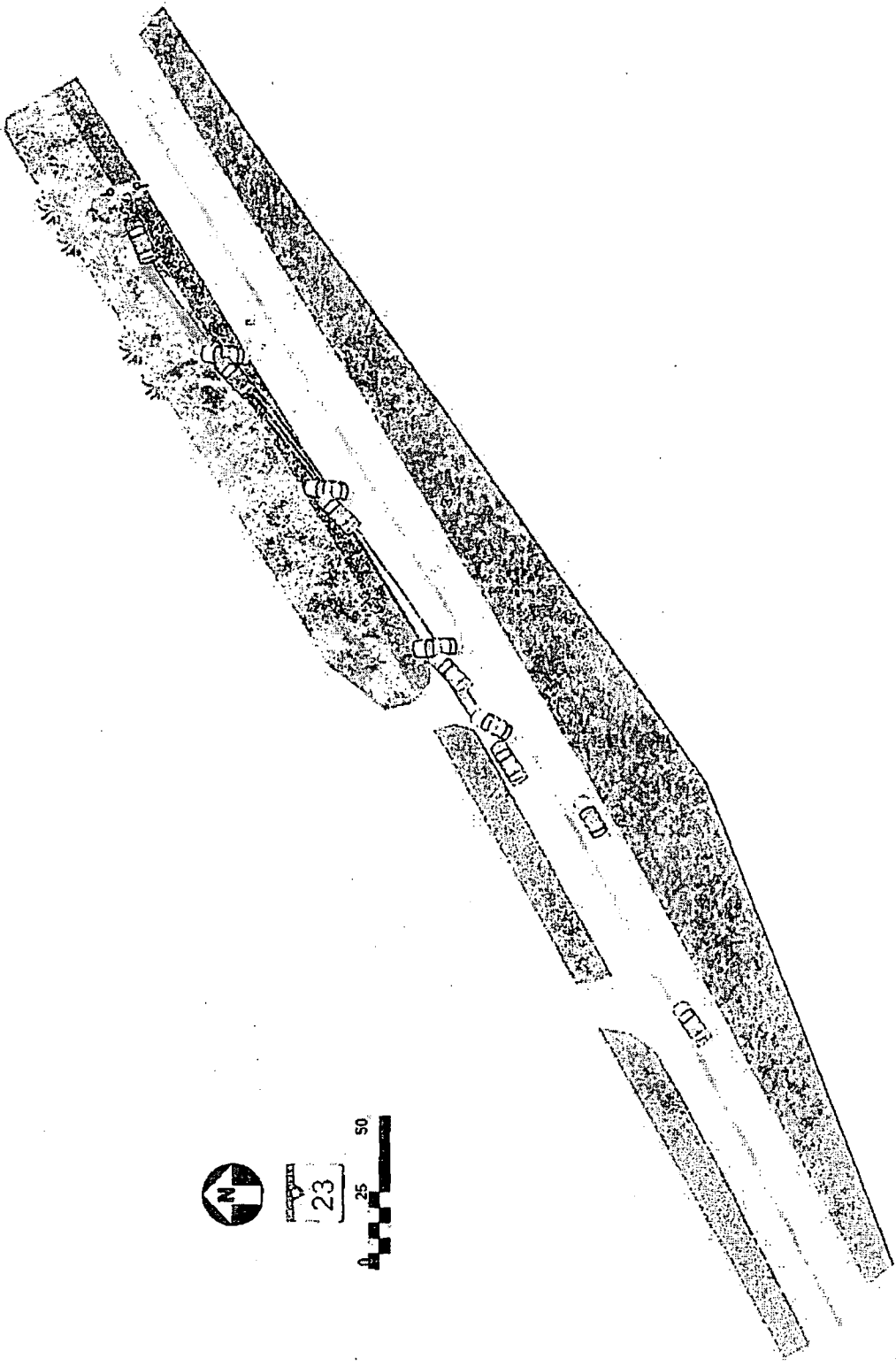
TROOP 2 / SALUDA
 OCCURRED ON: 12/16/2012
 FF-119-12

EVIDENCE AND FINAL REST



FF-119-12

Finding #3



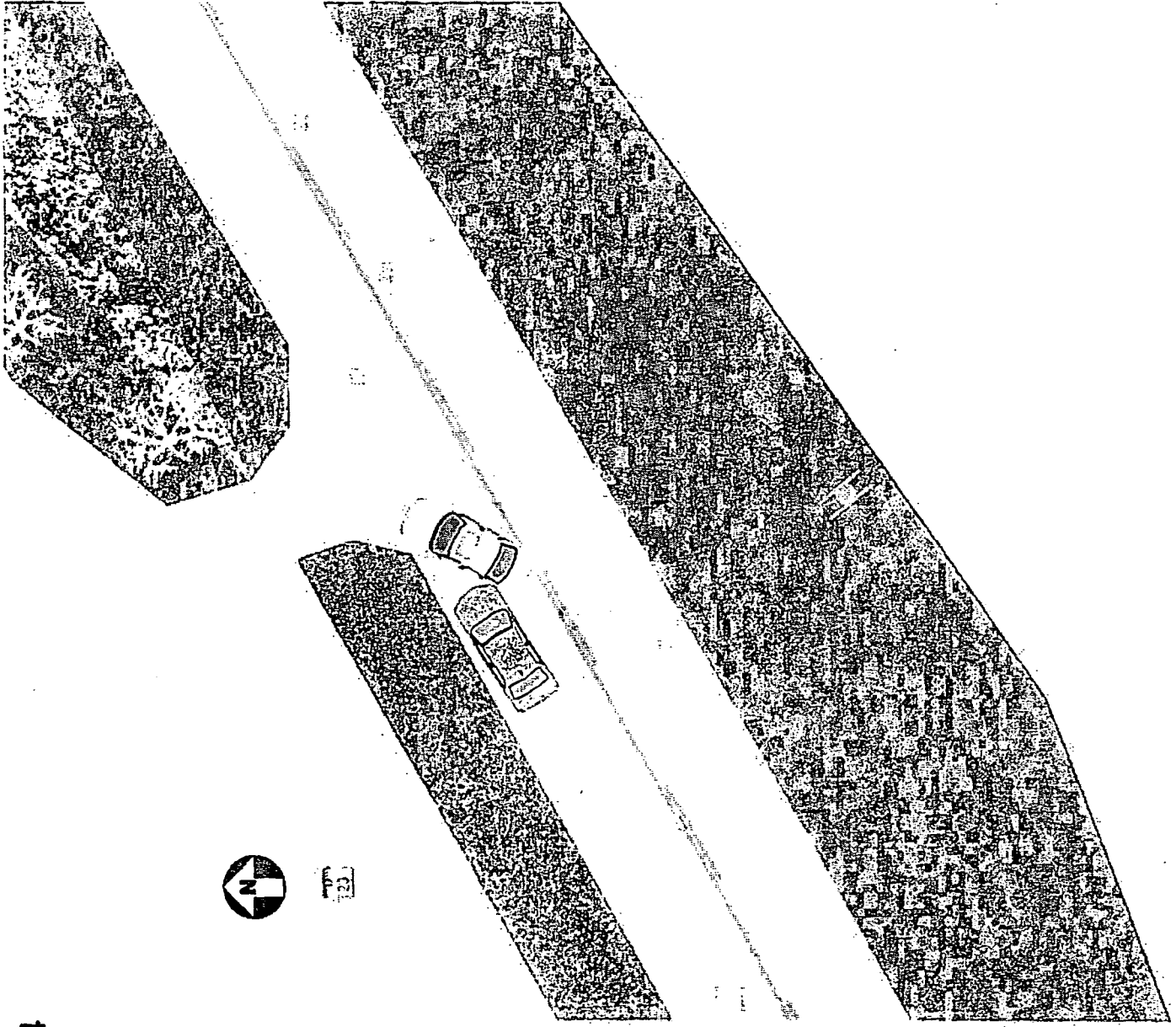
TROOP 2 / SALUDA
OCCURRED ON: 12/15/2012
FF-119-12

SEQUENCE OF EVENTS

SOUTH CAROLINA HIGHWAY PATROL
MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM
FOOTHILLS
DATE DRAWN: 12/18/2012



FF-119-12



Finding #4

FILED

STATE OF SOUTH CAROLINA
COUNTY OF SALUDA

) IN THE COURT OF COMMON PLEAS
2015 JUN 23 AM 10:02
) ELEVENTH JUDICIAL CIRCUIT

Jasmine D. Jennings,
S.C.D.C. No. 355568

CLERK OF COURT
SALUDA COUNTY No. 2014-CP-41-111

Applicant,

v.

**ORDER OF DISMISSAL
(with prejudice)**

State of South Carolina,

Respondent.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 21, 2014. Respondent made its return on September 22, 2014. An evidentiary hearing into the matter was convened on April 20, 2015, at the Lexington County Courthouse. Applicant was present at the hearing and was represented by Kristy G. Goldberg, Esq. Respondent was represented by Walt Whitmire, Esq., of the Office of the Attorney General.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Saluda County. Applicant was indicted at the May 2013 term of General Sessions for Saluda County for two counts of reckless homicide (2014-GS-41-136; -137). She was represented by Robert T. Williams (Theo), Esq. On May 30, 2013 Applicant pled guilty as indicted before the Honorable William P. Keesley. Judge Keesley accepted her plea and sentenced her to two terms of ten (10) years imprisonment on each count of reckless driving. The sentences were to be served concurrently. Applicant did not appeal her sentences or convictions. Subsequently, Judge Keesley convened a post-plea hearing on Applicant's motion for a reconsideration of her sentence.

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

- (a) Ineffective assistance of counsel – failure of trial counsel to request and receive a better plea agreement;
- (b) Ineffective assistance of counsel – trial counsel informed the Applicant that if she pled guilty she would receive a probationary sentence;
- (c) Ineffective assistance of counsel – failure of trial counsel to sufficiently represent the Applicant during her guilty plea by failing to object to introduction of MAIT report and diagram, failing to object when the Solicitor interjected his opinion into the facts, failing to call witnesses, and failing to address concerns such as the involvement of a 3rd vehicle and the intoxication level of the victim;
- (d) Ineffective assistance of trial counsel – failure of trial counsel sufficiently mitigate the Applicant’s case by failing to call character witnesses and failing to adequately explain Ms. Jennings personal details.

SUMMARY OF TESTIMONY

At the PCR hearing, Applicant testified that she retained counsel after her arrest. Applicant offered testimony concerning counsel’s performance in his evaluation of State evidence and investigation of facts of car accident. She testified that she told counsel her version of the facts of the accident. In pertinent part, she testified that S.L.E.D.’s expert M.A.I.T. report on the matter was materially inaccurate because it ignored the presence of a third vehicle between her vehicle and the victim’s vehicle. Applicant testified that it was her opinion further investigation here would have negated the State’s ability to prove the intent element on the underlying offense. Furthermore, Applicant testified that counsel should have further investigated the victim’s toxicology based on her opinion that it held exculpatory value. Applicant introduced several exhibits from counsel’s file in support of these allegations.

Applicant testified that counsel erroneously told her that she would get a probationary sentence if she pled guilty. Apparently she made her decision to plead on this purported misadvice because she wanted the case to be resolved so that she could be with her child.

Applicant also provided testimony on her complaints related to the plea hearing itself. Applicant asserts counsel should litigated causation, intent, and other substantive matters concerning the State's evidence during the presentation of Applicant's mitigation case. Last, Applicant testified that she wished counsel would have objected to Solicitor Myers' description of reckless conduct. Plea Tr. p.32, ln.24—p.33, ln.6. Applicant asserted that Solicitor Myers was improperly interjecting his opinion as the facts of the case.

Counsel testified to his course of conduct during the representation. Counsel provided a brief outline of his experience that included thirty-nine (39) years of primarily criminal law practice. Counsel summarized the State's evidence against Applicant. Applicant was excessively speeding on a rural stretch of road, at a late hour, and that she been drinking while she was underage. Counsel testified to his impression of this evidence where he reasoned the State counsel had a strong enough case to successfully prosecute Applicant for D.U.I., resulting in death, even absent the requisite B.A.C. presumption. Based on his investigation and labors, counsel reasoned that the State's case against Applicant for reckless homicide constituted overwhelming evidence of guilt. Counsel conveyed this impression to Applicant and that any post-trial sentencing would probably would have been substantial based upon the aggravating factors at play. Counsel testified to his review of the victim's toxicology report and its lack of import to the defense's case. The report positively identified low levels of drug use. Based upon counsel's experience, he reasoned that it would have been impossible to prove that the victim was intoxicated at the time of the accident. Counsel again shared his impressions here with Applicant.

Counsel testified that Applicant was insistent on pleading guilty because she was very remorseful. It was also his opinion that the plea would be the best outcome in Applicant's case.



Counsel was resolute that he did not promise Applicant that she would get probation where he advised her that the structure of the plea placed all discretion with the sentencing judge. Counsel testified to the manner in which he presented Applicant's mitigation case. Counsel testified that Judge Keesley was able to sort out the facts from theory.

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 at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

As a matter of general impression, this Court finds the PCR action lacks global credibility where it was entirely support by Applicant's suspect and speculative testimony. In contrast, counsel gave compelling testimony on his methodical approach to the case. Concerning the allegations at issue, the evidence before this Court dispostively shows that Applicant made a knowing, intelligent, and voluntary decision to plead guilty based on counsel's exceptional performance.

EFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 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, she 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). After careful review based on the standard discussed above, the Applicant has failed to carry her burden in this action.

A.

This Court finds Applicant has fell well short of meeting her burden to prove "(c) Ineffective assistance of counsel -- failure of trial counsel to sufficiently represent the Applicant during her guilty plea by failing to object to introduction of MAIT report and diagram, failing to object when the Solicitor interjected his opinion into the facts, failing to call witnesses, and failing to address concerns such as the involvement of a 3rd vehicle and the intoxication level of the victim." "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). “A guilty pleas act as a waiver of all non-jurisdictional defects and defenses, including claims of constitutional violations.” Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981).

This allegation rested entirely upon unfounded speculative testimony. In comparison, this Court finds counsel’s testimony convincing and dispositive where the disputed facts were immaterial to the State’s overwhelming evidence of guilt. This Court agrees with counsel’s testimony that the victim’s toxicology report and the possible variances in the M.A.I.T. report provided Applicant no safe harbor to mount any viable meritorious defense. Therefore, this allegation is readily denied and dismissed with prejudice.

This Court also finds Applicant’s allegation “(d) Ineffective assistance of trial counsel – failure of trial counsel sufficiently mitigate the Applicant’s case by failing to call character witnesses and failing to adequately explain Ms. Jennings personal details” to be without merit. This Court finds the record shows that counsel fully litigated an exceptional mitigation case at the plea hearing and in his post-trial motion. In comparison, Applicant has presented no additional credible evidence of import to show how counsel’s performance was lacking on this matter. Therefore, this allegation is also readily denied and dismissed with prejudice.

B.

This finds the Applicant’s allegation “(b) Ineffective assistance of counsel – trial counsel informed the Applicant that if she pled guilty she would receive a probationary sentence” to be without merit. In light of Applicant’s dubious and incredible testimony on the matter, this Court

finds counsel's testimony here to be convincing and dispositive. Where further discussion is unnecessary, this Court rejects this allegation and denies and dismisses it with prejudice.

Last, this Court find's Applicant's allegation "(a) Ineffective assistance of counsel – failure of trial counsel to request and receive a better plea agreement" facially defective. It is the sole constitutional province of the Solicitor's office to dictate the terms of plea offer. Ex parte Harrell v. Attorney Gen. of State, 409 S.C. 60, 69, 760 S.E.2d 808, 812 (2014). Because, Strickland does not impose a duty on criminal defense attorneys to invade the constitutional province of the executive branch of government, this allegation is summarily denied and dismissed with prejudice.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

CONCLUSION

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 her application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

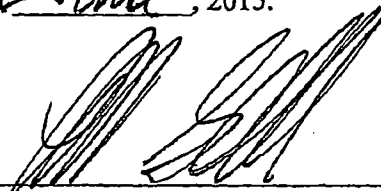
This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-

conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for 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 3 day of June, 2015.



 HONORABLE BROOKS P. GOLDSMITH
 Presiding Judge
 Eleventh Judicial Circuit

_____, South Carolina

True Bill

WITNESSES

SCHP

BOLT

ARREST WARRANT NUMBER

F804313

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date: MAY 15 2013

VERDICT

DOCKET NO. 2013-GS-41- 136

The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

MAY TERM 2013

THE STATE

vs.

JASMINE DEANTIONETTE JENNINGS

RECKLESS HOMICIDE

Indictment for

CDR#3097

DONALD V. MYERS, SOLICITOR

ATTEST: TRUE COPY

[Signature]
Clerk of Court
Saluda, S. C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF SALUDA)

INDICTMENT FOR
RECKLESS HOMICIDE

At a Court of General Sessions, convened on May 15, 2013 the Grand Jurors of Saluda County present upon their oath:

That JASMINE DEANTIONETTE JENNINGS, did in Saluda County on or about December 15, 2012, unlawfully operate a motor vehicle and recklessly and with a willful or wanton disregard for the safety of persons or property, to wit: Jasmine Deantionette Jennings, did drive at an excessive rate of speed, drive too fast for conditions, drive in a reckless manner, and/or failed to keep a proper lookout, which act(s) and/or neglect proximately caused the death of [REDACTED] and the death ensued within three years of the injury, in violation of Section 56-5-2910 the South Carolina Code of Laws 1976, as amended.

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



SOLICITOR

theo Williams

WITNESSES

SCHP

BOLT

ARREST WARRANT NUMBER

2013AA410100001

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: *MAY 15 2013*

VERDICT

DOCKET NO. 2013-GS-41- 137

The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

MAY TERM 2013

THE STATE

vs.

JASMINE DEANTIONETTE JENNINGS

CDR#3097

Indictment for

RECKLESS HOMICIDE

DONALD V. MYERS, SOLICITOR

ATTEST: TRUE COPY

Clerk of Court
Saluda, S. C.

David B. Robinson

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF SALUDA)

INDICTMENT FOR
RECKLESS HOMICIDE

At a Court of General Sessions, convened on May 15, 2013 the Grand Jurors of Saluda County present upon their oath:

That JASMINE DEANTIONETTE JENNINGS, did in Saluda County on or about December 15, 2012, unlawfully operate a motor vehicle [REDACTED] recklessly and with a willful or wanton disregard for the safety of persons or property, to wit: Jasmine Deantionette Jennings, did drive at an excessive rate of speed, drive too fast for conditions, drive in a reckless manner, and/or failed to keep a proper lookout, which act(s) and/or neglect proximately cause the death of [REDACTED] [REDACTED] and the death ensued within three years of the injury, in violation of Section 56-5-2910 the South Carolina Code of Laws 1976, as amended.

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


SOLICITOR