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SC SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Anderson County

J. Cordell Maddox, Jr., Circuit Court Judge

LANDON T. SANDERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001588

A P P E N D I X

JOHN H. STROM
Appellate Defender

ALAN WILSON
Attorney General

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

PATRICK SCHMECKPEPER
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA) IN THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON) THE COURT OF GENERAL SESSIONS
) 2011-GS-04-1030,1031,1032, 1033
STATE OF SOUTH CAROLINA,)
))
PLAINTIFF,)
))
VERSUS)
))
))
LONDON THOMAS SANDERS,)
))
DEFENDANT.) DATE: MAY 9 2012
ANDERSON, SOUTH CAROLINA

GUILTY PLEA

B E F O R E:

THE HONORABLE R. LAWTON MCINTOSH

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

RAME CAMPBELL, ESQUIRE
ATTORNEY FOR THE STATE

SCOTT ROBINSON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

PROVIDED FOR: THE OFFICE OF THE ATTORNEY GENERAL

FOR COPIES CONTACT: JO RICE
jrice@sccourts.org
OFFICIAL COURT REPORTER
SOUTH CAROLINA JUDICIAL DEPARTMENT

1 THE COURT: I understand from the attorneys who came
2 back and talked to me in chambers that this is going to be
3 a plea. Is that correct?

4 MR. CAMPBELL: Correct, Your Honor.

5 THE COURT: Would you stand up and give us the case,
6 please, sir?

7 MR. CAMPBELL: Your Honor, if it please the Court.
8 This is the matter of Landon Thomas Sanders. He's pleading
9 to indictment number 2011-1030, for murder. 2011-1031,
10 another count for murder. 2011-1032, possession of a
11 weapon during the commission of a violent crime and
12 2011-1033, another possession of a weapon during the
13 commission of a violent crime.

14 (Mr. Campbell hands indictments to Judge McIntosh)

15 THE COURT: All right. Would you come around, please.

16 (The Clerk of Court administers the oath to Mr. Sanders)

17 THE COURT: I'm going to ask you to speak loud enough
18 so I can hear you. You are Landon Thomas Sanders?

19 MR. SANDERS: Yes, sir.

20 THE COURT: It says on the sentencing sheet that you
21 are eighteen years of age. Is that correct?

22 MR. SANDERS: No, I'm nineteen now, sir.

23 THE COURT: You're nineteen?

24 MR. SANDERS: Yes, sir.

25 THE COURT: Mr. Sanders, how far did you go in school,

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1 sir?

2 MR. SANDERS: I completed my GED, sir.

3 THE COURT: Did you get your GED while in prison or
4 out of prison?

5 MR. SANDERS: Out of prison, sir.

6 THE COURT: Out of prison?

7 MR. SANDERS: Yes, sir.

8 THE COURT: Before you were incarcerated, did you have
9 a job?

10 MR. SANDERS: No, sir.

11 THE COURT: When is the last time that you did?

12 MR. SANDERS: I never did, sir.

13 THE COURT: You've never had a job?

14 MR. SANDERS: No, sir.

15 THE COURT: At nineteen years of age?

16 MR. SANDERS: Yes, sir.

17 THE COURT: Are you married?

18 MR. SANDERS: No, sir.

19 THE COURT: Do you have any children?

20 MR. SANDERS: No, sir.

21 THE COURT: Are you under the influence of any
22 medications, drugs or alcohol today?

23 MR. SANDERS: No, sir.

24 THE COURT: Mr. Robinson, are you satisfied that Mr.
25 Sanders is competent to plead guilty?

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1 MR. ROBINSON: I am.

2 THE COURT: Are there any medications, Mr. Sanders,
3 that you should be taking that you are not taking today?

4 MR. SANDERS: No, sir.

5 THE COURT: Do you understand what you are doing?

6 MR. SANDERS: Yes, sir.

7 THE COURT: Do you understand where you are?

8 MR. SANDERS: Yes, sir.

9 THE COURT: And you are pleading guilty to two counts
10 of murder and two counts of possession of a weapon during
11 the commission of a violent crime. Is that correct?

12 MR. SANDERS: Yes, sir.

13 THE COURT: Now, Solicitor, normally a murder charge
14 carries thirty years to life.

15 MR. CAMPBELL: Yes, sir.

16 THE COURT: And then you have an additional zero to
17 five for each weapons charge. Is that correct?

18 MR. CAMPBELL: Yes, sir.

19 THE COURT: So, Mr. Sanders, under those conditions, I
20 could sentence you today to two life sentences plus five
21 years consecutive and another five years consecutive. So,
22 I could make it life and five years and a consecutive five
23 years. Do you understand that?

24 MR. SANDERS: Yes, sir.

25 THE COURT: Which means that you would never, ever,

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1 get out of jail. Do you understand?

2 MR. SANDERS: Yes, sir.

3 THE COURT: Now, looking at the sentencing sheet and
4 after speaking with both attorneys in my chambers, my
5 understanding is this is a negotiated sentence. Is that
6 correct?

7 MR. CAMPBELL: That's correct.

8 THE COURT: Is that correct?

9 MR. ROBINSON: That's correct.

10 THE COURT: Now, let me go over with the attorneys my
11 understanding of a negotiated sentence. Either I accept
12 the recommendation or I reject it. Normally, I can take a
13 recommendation and sentence you to what I want to. I don't
14 have to accept it, but under a negotiated sentence, I
15 either say okay I'm going to accept that or if not, you
16 stand down and come back before another judge. Okay?

17 MR. SANDERS: Yes, sir.

18 THE COURT: Do you understand? Now, this matter is up
19 for trial Monday. Do you understand?

20 MR. SANDERS: Yes, sir.

21 THE COURT: Okay. Now, do you -- was my recitation of
22 what a negotiated sentence is, correct, to you?

23 MR. CAMPBELL: Yes, sir.

24 THE COURT: How about to you, Mr. Robinson?

25 MR. ROBINSON: Yes, sir, Your Honor.

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1 THE COURT: Okay. So, what is the recommendation in
2 this matter? What is the negotiated deal?

3 MR. CAMPBELL: Thirty years, Your Honor.

4 THE COURT: Thirty years?

5 MR. CAMPBELL: Concurrent.

6 THE COURT: Concurrent on all charges. Is that
7 correct?

8 MR. ROBINSON: That is correct, Your Honor.

9 THE COURT: All right. Mr. Sanders, did you hear,
10 this is a recommendation or a negotiated plea of thirty
11 years?

12 MR. SANDERS: Yes, sir.

13 THE COURT: If I accept that today, you will go to
14 jail for thirty years and you will serve day-for-day, the
15 thirty years. Do you understand that?

16 MR. SANDERS: Yes, sir.

17 THE COURT: Knowing that, do you still want to go
18 forward with your plea?

19 MR. SANDERS: Yes, sir.

20 THE COURT: Has anybody forced, threatened, promised
21 you anything to get you to plead guilty?

22 MR. SANDERS: No, sir.

23 THE COURT: Are you pleading guilty freely and
24 voluntarily?

25 MR. SANDERS: Yes, sir.

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1 THE COURT: As I told you, this is up for trial on
2 Monday, but with that being said, do you understand that
3 you have a right to a jury trial on these charges?

4 MR. SANDERS: Yes, sir.

5 THE COURT: During that trial or trials, you would be
6 presumed innocent and the State would have to prove each
7 and every element of the charges against you beyond a
8 reasonable doubt before you could be found guilty. Has
9 that been explained to you?

10 MR. SANDERS: Yes, sir.

11 THE COURT: Now, if you go forward with your plea
12 today, and if I accept it, you will waive or give up your
13 right to have a jury trial. Is that what you want?

14 MR. SANDERS: Yes, sir.

15 THE COURT: Do you freely and voluntarily waive your
16 right to a jury trial with regard to all four indictments
17 in favor of pleading guilty today?

18 MR. SANDERS: Yes, sir.

19 THE COURT: Mr. Sanders, you also have the following
20 constitutional protections in addition to the right of a
21 jury trial: You have the right to confront and cross
22 examine any of the State's witnesses who come to court to
23 testify against you, you have a right to present evidence
24 in your defense, you have a right to subpoena witnesses to
25 come to trial to testify on your behalf and you also have

1 the right to remain silent. Do you understand these
2 rights?

3 MR. SANDERS: Yes, sir.

4 THE COURT: Has Mr. Robinson gone over these rights
5 with you before today?

6 MR. SANDERS: Yes, sir.

7 THE COURT: Mr. Sanders, if you were to go to trial
8 and if you were to choose not to testify next week when
9 this case is called, I would instruct the jury they could
10 not consider your failure to testify, whatsoever, because
11 that is a right guaranteed to you by the Fifth Amendment of
12 the United States Constitution. Do you understand?

13 MR. SANDERS: Yes, sir.

14 THE COURT: However, if you go forward with your plea
15 today, you can and you will, as a condition of this plea,
16 be required to admit your guilt. Do you understand?

17 MR. SANDERS: Yes, sir.

18 THE COURT: Is that what you want to do?

19 MR. SANDERS: Yes, sir.

20 THE COURT: Also, if you go forward today, you can and
21 you will lose the other constitutional protections I've
22 just gone over with you. Do you understand that?

23 MR. SANDERS: Yes, sir.

24 THE COURT: Do you freely and voluntarily waive your
25 constitutional rights in favor of pleading guilty today?

THE STATE OF SOUTH CAROLINA VERSUS LANDON SANDERS

1 MR. SANDERS: Yes, sir.

2 THE COURT: Do you understand that if there is any
3 defense that you may have to these charges, you will lose
4 the opportunity to assert those defenses by pleading guilty
5 today if it's accepted. Do you understand?

6 MR. SANDERS: Yes, sir.

7 THE COURT: Also, if you contend that there has been a
8 violation of your constitutional rights up until this
9 point, you will lose the opportunity to complain about that
10 violation if you go forward with your plea today. Do you
11 understand?

12 MR. SANDERS: Yes, sir.

13 THE COURT: Have you understood everything I've gone
14 over with you thus far?

15 MR. SANDERS: Yes, sir.

16 THE COURT: Do you have any questions of me?

17 MR. SANDERS: No, sir.

18 THE COURT: Do you have any questions of Mr. Robinson?

19 MR. SANDERS: No, sir.

20 THE COURT: Have you had more than adequate time to
21 meet with Mr. Robinson to prepare your defense?

22 MR. SANDERS: Yes, sir.

23 THE COURT: Do you still want to go forward with your
24 plea?

25 MR. SANDERS: Yes, sir.

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1 THE COURT: Under indictment 2011-1031, are you guilty
2 of the murder of Landon Thomas Sanders? Excuse me, Candace
3 Giannoni Sanders?

4 MR. SANDERS: Yes, sir.

5 THE COURT: Under indictment 2011-1030, are you guilty
6 of the murder of Jason Ashley Sanders?

7 MR. SANDERS: Yes, sir.

8 THE COURT: Under indictment 2011-1033, are you guilty
9 of the possession of a weapon during the commission of a
10 violent crime?

11 MR. SANDERS: Yes, sir.

12 THE COURT: Under indictment 2011-1032, are you guilty
13 of the possession of a weapon during the commission of a
14 violent crime?

15 MR. SANDERS: Yes, sir.

16 THE COURT: Are you satisfied with the services of
17 your attorney?

18 MR. SANDERS: Yes, sir.

19 THE COURT: Has he reasonably done all that you've
20 asked him to do?

21 MR. SANDERS: Yes, sir.

22 THE COURT: Now, you are going to have to give me
23 verbal responses. You can take your time if you need to.
24 Do you need any water?

25 MR. SANDERS: (Shakes head)

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1 THE COURT: Mr. Sanders, as we stand here today, is
2 there anything that you contend that Mr. Robinson hasn't
3 done to either investigate these cases or to prepare these
4 cases that he should have done prior to coming to court
5 today?

6 MR. SANDERS: No, sir.

7 THE COURT: Are you totally and completely satisfied
8 with his services?

9 MR. SANDERS: Yes, sir.

10 THE COURT: Mr. Robinson, have you gone over the
11 elements of murder and possession of a weapon during the
12 commission of a violent crime with Mr. Sanders?

13 MR. ROBINSON: I have, Your Honor.

14 THE COURT: Have you explained to him the time he
15 could get with regard to all these charges?

16 MR. ROBINSON: I did, Your Honor, as well as the
17 defenses.

18 THE COURT: Have you explored whether or not he has
19 any defenses to these charges?

20 MR. ROBINSON: I have, Your Honor.

21 THE COURT: And do you agree with his decision to
22 plead guilty?

23 MR. ROBINSON: I do, Your Honor.

24 THE COURT: Do you agree that there is a substantial,
25 factual basis for his decision to plead guilty to all four

1 indictments?

2 MR. ROBINSON: I do, Your Honor.

3 THE COURT: All right.

4 MR. CAMPBELL: May it please the Court. Your Honor,
5 the facts of this case are, this took place last year,
6 March 22, 2011. It was at the Sanders Ferry Boat Ramp
7 which is located right off Highway 184. It's right on the
8 state line of South Carolina and Georgia. It was just on
9 this side of the state line. Fishermen had gone bass
10 fishing that morning and returned to the boat ramp. They
11 came in, saw a Toyota 4Runner parked in the area kind of
12 blocking the way for the boats and trucks to pull the boats
13 to get in. A couple of the fishermen approached and found
14 two victims, Jason and Candace Sanders there. They called
15 911, due to a lack of cell phone coverage eventually they
16 were able to get it, however the 911 call went to Georgia
17 and to our local dispatch. Officers from the Anderson
18 County Sheriff's office as well as the Elberton County
19 Sheriff's office responded. At that point, the victims
20 were identified by the Georgia authorities. Detective
21 Wayne Mills is present in the courtroom today who was
22 assigned the case. He was the lead investigator in this
23 investigation. Based upon the cooperation between the two
24 agencies, they were able to start piecing together the
25 night's events that led up to the murder of Jason and

1 Candace Sanders. At some point, the name of Landon
2 surfaced. They eventually had a location on him. They
3 went to that address of [REDACTED] Rousey Road in Elberton. At
4 that point, in cooperation with the Elberton County
5 Sheriff's Office, he was brought into custody, at which
6 point he gave a statement after the initial arrest. Later
7 on he spoke to Detective Mills, like, the next day.
8 Eventually, he gave a statement to Major Mike Thompson with
9 the Elberton County Sheriff's office. After that,
10 Detective Mills was able to start piecing together the
11 events that took place. And what we would show if this
12 goes to trial, or if it went to trial on Monday, was that
13 there was an ongoing dispute between Landon and his father.
14 Don't know exactly what it was over. It was either over
15 drugs or money owed dealing with meth. There was some
16 product found in the vehicle, which turned out to be fake
17 drugs. We do know the fact that the victims had no fixed
18 address. They were basically living out of their vehicle.
19 These events took place not only with himself, but there
20 were two other co-defendants that were involved. They were
21 with him and what we would show at trial is that they,
22 being Landon and the co-defendants, were basically in, I
23 don't want to call it a running feud, but they were driving
24 up and down the road between Anderson and Elberton looking
25 for one another. There were phone calls between each other

1 regarding, you owe me this money, that money. We don't
2 know exactly if it was over money owed or front money for
3 drugs. You've heard that part of it. Eventually, they
4 caught up with them at the boat ramp and what the evidence
5 would show is that while one of the co-defendants had
6 approached the vehicle, Landon got out of the car that he
7 was riding in and used a .40 caliber Glock to shoot. He
8 shot four times. One of the bullets struck Mr. Sanders in
9 the back of the head, the other one struck Ms. Sanders in
10 the lower back.

11 THE COURT: What was the distance of the shots? Do
12 you know that from the evidence?

13 MR. CAMPBELL: The evidence would show that it was
14 three to four feet back. She was in the driver's seat and
15 what we think is that when one of the first shots went off,
16 she had her seat reclined and she basically leaned up and
17 that's when she caught the round in the lower back. In
18 fact, the car, when law enforcement arrived, was still
19 running, when they arrived and so we don't know -- at some
20 point the vehicle was moving. We don't know at what point,
21 whether it was trying to get away or just dropped it into
22 drive and it just started rolling. We don't know that part
23 of it. Mr. Sanders in his statement actually said that
24 while they were there that he actually drove by the crime
25 scene while all of us were out there, when all the law

1 enforcement was there. Eventually, the two guns that were
2 recovered, our understanding based on his statement, they
3 went back and threw the guns out and placed them there.
4 One of them was a .40 caliber Glock, the other one was a
5 .25 caliber little revolver that didn't work and we would
6 show, we have witnesses that would place that gun in Mr.
7 Sanders' hand, too.

8 THE COURT: Hold on. He had a Glock and another gun
9 that ---

10 MR. CAMPBELL: The Glock did not belong to him. The
11 Glock belonged to one of the co-defendants that was in the
12 vehicle.

13 THE COURT: But the .40 caliber Glock that was used in
14 the murders belonged to this gentleman here?

15 MR. CAMPBELL: No, sir. It belonged to a co-
16 defendant, but it happened to be in the vehicle and he just
17 took it, found it, and used it. He, what we would show is
18 that the other pistol that he had, we have witnesses that
19 can put that gun in his hand prior to this. It did not
20 work. It didn't have a firing pin, the cylinder would fall
21 out of it. It was a cheap revolver. So, you couldn't put
22 a round through it. After that, Detective Mills did a
23 great job of running down all the witnesses. We were able
24 to start piecing it together, the events that took place
25 the night before, and this is actually the accumulation of

1 a three or four day process of ongoings between Mr. Sanders
2 and Landon as well as the other co-defendants saying that
3 he also owed them money. At that point, we were talking to
4 the Georgia authorities, who were tremendous in helping us.
5 Sheriff Holston and his staff were very instrumental in
6 helping to get this moving faster than it was, because at
7 the time Detective Mills, this was all on the Georgia side
8 and we didn't know who the players were who were involved
9 in this, but he did a great job in getting it together and
10 piecing it together. As a result, we feel that the
11 evidence will show that he intended to kill them. The
12 record on him is sparse. I know he's right now, nineteen.
13 He was two to three months shy of ---

14 THE COURT: You are going into his prior criminal
15 record now?

16 MR. CAMPBELL: Yes, sir. He was two to three months
17 shy of his eighteenth birthday when this occurred.

18 THE COURT: So, he was seventeen?

19 MR. CAMPBELL: He was seventeen at the time. What we
20 are showing on his rap sheet is just, basically, possession
21 of alcohol, possession of marijuana. There have been some
22 other charges made. Most of them, all of them are
23 misdemeanor stuff.

24 THE COURT: Let me ask you this, please, sir. I was
25 looking through my notes before I came in here and we had a

1 Jackson/Denno hearing, according to my notes, April 3rd of
2 this year.

3 MR. CAMPBELL: Yes, sir.

4 THE COURT: I heard testimony from the officers and
5 from officers from Elberton County and it appeared that
6 this gentleman had some kind of charge or arrest in
7 Kentucky.

8 MR. CAMPBELL: Yes, sir.

9 THE COURT: That he was on probation in Georgia,
10 according to my notes.

11 MR. CAMPBELL: The probation is for the marijuana and
12 alcohol, that type stuff.

13 THE COURT: Okay.

14 MR. CAMPBELL: The Kentucky record, I question that.
15 Our information regarding that is from him. It's from a
16 statement he gave to Captain Chris Cornell with the
17 Anderson County Sheriff's office.

18 THE COURT: All right.

19 MR. CAMPBELL: I ran the rap sheet and it's not
20 showing.

21 THE COURT: There's nothing on NCIC or ---

22 MR. CAMPBELL: There's nothing on NCIC, so the only
23 word we have of that is through him. There is no other
24 record. He had some charges pending in Georgia that
25 haven't been disposed of. One was possession of a weapon

1 in a case that was different, not associated with this,
2 however, there has been no disposition in that case at this
3 point in time.

4 THE COURT: Let me ask you this: I noticed Mr.
5 Sanders has some type of tattoo on his face. Any
6 indication he has any gang-related activities?

7 MR. CAMPBELL: No, sir. We do not have it. The
8 Georgia authorities knew more about it and questioned them
9 and to our knowledge, no, he is not involved in a gang.

10 THE COURT: Officer, you agree with that?

11 DETECTIVE MILLS: Yes, sir. I do.

12 THE COURT: Now, if you would, Mr. Campbell, obviously
13 this is a pretty heinous crime. We're looking at the
14 potential for having consecutive life sentences plus ten
15 more years. Give me the State's thought behind the
16 negotiated deal of thirty years, please, sir.

17 MR. CAMPBELL: We, in speaking with -- in preparing
18 this case for trial, and we are ready, we were looking at,
19 potentially, twenty-three to twenty-four witnesses. We do
20 have some strengths and we do have some weaknesses
21 involving this case and Mr. Robinson approached me,
22 actually sent me a text late Friday night, and I spoke with
23 law enforcement and we said if he pled to murder we could
24 go forward with it and we were definitely concerned with it
25 being two counts of murder. We did have some issues with

1 our witnesses. The crowd that we are dealing with is
2 unsavory, for the lack of a better term, and we did have
3 some issues involving their credibility and especially
4 dealing with the co-defendants. What we have is,
5 basically, five people at that boat ramp, two are dead, one
6 is arrested, or all three, and the other two are also
7 charged and they are actually ---

8 THE COURT: What's the disposition of their charges?

9 MR. CAMPBELL: Their cases have not come up yet. They
10 both are in agreement, both have attorneys and both of them
11 have indicated they wanted to testify on behalf of the
12 State and Mr. Mills and myself and some of the other
13 detectives in the Sheriff's office have been going back and
14 forth in running down the witnesses and talking to them and
15 as you well know, in a trial you never know how a jury will
16 go, especially with the type of witnesses we were going to
17 be putting up, so as a result of this and in discussing
18 this, we responded to Mr. Robinson's request and I spoke
19 with people I knew and said, you know, if he would plead to
20 murder, we would go with it.

21 THE COURT: The negotiation that was entered into
22 between the State and Mr. Robinson, is it thirty years,
23 concurrent, on everything?

24 MR. CAMPBELL: Yes, sir.

25 THE COURT: Officer Mills, is law enforcement

1 satisfied with that negotiated plea?

2 DETECTIVE MILLS: Yes, sir. We are.

3 THE COURT: Do you understand that this gentleman
4 could get life in prison for one murder charge and then
5 another life plus five plus five? Do you understand that?

6 DETECTIVE MILLS: I do, sir.

7 THE COURT: Law enforcement looked at it and they are
8 fine with thirty years?

9 DETECTIVE MILLS: Yes, sir. We are.

10 THE COURT: Okay. Are there any victims involved?

11 MR. CAMPBELL: We do have Ms. Lucy Crowe, the
12 grandmother of Candace Sanders. At some point, she wishes
13 to address the Court.

14 THE COURT: I will be glad for her to come forward.
15 Good morning. Would you state your name for the record,
16 please, ma'am?

17 MS. CROWE: Lucy Crowe.

18 THE COURT: I'm sorry?

19 MS. CROWE: Lucy Crowe.

20 THE COURT: Is that C-R-O-W-E?

21 MS. CROWE: With an "e", yes, sir.

22 THE COURT: All right.

23 MS. CROWE: I'm Candace's grandmother.

24 THE COURT: Okay. I'll be glad to hear anything you
25 have to say. I assume you are the victim's mother? No?

1 MS. CROWE: I'm Candace's grandmother.

2 THE COURT: I've gotcha. I'm sorry. Sometimes I
3 don't hear as well as I should. Okay. You are Candace's
4 grandmother. Okay. Go ahead.

5 MS. CROWE: Well, I just feel like this is uncalled
6 for. I feel like this is premeditated murder, execution
7 style, and I think that Landon, if he did the shooting, he
8 should get life in jail with no parole. They have left a
9 little girl that's three years old, my first great-
10 grandchild and she's going to have a hard time.

11 THE COURT: Okay. Take your time. Would you like
12 some water?

13 MS. CROWE: Thank you, Your Honor.

14 THE COURT: Would you get her some water, please?

15 (Bailiff complies)

16 MS. CROWE: Thank you, Your Honor.

17 THE COURT: I want to ask you a question, too, ma'am.

18 MS. CROWE: Okay.

19 THE COURT: Are you okay?

20 MS. CROWE: Yeah.

21 THE COURT: All right. Well, tell me about Candace.
22 I certainly don't know either of these victims at all.

23 MS. CROWE: Well, Candace lost her mother when she was
24 fourteen years old.

25 THE COURT: I'm sorry?

1 MS. CROWE: She lost her mother when she was fourteen
2 years old and she lived with me a lot and she lived with my
3 son and his wife and her dad and his wife some and she
4 started getting into trouble like teenagers will do, but it
5 was nothing serious. She met Ian -- Jason and she's just
6 went downhill since.

7 THE COURT: How long had they been together?

8 MS. CROWE: About four years I would say.

9 THE COURT: Okay.

10 MS. CROWE: She just didn't have a chance. He just
11 snowed her, because she had never said anything about
12 getting married. She was working and she wanted to go to
13 college. She had made up her mind to go back to school,
14 but the day that they got married, she didn't work anymore.

15 THE COURT: How long had they been married?

16 MS. CROWE: They had just gotten married when ---

17 THE COURT: How long before this occurred?

18 MS. JEAN CROWE: About three years.

19 THE COURT: About three years.

20 MS. CROWE: Yeah, uh-huh.

21 THE COURT: And for those years after they got
22 married, did you ---

23 MS. CROWE: She wouldn't work and he did not work. He
24 did not support her in any way.

25 THE COURT: Did you see her very often during that

1 time?

2 MS. CROWE: Yes, I did, and I have seen her, I've seen
3 her with bruises on her. She did not have a good life, at
4 all.

5 THE COURT: She did not?

6 MS. CROWE: No.

7 THE COURT: All right. So, from your comments you
8 feel like ---

9 MS. CROWE: And before this happened, the week that
10 that happened, I was in Griffin, Georgia visiting my sister
11 and I got a phone call from her. I believe it was on a
12 Tuesday or a Wednesday night and he had hit her in the
13 back, she said with a stick or a baseball bat and she was
14 with some friends. I don't know who they were, but they
15 had taken her in and she had been there. She said she was
16 laying on the couch and she just couldn't get up. I tried
17 to get her, I said, "I'll come and get You, Candace." She
18 said, "Mimi, I can't get up. I'll be okay. But she said,
19 "It's over." She said, "This is over with. I'm not
20 putting up with any more." When I come home on Thursday
21 night, on Friday morning at 7:00, my phone woke me up
22 ringing and it was Jason. He wanted to know where Candace
23 was at and I didn't tell him. I said, "I don't know." And
24 he said, "Well, I think I can find her." And I asked him,
25 I said, "Jason, what do you want with Candace? She told me

1 that it's over with you and her." He said, "Oh, it is. I
2 just want to talk to her." I said, "Jason, you need to
3 leave her alone." But some way or another, I don't know
4 how he got in touch with her, but he did and if I recall
5 correctly, I didn't hear from Candace any more. But she
6 always told me not to worry about her, but she was finished
7 with him.

8 THE COURT: All right. Do you have any other victims?
9 Ma'am, would you like to speak?

10 MS. JEAN CROWE: I'm Jean Crowe. I'm Candace's aunt.
11 Candace did stay with us for a little while in between her
12 grandmother and her father.

13 THE COURT: How long ago was that?

14 MS. JEAN CROWE: Since her mom died in a car crash
15 when Candace was fourteen.

16 THE COURT: She was fourteen?

17 MS. JEAN CROWE: When she lost her mom, Candace was
18 fourteen years old.

19 THE COURT: Right. How long ago was it that she lived
20 with you?

21 MS. JEAN CROWE: Let's see. She was married to Jason,
22 I guess about four years, and before that -- how old was
23 Candace?

24 MS. CROWE: She was twenty-three when she died.

25 MS. JEAN CROWE: Twenty-three. Okay. She lived with

1 us, she came to us when she was fourteen and I guess she
2 left when she was about sixteen, so she was with us about
3 two years.

4 THE COURT: Okay. How old was she when this event
5 occurred?

6 MS. JEAN CROWE: Her death? Twenty-three.

7 THE COURT: So, roughly, what, seven years?

8 MS. JEAN CROWE: So, in between that, you know,
9 Candace was with friends or she was with -- then she would
10 come back to us or she'd go see her grandmother or she
11 would go to her father's or she was just everywhere.
12 Candace was troubled.

13 THE COURT: Such as?

14 MS. JEAN CROWE: Well, losing her mom at such an early
15 age.

16 THE COURT: Sure.

17 MS. JEAN CROWE: And she really didn't have a close
18 relationship with her father and that troubled her and we,
19 I just think she got in with the wrong people, doing the
20 wrong things and Candace was a loving person, though. She
21 never met a stranger. I mean, you met her for the first
22 time, you couldn't help but love her and I don't know a lot
23 about Jason, only when he was with her when they came to
24 visit. And the only thing that I know about Landon is, he
25 went to kindergarten with my twins. We have a boy and a

1 girl, me and my husband, and they were in kindergarten
2 together and every time I see Landon, my heart goes out to
3 him, too, because I can see that little boy in
4 kindergarten.

5 THE COURT: All right. Now, your mother or Ms. Crowe
6 doesn't ---

7 MS. JEAN CROWE: She's my mother-in-law.

8 THE COURT: Your mother-in-law. I'll get you
9 straight. She objects to the negotiated plea that's been
10 entered into of thirty years.

11 MS. JEAN CROWE: Right.

12 THE COURT: Do you have a feeling about that one way
13 or the other?

14 MS. JEAN CROWE: Well, I know every case needs a
15 closure and in this case, I really can't see thirty years
16 as being a severe punishment compared to taking two lives.
17 I mean, basically, the way I see it, for no reason
18 whatsoever, just cold blooded murder. And I really don't
19 agree with thirty years, but I don't really think that
20 whatever he gets, there could be any closure.

21 THE COURT: Well, that's probably true.

22 MS. JEAN CROWE: I mean, I can, I really don't think
23 Landon is ever going to have closure with this since he was
24 the one that did it and like I said, I hate it. I hate
25 that things like that happen. My heart goes out to him. I

1 really do have feelings for him, but I just hate to think
2 that two people lost their lives and it was only worth
3 thirty years.

4 THE COURT: Right.

5 MS. JEAN CROWE: It's just sad. It's a sad case.

6 THE COURT: It is. Now, you understand the way this
7 is presented to me, I accept it or reject it and if I
8 reject it, we just go to trial next week, but thirty years
9 under the rule -- Mr. Campbell and Mr. Robinson, y'all
10 correct me if I'm wrong -- he has to serve day-for-day. He
11 doesn't get any good time credit, he doesn't get any work
12 credit. It's a day-for-day sentence.

13 MS. JEAN CROWE: Right.

14 THE COURT: All right. Any other victims?

15 UNIDENTIFIED WOMAN: We have a victim that just
16 stepped outside.

17 THE COURT: Ma'am? First, let me say this: If you
18 want to speak, you are more than welcome to speak, but you
19 are not to do it from the gallery. If you would like to
20 come around and identify yourself, you may.

21 UNIDENTIFIED WOMAN: My sister is Jason's mother. She
22 had to leave the courtroom, because she wasn't invited to
23 speak.

24 THE COURT: Well, if she would like to speak, I will
25 allow her, because I have control of the courtroom.

1 (She leaves the courtroom and returns with another woman)

2 THE COURT: All right. Ma'am, while you were out of
3 the courtroom, you were identified as someone who would
4 like to address the Court.

5 MS. GREENWAY: Yes, sir.

6 THE COURT: You do not have to, you are more than
7 welcome to if you would like to, but if you do want to,
8 would you tell me your name for the record, please?

9 MS. GREENWAY: Karen Sanders Greenway.

10 THE COURT: Karen Sanders Greenway. And I thought I
11 heard some lady say that you are the defendant's mother?

12 MS. GREENWAY: Jason's mother and mother-in-law of
13 Candace and Landon's grandmother and I'm the adopted mother
14 of [REDACTED] I took control of [REDACTED]

15 THE COURT: Who is [REDACTED]

16 MS. GREENWAY: Jason and Candace's daughter.

17 THE COURT: Okay.

18 MS. GREENWAY: They gave me her, because they knew
19 they could not raise her. I was married ---

20 THE COURT: How long have you had this little girl?

21 MS. GREENWAY: [REDACTED] has been with me off and on up
22 until -- she was adopted on May the 10th, two years ago and
23 on June 3rd, my husband of 45 years caught pneumonia and
24 passed away. So, I remarried last year. That's why I'm a
25 Greenway now, but I am raising [REDACTED] in a Christian home.

1 THE COURT: Okay. So, the victims, Mr. Sanders and
2 Ms. Sanders' child is ---

3 MS. GREENWAY: Right. She's my adopted child.

4 THE COURT: And she's been with you over two years?

5 MS. GREENWAY: Over two years and legally adopted and
6 before that I had to take custody because of the actions of
7 her mother and I understand that Landon is being painted
8 the monster, but he's not. Landon has had to battle being
9 raised with drug use, he is a victim of circumstance. We
10 tried with him, but he would always have to go back to the
11 situations he shouldn't have been in. Jason and Candace
12 met in jail. Jason did not sway Candace to doing anything
13 bad. She was already involved in drug use when they got
14 together. So, I don't want Landon painted as a villain,
15 because he's not and I know that, you know, it will never
16 register in my mind that this is exactly what happened that
17 night and I just wanted to say that, you know, thirty years
18 is life for him. This child did a drug overdose three
19 years ago. He should have been dead. He was bleeding from
20 his mouth. He was rushed to Augusta and he was back in
21 five hours at the hospital at home so, you know, it's just
22 been an ongoing thing and God spared him for some reason.
23 I don't know why, but I don't want him painted as a
24 villain, because he is not. I have raised him off and on
25 since he was little and I don't want Candace painted as an

1 angel, because she was as much into drugs as Jason and if
2 you had her biological father here, he would tell you the
3 same thing. And I think, you know, his life is ruined.
4 Mine is. [REDACTED] I've got to tell the child when, you know,
5 I love you, but this is what has happened in your life and
6 I'd rather not ever have to tell her.

7 THE COURT: Sure.

8 MS. GREENWAY: But Landon has not been the villain
9 he's painted and neither were Jason and Candace. When they
10 were on drugs, they were terrible, but if they weren't,
11 they were pretty good people. They'd give you the shirt
12 off their back. But Jason did not lead Candace astray. I
13 just want that noted.

14 THE COURT: Okay. All right. Thank you very much.
15 Anyone else? All right. Mr. Robinson, I'll be glad to
16 hear from you. Well, just one second. I want to hear from
17 Detective Mills. I know I've asked you a few questions,
18 but what I'm looking at, obviously, what we see a lot of
19 times, are victims having contrary ideas about whether this
20 is the proper thing, but from law enforcement's
21 perspective, you advised me that you are satisfied with a
22 negotiated sentence of thirty years.

23 DETECTIVE MILLS: Yes, sir.

24 THE COURT: And would you give me a little bit, as a
25 representative of law enforcement and the lead detective on

1 this case, your thoughts about why that is a justifiable
2 recommendation or negotiated sentence.

3 DETECTIVE MILLS: In this particular case, after
4 reviewing all the facts and our witness accounts and the
5 statutes, what took place on that particular night, after
6 reviewing the case with Mr. Campbell here and going through
7 the evidence of the actual testimony that we have, I feel
8 good about our thirty years. I do believe that Landon
9 Sanders is guilty. There is no doubt in my mind of that.

10 THE COURT: He committed the murder.

11 DETECTIVE MILLS: Yes, sir. I understand the incident
12 that took place that night, this is something that's been
13 ongoing for years. I don't think that this is something
14 that wound up in a five minute issue. I believe this has
15 been a family issue from the daddy's side to step-mom to
16 son. I believe they've had a rather tumultuous life with
17 some of the things that they have chosen, the drugs, and
18 just the lifestyle that they led, not to mention the people
19 that they were involved with and around. So, our character
20 witnesses and the entire scene, altogether, is a bad
21 situation. So, after conferring everything with Mr.
22 Campbell of the Solicitor's office and Mr. Robinson, that
23 as far as law enforcement goes, we agree with thirty.

24 THE COURT: You do.

25 DETECTIVE MILLS: Yes, sir.

1 THE COURT: Thank you very much.

2 DETECTIVE MILLS: Yes, sir.

3 THE COURT: All right, Mr. Robinson. Be glad to hear
4 from you.

5 MR. ROBINSON: May it please the Court.

6 THE COURT: Yes, sir.

7 MR. ROBINSON: Your Honor, you've had the opportunity
8 to hear some pretty emotional statements today. I've
9 worked with Landon for a while in this case. My
10 investigators have met with them, Chet Black and Brad
11 Baxter. The Sheriff's office has been great in terms of
12 giving us information, inspecting the vehicles and
13 everything. This negotiated sentence, we believe is a fair
14 alternative, a fair resolution. It's like anything,
15 neither side is going to be happy. It's just impossible in
16 this case. You have the tragic death of two people, but
17 Landon, as his grandmother said, is not a monster. He
18 played football in school down in Georgia. He had a lot of
19 aspirations and as with young people these days in our
20 society, it seems like a lot of them get involved in drugs,
21 get hooked up with the wrong people and become the wrong
22 people at that point and they make very bad decisions
23 without thinking, putting themselves into situations that
24 will change their lives forever. As his grandmother said,
25 thirty years day-for-day, which is what murder carries in

1 this case, is day-for-day. This young man's life is over
2 with from 17, 18, 19 until he's in his late 40s. And the
3 punishment, we believe, is fair in this case. Landon is
4 not a monster. Every time he talks about his dad, he
5 cries. Every time. I'm not used to clients getting that
6 emotional, but it's just a tragic situation involving
7 Landon, who got into a really bad situation and it's his
8 fault. It's his fault and he knows it. He knows he should
9 never have been doing drugs, doing these things, and we'd
10 ask the Court to accept the negotiated plea in this case
11 and Landon would also like to address the Court. I have a
12 number of people in the courtroom today, family and
13 friends, but I believe that Landon is the best person to
14 express to the Court his remorse and his feelings about the
15 situation, if the Court would hear from him.

16 THE COURT: Sure. Detective Mills, looking at my
17 notes from the Jackson/Denno hearing, didn't the defendant
18 at least insinuate that this stems from an alleged taking
19 of tools or money or something along those lines?

20 DETECTIVE MILLS: Yes, sir. There was a story line
21 that indicated that. Yes, sir.

22 THE COURT: All right. Mr. Sanders.

23 MR. SANDERS: Yes, sir.

24 THE COURT: Do you have anything you want to say?

25 MR. SANDERS: Yes, sir. I was going to say I really,

1 really loved my dad and my step-mama. I'm very sorry all
2 this transpired. I know that money can't, can't compare to
3 a human life and I am very, very sorry and I just ask for
4 your favor.

5 THE COURT: Let me ask you this: In the event I
6 accept this negotiated plea, they are going to have you
7 come back later on what is called a post-conviction relief
8 application. Okay? Did you hear the facts recited on the
9 record by the Solicitor?

10 MR. SANDERS: Yes, sir.

11 THE COURT: Do you admit to committing those acts?

12 MR. SANDERS: Yes, sir.

13 THE COURT: Without question?

14 MR. SANDERS: Yes, sir.

15 THE COURT: And again, you are fully satisfied with
16 the services of your attorney?

17 MR. SANDERS: Yes, sir.

18 THE COURT: Do you have anything else you want to add?

19 MR. SANDERS: No, sir.

20 THE COURT: Mr. Robinson, do you have anybody else
21 that would like to speak?

22 MR. ROBINSON: I do not, Your Honor. I think Mr.
23 Sanders and his grandmother, Karen, have expressed our
24 feelings in this case. I think this is closure, but Landon
25 has to live with this every day of his life and he is sorry

1 and there's no amount of apologies that can change this.
2 Nothing. But I would ask the Court to accept the
3 negotiated sentence in this case. The State and I have
4 worked together to craft this case. Thank you.

5 THE COURT: Anything further from the State?

6 MR. CAMPBELL: No, Your Honor. You've heard it all.

7 THE COURT: Let me just say this to you, Mr. Sanders.
8 Normally, you'd be looking at a lot more time from me ---

9 MR. SANDERS: Yes, sir.

10 THE COURT: --- than you're looking at in this case.
11 However, I understand the victim's feelings on both sides
12 of this courtroom and I can't imagine. I've had disputes
13 with my father for years, and to think that you had a
14 dispute with him that ended up in the murder of your father
15 is just amazing, besides taking a human life. But my
16 options are, in this case, I give you thirty years or we go
17 to trial on Monday. That's it. I can't change that.

18 MR. SANDERS: Yes, sir.

19 THE COURT: But all things considered and with due
20 respect to law enforcement who recommends that I accept
21 this negotiated sentence, I'm going to accept your plea as
22 knowingly, intelligently and voluntarily made with the
23 advice of counsel who you tell me you are well satisfied
24 with. I'm going to find that there is, indeed, a
25 substantial, factual basis for each one of these pleas to

1 all four indictments and, somewhat reluctantly, but I am
2 going to accept the negotiated sentence in this case.

3 On indictments 2011-1031 and 2011-1030, I'm going to
4 sentence you to thirty years. Those will be concurrent.

5 Under 2011-1033, 2011-1032, possession of a weapon
6 during a violent crime, the sentence is five years. Those,
7 also, will be concurrent and that should end this matter.
8 Anything further from the State?

9 MR. CAMPBELL: No, Your Honor.

10 THE COURT: Anything further from the Defense?

11 MR. ROBINSON: No, sir, Your Honor.

12 THE COURT: All right. Good luck to you. Good luck
13 to the victims.

THE STATE OF SOUTH CAROLINA VERSUS LANDON SANDERS

FORM 5

STATE OF SOUTH CAROLINA

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ANDERSON SC

IN THE COURT OF COMMON PLEAS

County of Anderson

2013 FEB 12 P 2:33

2013-CP-04-00294

Landon Thomas Sanders (350795)

Full name and prison number (if any) of Applicant

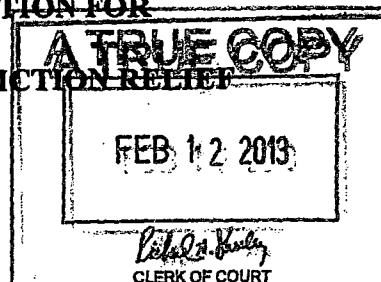
IN THE COURT OF COMMON PLEAS AND
GENERAL SESSIONS

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

**INSTRUCTIONS B READ CAREFULLY**

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

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

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

1. Place of detention Lee C.I. 990 Wisacky Hwy.
Bishopville, SC 29010
2. Name and location of Court which imposed sentence Anderson Court
of General Sessions, Anderson, SC 29622
3. Name(s) of co-defendant(s) (if any) Riley Thomas Mackler,
Danny Wade Scott, Jr.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: ~~Indictment num.~~ Indictment nums. 2011-65-04-01030-5
01033-5

(a) I recieved a (30) year sentence for Murder (x2)
and possession of A firearm during commisio
of violent crim (x2).

- (b) _____
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence FILED-CLERK'S OFFICE
JAN 10 2013 SC
- (a) May 9, 2012 / Total of 30 years 2013 FEB 12 P 2-33
- (b) All sentences were ~~concurrent~~ concurrent
- (c) _____ COMMON PLEAS AND
GENERAL SESSIONS
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒
- (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
8. If you answered Ayes@ 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 Ano@ to (7), state your reasons for not so appealing:
- (a) I pled guilty so I didn't have Direct Appeal Issues

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(b) _____

(c) _____

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

COMMON PLEAS AND
GENERAL SESSIONS(a) Ineffective Assistance of Plea Counsel(b) Involuntary Plea / Lack of Subject Matter Jurisdiction(c) See Attached Page 3(a)

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

(a) See Attached Page 3(a)

(b) _____

(c) _____

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

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

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

(a) the specific nature thereof:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

ii. _____

iii. _____

PAGE 3(a).

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

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The Applicant alleges his Sixth(6th) Amendment United States Constitution right to effective assistance of counsel was denied when his Counsel failed to properly investigate his case before advising him to plead guilty. Being Counsel failed to properly investigate his case, Applicant was not made aware the prosecution convened his grand jury outside a term provided by statute; and in turn, the Circuit Court was divested of Subject Matter Jurisdiction to try his case. Applicant was prejudiced by Counsel's error for he was convicted for offenses the Court didn't have jurisdiction to hear.

SUBJECT MATTER JURISDICTION

The Applicant alleges his indictments are a "Sham Legal Process" that failed to confer Subject Matter Jurisdiction upon the Trial Court to convict him.

Lack of Subject Matter Jurisdiction may not be waived and may be raised at anytime State v. Guthrie - S.C. -, 572 S.E.2d 309 (S. C. App. 2002)

The Applicant contends, his indictments for Murder (#2011-GS-04-01030), Murder (#2011-GS-04-01031), Possession of a Weapon During commission of a Violent Crime (2011-GS-04-01032), and Possession of a Weapon During commission of a Violent Crime (#2011-GS-04-01033) was a sham legal process that failed to confer subject matter jurisdiction upon the trial court to convict him. A sham legal process is defined under S.C. Code Ann. §16-17-735 in relevant part, as follows:

"... the issuance, display, reliance on an instrument that is not lawfully issued... which purport to... (b) assert jurisdiction or authority over or determine or adjudicate the legal status, right, dispute, or privilege of a person... " 2013 FEB 12 P 2:32

Here, Applicant's indictments indicate he was indicted for the aforementioned offenses at a June term of the Anderson County General Sessions Court. However, pursuant to S.C. Code Ann. §14-5-750 the South Carolina Legislature enacted the following for Anderson County General Sessions Court:

The terms of Anderson County General Sessions Court shall be held at Anderson the first(1st) Monday in February for two weeks; second (2nd) Monday in May for two weeks; first(1st) Monday in September for two weeks; and the third(3rd) Monday in November for two weeks.

In conjunction, the South Carolina Legislature has enacted S.C. Code Ann. §14-9-170, which mandates the following provision for convening of grand jury services upon the General Sessions Court:

The grand jury is lawfully drawn in accordance with law for service upon the Court of General Sessions in each of the Counties shall constitute the Grand Jury for the County Court and shall meet with the County Court at each of its terms, except the next term succeeding each session of the Circuit Court at which term the Grand Jury need not meet.

Further, the South Carolina Legislature has enacted S.C. Code Ann §14-9-210, which imposes the following lawful requirements upon the County Solicitor to obtain indictment:

The Solicitor shall prepare and, through the presiding Judge of the Court of General Session, submit to Grand Jury "while in attendance upon the Court of General Sessions," bill of indictment in all cases in which the punishment may exceed a fine of one hundred dollars or imprisonment for thirty days or more. [Emphasis Added]

As can be shown from the plain and unambiguous language of the statutory enactments, the South Carolina Legislature has not

enacted any June term of General Sessions for Anderson County as is indicated by Applicant's indictments. Thus, Applicant's indictment's allegedly obtained by the Solicitor at a June term of General Sessions for Anderson County, while no lawful Grand Jury was in attendance operates as a Sham Legal Process. Applicant failed to confer subject matter jurisdiction upon the trial court since there was no "legally existing Grand Jury in attendance at a non-existing term," contrary to S.C. Code Ann §14-9-170 and §14-9-210. See: State v. Hann, 196 S.C. 211, 12 S.E.2d 720 (1940).

APPLICANT'S OFFICE
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COMMON PLEAS AND
GENERAL SESSIONS

Notwithstanding as a threshold matter, in Brown v. State, 316 S.C. 259, 449 S.E.2d 494 (1994), the Court dealt with an issue similar to Applicant's issue. In the Brown case, the indictment indicated that the Grand Jury Foreman signed the indictment true bill on 10-19-90, while the indictments caption indicated that the Grand Jury convened on 10-22-90. The Court ultimately held that "by order of the Chief Justice, the Chief Judge for Administrative purpose in each County within the Circuit Court could convene the Grand Jury when the Circuit Court was not in session, and that the different dates on Brown's indictment only indicated that the Grand Jury took action on the indictment earlier than they made their report to the Court." Brown's case was denied.

Conversely, Applicant contends that in his case any reliance on the Brown decision to deny his claim would be misplaced. To begin with §14-7-1550 to 1570 (cited in Brown's case has since been repealed and reinstituted under §14-7-1520 (Titled, drawing of lawful Grand Jury)), which mandates in relevant part the following provisions:

Not less than 15 days before the convening of the first term of General Session Court for the calendar year, the Jury Commission shall

proceed to draw Grand Jurors which the Administrative Judge for the Circuit has determined to be sufficient in order to impanel a Grand Jury... "Immediately after those Grand Jurors are drawn the clerk shall issue writ of venire facias for these Grand Jurors, requiring their attendance on the first day of the first week of criminal court in the county..." [Emphasis Added].

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COMMON PLEAS AND
GENERAL SESSIONS

In reviewing the plain and ambiguous language of (formerly §14-7-1550 to 1570 during the Brown's decision), it is clear that the S.C. Legislature did not (nor could not under Article 1, Section 8 S.C. Constitution) empower the Chief Justice or Administrative Judge to convene a Grand Jury outside a term of General Sessions Court, but did rather empower the administrative judge to determine the sufficiency of empaneled Grand Jury for convening with General Sessions Court to return indictments for trial. See: Gilfilin v. Gilfilin, 344 S.C. 404, 544 S.E.2d 829.

Applicant contends that because the Grand Jury was convened outside a term provided by statute, the Court did not have Subject Matter Jurisdiction to hear his case.

INEFFECTIVE ASSISTANCE OF COUNSEL

Entering a guilty plea results in a waiver of several constitutional rights, therefore, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently by defendants. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). In order for a defendant to knowingly and voluntarily plead guilty, he must have a full understanding of the consequences of his plea. State v. Hazel, 275 S.C. 392, 271 S.E.2d 602 (1980). He must also have an understanding of the charges against him. State v. Lambert, 266 S.C. 574, 225 S.E.2d 340 (1976).

Applicant could not have understood that his guilty pleas would have waived his right to challenge the Court's jurisdictional

power to hear his case because his Counsel never explained to him that his Grand Jury convened outside a term provided by State Law and State Constitution, and when he plead guilty he would be waiving his Constitutional Right to challenge the Court's power to hear his case. Moreover, when taking his plea, the trial judge did not explain that his plea would waive any rights he had to challenge the Court's jurisdictional power to hear his case. Thus, his plea can not be deemed to be "an intentional relinquishment or abandonment" of his constitutional rights. Johnson v. Zerbst, 304 U.S. 458, 464 (1938) (a defendant who enters a plea simultaneously waives several constitutional rights, including his privilege against compulsory self-incrimination, his right to trial by jury, and his right to confront his accusers. For this waiver to be valid under the Due Process Clause, it must be "an intentional relinquishment or abandonment of a known right or privilege.")

Being Applicant was not made aware the Court lacked subject matter jurisdiction to convict him, his plea was not voluntarily, knowingly, and intelligently entered. Boykin, supra. Here, he did not have understanding of the charges against him, Lambert, supra and full understanding of the consequences of his plea. Hazel, supra. Applicant asserts had he known he had standing to challenge the Court's jurisdiction to hear his case, he would not had pled guilty but instead opted to stand trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). Additionally, Counsel's deficient performance prejudiced Applicant, for, he pled guilty and received a total of thirty(30) years when the Court did not have jurisdiction to convict him.

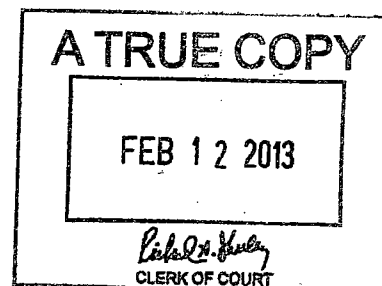
CONCLUSION

Counsel's performance fell below the reasonable ^{FILED-CLERK'S OFFICE} ~~norms~~ ^{ANDERSON SC} provided by Strickland v. Washington and its progeny, and thus, he is ^{2013 FEB 12 P 2:33} entitled to have his conviction vacated and his case remanded for a new trial. (466, U.S. 668, 104 S.Ct. 2052,2064, ^{COMMON PLEAS AND} ~~88 L Ed 2d 674~~ ^{GENERAL SESSIONS} 692 (1984))

Respectfully Submitted,

S

Landon T. Sanders #350795



- iv. _____ FILED-CLERK'S OFFICE
ANDERSON SC
- (c) the disposition thereof:
- i. _____ N/A 2013 FEB 12 P 2: 33
- ii. _____
- iii. _____ COMMON PLEAS AND
GENERAL SESSIONS
- iv. _____
- (d) the date of each such disposition:
- i. _____ N/A
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____ N/A
- ii. _____
- iii. _____
- iv. _____

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?

No

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

- (a) which grounds have been presented:

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

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

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

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:

2013 FEB 12 P 2: 33

- (a) See Attached Page 3(a) COMMON PLEAS AND
 (b) ANDERSON SC GENERAL SESSIONS
 (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? No

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

- (a) the name and address of each attorney who represented you:
- i. Andrew T. Potter, 10th Circuit Public Defender,
301 Camson Rd. Anderson, SC. 29625
 - ii. Scott D. Robinson, P.O. Box 10042, Federal
Station, Greenville, SC. 29603
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Andrew T. Potter, Preliminary hearing
 - ii. Scott D. Robinson, Bond Hearing,
Jackson V. Demo Hearing, Plea Hearing
 - iii. _____

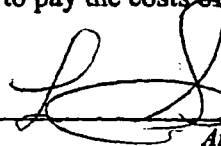
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ANDERSON SC

**APPLICATION TO PROCEED WITHOUT PREPAYMENT 2: 33
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

COMMON PLEAS AND
GENERAL SESSIONS

I, Landon T. Sanders, 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:

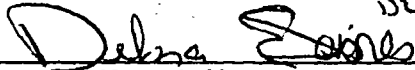
- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.



Applicant

SWORN or affirmed to and subscribed before me this

8 day of Feb., 2013.

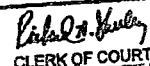


Notary Public

My Commission Expires: 11-4-2015

A TRUE COPY

FEB 12 2013


CLERK OF COURT

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

Remand for a Trial

FILED-CLERK'S OFFICE
ANDERSON SC

2013 FEB 12 P 2:33

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

COMMON PLEAS AND
GENERAL SESSIONS

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Anderson)

VERIFICATION

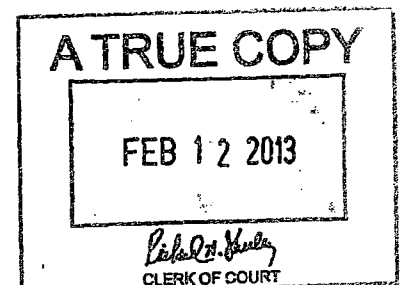
I, Landon Thomas Sanders, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

[Signature]

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

[Signature] (L.S.)
Notary Public

My Commission Expires: 11-4-2015



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	Case No. 2013-CP-04-294
	)	
Landon Thomas Sanders,	)	
S.C.D.C. No. 350795	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed February 12, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. Applicant was indicted at the June 2011 term of the Anderson County Grand Jury for two counts of murder (2011-GS-04-1030; -1031) and two counts of possession of a weapon during a violent crime (2011-GS-04-1032; -1033). Applicant was represented by Scott Robinson, Esquire. On May 9, 2012, Applicant pled guilty as indicted. Applicant was sentenced by the Honorable R. Lawton McIntosh pursuant to negotiations to a term of confinement for thirty years for both indictments of murder, and five years for both indictments possession of a weapon during a violent crime. The sentences were to be served concurrently. Applicant did not appeal.

II.

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

1. Subject Matter Jurisdiction; and
 - a. "Applicant alleges his indictments are a 'Sham Legal Proceeding' that failed to confer Subject Matter Jurisdiction upon the Trial Court to convict him."
2. Ineffective Assistance of Counsel
 - a. "Applicant was not made aware by counsel the Court lack Subject Matter Jurisdiction to convict him, therefore his plea was not voluntary, knowingly, and intelligently made."

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

III.

The Applicant has claimed that the trial court lacked subject matter jurisdiction due to defects in his indictment. Defects in the indictment do not affect subject matter jurisdiction. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); See also U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). See also S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the indictment document. See Gentry, 363 S.C. 93, 610 S.E.2d 494; Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994).

In post-conviction relief, an Applicant wishing to raise challenges to the sufficiency of an indictment must do so in the context of ineffective assistance of counsel, basically alleging that his trial counsel failed to properly move to quash the indictment in accordance with S.C. Code Ann. § 17-19-90 (2003). A claim of this nature is subject to the procedural bars in the Uniform Post-Conviction Procedure Act – notably the statute of limitations and successiveness. See S.C. Code §§ 17-27-45, -90 (2003).

An Applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by Gentry, 363 S.C. 93, 610 S.E.2d 494. However, “[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.” Gentry, 363 S.C. at 101, 610 S.E.2d at 499; See also S.C. Const. Art. V, § 7. Thus, Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant’s conviction involved a criminal charge in General Sessions Court. Thus, the circuit court had subject matter jurisdiction.

IV.

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel

rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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

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

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 expressly admitted, qualified or explained is hereby denied.

VIII.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior 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

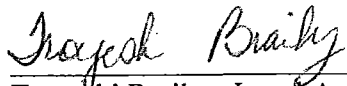
June 3rd, 2013.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE TENTH CIRCUIT
COUNTY OF ANDERSON	)	
	)	2013-CP-04-294
	)	
Landon T. Sanders, # 350795	)	
	)	
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** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ernest C. Trammell, Esquire
Post Office Box 1656
Anderson, SC 29622

DATED this 3rd day of June, 2013



 Troyeshi Brailey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)
-----)

IN THE COURT OF
COMMON PLEAS
2013-CP-04-294

LANDON T. SANDERS)
APPLICANT)
vs.)
STATE OF SOUTH CAROLINA)
RESPONDENT)
-----)

TRANSCRIPT OF RECORD

FEBRUARY 19, 2014
ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JR.

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

LINDA V. WHISENHUNT, ESQUIRE
ATTORNEY FOR APPLICANT

JOHN W. WHITMIRE, ESQUIRE
ATTORNEY FOR RESPONDENT

VIVIAN CROSS,
CIRCUIT COURT REPORTER

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I N D E X

WITNESSES	DIRECT	CROSS
SCOTT D. ROBINSON		
BY MS. WHISENHUNT	7	
BY MR. WHITMIRE		18
LANDON THOMAS SANDERS		
BY MS. WHISENHUNT	24	
BY MR. WHITMIRE		31

EXHIBITS:
None

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

2
3 FEBRUARY 19, 2014
4 _____

5 THE COURT: Okay. Who you got next?

6 MR. WHITMIRE: May it please the court. The last
7 matter before this court this morning is Landon Sanders
8 v. the State of South Carolina. The case number is
9 2013-CP-04-294.

10 Mr. Sanders was indicated on two counts of
11 murder and two counts of possession of a weapon during
12 a violent crime in June of 2011. He was represented by
13 Mr. Scott Robinson.

14 On May 9, 2012, he entered a guilty plea as
15 indicted concerning -- to the State's negotiated offer
16 of a 30 year aggregate term. Judge McIntosh accepted
17 that plea and imposed the negotiated sentence. Mr.
18 Sanders has not filed an appeal from his sentence or
19 conviction.

20 He is present. He is represented by counsel.
21 He currently is alleging a due process violation, that
22 his guilty plea was involuntary because the court did
23 not have subject matter jurisdiction due to a defective
24 indictment. And, also, an ineffective assistance of
25 counsel; a failure to notice the court did not have

1 subject matter jurisdiction from a defective
2 indictment.

3 That is the way the application stands, with no
4 amendments filed. I believe Ms. Whisenhunt has a
5 motion before the court.

6 MS. WHISENHUNT: Yes. And may it please the
7 court. And just to make sure the record is clear, Your
8 Honor, an order substituting counsel was filed in this
9 case on June -- January 28th of this year, in which I
10 am substituting for Ernie Trammell. So I know his name
11 is on some of the documents. But I am, in fact, going
12 forward in place of him.

13 THE COURT: And I signed that order; right?

14 MS. WHISENHUNT: Yes, Your Honor. And that was
15 filed on January 28th.

16 And just two points of clarification. I have
17 discussed both of these with Mr. Whitmire, that is that
18 this PCR application, in fact, does cover all four of
19 those indictments that he referenced, that were pled to
20 by Mr. Sanders on May 9, 2012. There was some
21 correspondence with Mr. Whitmire's office that it may
22 just be one. And I want to clarify for the record, it
23 is all four.

24 MR. WHITMIRE: It is certainly all four. And if
25 Your Honor does not have all four in your judge's

1 packet, we can get that provided immediately. At
2 first, I only had one indictment, but it's on
3 everything.

4 MS. WHISENHUNT: Okay. And I -- just, also, one
5 point I want to clarify -- as the issue may come up
6 during the course of the hearing -- that these
7 indictments were, in fact, indicted on the June 28,
8 2011 session of the Grand Jury -- during that court
9 session. And I have one indictment that's stamped with
10 that. But since the other three indictments weren't
11 originally provided -- (pause) okay. We have all four
12 now with that indicated on the indictments.

13 Those are two preliminary issues in regards to
14 my motion, Your Honor. I have spoken with my client,
15 Mr. Sanders. And while we are prepared to go forward
16 on the issues that were indicated by Mr. Whitmire,
17 about the ineffective assistance of plea counsel in the
18 involuntary plea that was made, due to this issue
19 regarding possible lack of subject matter jurisdiction,
20 my client has expressed concerns to me in our
21 discussions that he was never given some important
22 discovery, possibly telephone records, fingerprints,
23 forensics. And he firmly believes that if he was given
24 more discovery, or had been given the opportunity to
25 review it, there may be additional grounds for a PCR.

1 Because of these concerns that he's expressed to
2 me, I'm respectfully requesting a continuance to allow
3 whatever additional evidence may exist out there to be
4 provided. And if the court is not inclined to grant
5 that continuance, Your Honor, I would ask that you
6 allow me, on behalf of Mr. Sanders, to amend his
7 application for this PCR to include -- allow me to
8 question Mr. Robinson about -- and generally
9 ineffective assistance of counsel, which is included in
10 the application, but as it relates to trial preparation
11 and investigation, and also case analysis and what
12 documents were provided in discovery.

13 THE COURT: Yeah. That's what I'll do. I -- I --
14 I'm not going to continue it, but I will allow you to
15 supplement his application, just depending on what --

16 MS. WHISENHUNT: I just want to make sure I'm able
17 to preserve those issues for Mr. Sanders by questioning
18 Mr. Robinson about that.

19 THE COURT: Yeah. Yeah, you're preserved.

20 MS. WHISENHUNT: One moment, Your Honor.

21 MR. WHITMIRE: And, Your Honor, just due to the
22 fact that the late amendment just occurred on the day
23 of the hearing, we'd just ask for any moment Mr.
24 Robinson needs to consult his file, or if he needs a
25 little bit of time to think something over, to allow

S. ROBINSON -- DIRECT BY MR. WHISENHUNT

1 it.

2 THE COURT: Okay.

3 MS. WHISENHUNT: I'm sorry, I didn't hear what you
4 said.

5 MR. WHITMIRE: Just that if Mr. Robinson needs any
6 time on these three allegations at this hearing to
7 review his file, to look over something --

8 MS. WHISENHUNT: Yes.

9 THE COURT: All right. You can call your first
10 witness.

11 MS. WHISENHUNT: Your Honor, I am actually going
12 to call Scott Robinson first, Your Honor.

13 THE COURT: Okay. That'll be fine.

14 THE CLERK: Right here, please, sir. If you'll
15 raise your right hand.

16 SCOTT DAVID ROBINSON, having
17 been first duly sworn, testified as follows:

18 THE CLERK: State your name and spell your last
19 name for the record, please.

20 THE WITNESS: It's Scott David Robinson. And it's
21 R-o-b-i-n-s-o-n.

22 THE CLERK: Thank you.

23 **DIRECT EXAMINATION BY MS. WHISENHUNT:**

24 Q. It's afternoon now. Good afternoon, Mr. San
25 -- Mr. Robinson. Could you please tell me, was Landon

1 Sanders your client?

2 A. He was.

3 Q. And when did he come to be your client?

4 A. It was prior to the -- I can't give you the
5 exact date, but it was prior to the -- the hearing we
6 had with Judge McIntosh.

7 Q. Okay. And were you retained or appointed?

8 A. Retained.

9 Q. And how often did you meet with him after he
10 retained you to be his lawyer?

11 A. Well, I had two investigators. I had Brad
12 Baxter and Jack Black -- Jeff Black that assisted me.
13 They -- they met with him as often as he wanted to --

14 Q. Could you speak up just a little bit. I'm
15 having --

16 A. Yeah, I'm sorry. Sure. I had two
17 investigators on the case, Brad Baxter and Jeff Black.
18 And they interviewed Mr. Sanders several times, and
19 numerous -- we met as often as he wanted to meet with
20 us. And -- we met as often as he wanted to meet with
21 us.

22 Q. And where were those meetings held?

23 A. He was in the jail, so we met at the jail.

24 Q. And as part of your meetings with him, did you
25 or those investigators, Brad Baxter and Jeff Black,

1 review the indictments with him?

2 A. I don't know if we did -- we would go through
3 the whole file, but he had discovery. He had
4 everything that I had. I don't know if we went through
5 his indictments specifically; I can't tell you that.
6 But we would have gone through that normally as part of
7 my practice.

8 Q. Would you have, as a normal part of your
9 practice, explained to him that he had a right to have
10 those indictments presented to the Grand Jury?

11 A. That would be something probably at the -- at
12 the sentencing hearing more than likely. It's not a
13 sit down with him -- that's more of a legal thing -- a
14 legal thing in terms of indictments and Grand Jury.

15 Q. Are you familiar with whether these were, in
16 fact, presented to the Grand Jury?

17 A. I have -- honestly, I really can't tell you.
18 If your documents show that they were --

19 Q. Yes. I'll be happy to provide you with all
20 the indictments. It appears there are four indictments
21 here. I'll hand them up to you.

22 A. Okay.

23 Q. And let you look at those a moment and see
24 whether you can tell me whether those were presented to
25 the Grand Jury?

1 A. These are indictments. They would have had
2 the dates the Grand Jury was given these documents, and
3 it was signed off on -- I can't tell you -- it looks
4 like --

5 Q. You can't tell what term of court those were
6 presented to the Grand Jury?

7 A. It says June 2011.

8 Q. Okay. And do those look like the indictments
9 that were in the case file and would have been reviewed
10 with Mr. Sanders?

11 A. He would have had the whole file in this case.

12 Q. Okay.

13 A. So if these were in the file, I would have --
14 it was with him.

15 Q. Okay.

16 A. But I can't tell you if these specific
17 documents were in the file. I can't -- I can't tell
18 you that.

19 Q. Okay. Are you familiar with the South
20 Carolina Code of Laws that govern when indictments are
21 presented to the Grand Jury?

22 A. Yes.

23 Q. And are you familiar that they specifically
24 delineate certain terms of court that indictments
25 should be presented to the Grand Jury?

S. ROBINSON -- DIRECT BY MR. WHISENHUNT

1 A. Yes.

2 Q. Did you discuss that issue or explain that
3 issue to your client?

4 A. As I told you previously, I don't recall if I
5 did or not.

6 Q. Okay. So you wouldn't recall whether he
7 understood whether those indictments were valid or
8 properly presented to the Grand Jury or not?

9 A. As I said, I don't remember -- I don't recall
10 specifics dates. My normal practice would be to
11 discuss that with him.

12 Q. Okay. Are you aware that those indictments
13 may have been improperly presented to the Grand Jury?

14 A. Well, here's the -- here's the thing. If you
15 look at the --

16 Q. Well, let me state -- back to my question
17 first, then you can explain. Are you aware that --
18 that those indictments may have been -- have a problem
19 in being presented to the Grand Jury? Are you aware of
20 any problem?

21 A. I'm not aware of a problem, no.

22 Q. Are you aware that they may not be consistent
23 with the statutory requirements?

24 A. I don't know that. I don't know that.

25 Q. Okay. And so you have no way -- or there's no

1 way you would know or remember explaining to your
2 client that they were potentially sham indictments?

3 A. Sham indictments? Um, as I said before, I
4 don't recall if I ever discussed the indictments or the
5 warrants -- I don't know that. But I can tell you this
6 though. It is a notice -- it is a notice State, and we
7 did have a long and lengthy -- lengthy sentencing
8 hearing with Judge McIntosh. And, um -- uh, it --

9 Q. One last question on the indictments, then
10 we'll move on. Did you make any motion to quash the
11 indictments at the -- at the sentencing --

12 A. I didn't. I did not.

13 Q. Okay. All right. Moving forward with your
14 preparation, first prior to the plea, did -- your
15 preparation of the case, in general, did you make a
16 discovery request?

17 A. Yes.

18 Q. Okay. And did you get a complete copy of the
19 discovery to your knowledge?

20 A. Yes.

21 Q. Was that information provided --

22 A. Yes.

23 Q. -- to Mr. Sanders?

24 A. Absolutely.

25 Q. Is it your standard practice to provide

S. ROBINSON -- DIRECT BY MR. WHISENHUNT

1 everything to him?

2 A. I have nothing to hide, yes, of course.

3 Q. Is there anything that he would have not
4 gotten?

5 A. No, I don't think so.

6 Q. Okay.

7 A. Everything he's got -- he gets everything. He
8 doesn't -- if he had ever -- if he ever had a problem,
9 all he had to do was ask us.

10 Q. Okay. Were there -- would there have been any
11 forensics or fingerprints, or anything like that, that
12 would have been on a CD or disc, or in pictures that he
13 would not have seen?

14 A. No. There's really not fingerprints in this
15 case. The shots came from the back, and there's
16 nothing with his fingerprints going up to the car and
17 so forth. It was just -- it was shots that killed his
18 father and his stepmother.

19 Q. Would there have been any telephone records
20 that you remember -- you recall reviewing?

21 A. I don't know if there were telephone records.
22 I don't know exactly what they would do -- there was no
23 alibi in the case. It wasn't -- he was there. He
24 admitted to doing it. There really -- what -- what
25 purpose --

1 Q. Well, in regards to an alibi and other
2 defenses, did you review those possible defenses
3 with --

4 A. Absolutely.

5 Q. -- Mr. Sanders?

6 A. He had no alibi.

7 Q. To your knowledge, did he understand those
8 defenses?

9 A. Yes.

10 Q. Potential alibi?

11 A. If there were defenses that he had in the
12 murder case, he would -- we would absolutely share
13 everything with him in this case.

14 Q. So you're confident that's one of the first
15 things you went over with him -- or one of the main
16 things you went over with him?

17 A. Well, the first thing you have to do is get
18 his side of the story. But then you get the State's
19 evidence and all their discovery, and then you get a
20 picture of how everything worked. They -- luckily,
21 they kept -- they had the car that the -- that the
22 persons were shot in. And they had kept that right
23 behind the Sheriff's Office. It showed the direction
24 of the bullets and all that stuff.

25 Q. I want to ask you a few more questions about

S. ROBINSON -- DIRECT BY MR. WHISENHUNT

1 the possibility of fingerprints. You said there was --
2 this case had nothing to do with fingerprints. Is
3 there not information in the discovery that you
4 received, that indicated there were 39 fingerprints
5 found in the vehicle?

6 A. Here's what I had: I had a trial booklet, one
7 of the trials we did -- and that does not -- I'd have
8 to look at the -- what the prosecution actually
9 provided to us to give you that information. I don't
10 believe that that was a relevant part of this case.

11 Q. You say "it wasn't a relevant part of this
12 case", but --

13 A. If -- let me rephrase it. If it existed, it
14 wouldn't be a relevant part of this case. Mr. Sanders
15 admitted this. All right. He never meant to do it,
16 but he was drugged up and shot the gun, and
17 unfortunately it killed his father and his stepmother
18 -- stepmom --

19 Q. Back to the 39 fingerprints, were those --

20 MR. WHITMIRE: Objection; asked and answered.

21 Q. -- made available -- were those made available
22 to you?

23 THE COURT: Overruled. Go ahead.

24 BY MS. WHISENHUNT:

25 Q. Were those -- were those fingerprints made

S. ROBINSON -- DIRECT BY MR. WHISENHUNT

1 available to you? And that would information have been
2 shared with Mr. Sanders?

3 A. He would get -- the first question, I would
4 have to look at what the -- if anything, if it existed,
5 he would have a copy of it. We were looking at this
6 case to try to look at a way -- if there had been an
7 alibi, or if somebody who could exonerate him from this
8 whole thing, we would have -- we would have found it
9 and we would have done something with that, but we
10 didn't have that -- that information.

11 Q. So if there had been telephone records
12 present, you were -- or text messages, or anything like
13 that that would have been on the telephone, you may
14 have been aware of it, but that's not something you
15 would have investigated because it didn't relate to how
16 you prepared the case?

17 A. I didn't say that. What I said was this: If
18 he had -- if he -- if there was evidence that they
19 provided to us in discovery, he would get a copy of
20 everything that that we had -- everything. This case
21 was not on the trial document. It was a pre -- it was
22 a negotiated plea in his best interests at that point.
23 That's what it was for.

24 Q. And did you convey to him all of the
25 negotiations --

1 A. Everything --

2 Q. -- that had gone on?

3 A. Absolutely.

4 Q. What all the possibilities were--

5 A. Everything.

6 Q. -- for resolution of the case?

7 A. Everything, yeah. He had the opportunity at
8 the sentencing hearing -- Judge McIntosh did a very
9 complete colloquy with him. We had persons there to
10 talk on his behalf, all sorts of people that came to --
11 on his -- to talk for him --

12 Q. And I think some of those people are in the
13 courtroom today?

14 A. Yes. One of the persons --

15 Q. On his behalf --

16 A. They came and talked --

17 Q. I have no further questions. I may have
18 follow-up questions after Mr. Whitmire. Thank you.

19 THE COURT: All right. Yes, sir.

20 MR. WHITMIRE: May it please the court. Good
21 afternoon, Mr. Robinson.

22 **CROSS EXAMINATION BY MR. WHITMIRE:**

23 Q. Since your memory is a little hazy in this
24 matter -- may I approach, Your Honor -- and hand you up
25 for the court's identification, one of the arrest

S. ROBINSON -- CROSS BY MR. WHITMIRE

1 warrants. Mr. Robinson, would that have been one of
2 the arrest warrants that would have been in your file?

3 A. Yeah. First up -- first up, I'm not -- I'm
4 not hazy. Right. I'm not hazy. I'm not -- my memory
5 is not --

6 Q. Well, hazy on what actually -- it's a very
7 small specific --

8 A. Yeah. Yes.

9 THE COURT: Well, my memory is hazy from this
10 morning; so, I mean, you know --

11 MR. WHITMIRE: For the record, it's --

12 THE COURT: Let's don't get, you know --

13 MR. WHITMIRE: For the record, it was not meant as
14 a slight.

15 A. Of course. I -- I -- I appreciate it. Yes,
16 this would have been a warrant in the case.

17 BY MR. WHITMIRE:

18 Q. Now, wasn't that arrest warrant served on your
19 client the day after the commission of the offense?

20 A. Yes. It looks like the -- the offense
21 occurred on March 22, 2011. The warrant was served on
22 him the next day -- yes.

23 Q. And that arrest warrant says the officer had
24 probable cause to believe, with a malice aforethought,
25 your client had committed this murder?

1 A. This warrant says that -- what the charge is,
2 gives notice as far as what the charge is, when it
3 occurred; that Mr. Sanders did shoot his father and his
4 stepmother in Anderson County on March 22, 2011.

5 Q. Mr. Robinson, you were not Mr. Sanders' first
6 attorney; were you?

7 A. I think the person before me was attorney
8 Andrew Potter, I believe, with the Public Defender's
9 Office.

10 Q. To my knowledge, Mr. -- Mr. Sanders did have
11 some bond hearings. Did you take part in these bond
12 hearings or was that before your representation?

13 A. I don't recall taking part in bond hearings.

14 Q. When you took over, did you have any question
15 as to Mr. Sanders' notice of what the State was
16 alleging he had done?

17 A. Absolutely not. It was -- it was always the
18 same -- it was a double murder case from day one in
19 this case. There was really no question about it.
20 That's why there were two investigators in this case,
21 two murders trials; never a question.

22 Q. Just to make certain I'm right, you had
23 testified on direct that your investigators and you met
24 with Mr. Sanders multiple times?

25 A. Absolutely, yes.

1 Q. Now, you were questioned on direct regarding
2 your knowledge of some procedural statutes?

3 A. Okay.

4 Q. Are you also familiar with Section Code
5 14-5-410, which states "while a term of court is
6 technically prescribed by statute, General Sessions
7 terms may be transacted during the Common Pleas term of
8 court"?

9 A. Now, my memory is a little hazy. You can read
10 me a statute and so forth. I'm familiar with most
11 statutes in this state, not verbatim. But -- but I
12 take your word for it as an officer of the court.

13 Q. What I'm really getting at, is did you have
14 any reason to object to the indictments as a notice
15 document?

16 A. No. This is -- it -- this is one of the cases
17 where notice is --

18 Q. And those indictments --

19 A. It's obvious that this was a double murder
20 case, and he -- he definitely knew that he was being
21 charged with a double murder. If you look at the
22 sentencing -- the sentencing by Judge McIntosh, it was
23 all about one thing, murder. And that was -- that was
24 from day one in this matter before me, with Mr. Potter,
25 and then myself.

1 Q. And if for some reason he was not aware of
2 what he was being charged with, would you have let him
3 go forward with the plea?

4 A. No. I think neither I, nor his family, nor my
5 investigators, nor Judge -- first of all, Judge
6 McIntosh wouldn't have done -- wouldn't have let him go
7 through with the plea. He would be -- admonish me for
8 letting someone go forward with a plea like that.

9 Q. And I know some of these questions are
10 redundant, and I really --

11 A. Not --

12 Q. -- appreciate you helping me make a record on
13 this. The last question, if you had successfully moved
14 to quash the indictments, what benefit would that have
15 had to your client?

16 A. There would be no benefit to him. All -- it's
17 -- it's a notice State, I would -- it would -- I would
18 more than likely obviously be, um, unsuccessful. But
19 it wouldn't really make any sense when you got someone
20 that's charged with double murder. They have had, I
21 would assume bond hearings before that for double
22 murder --

23 Q. Thank you, Mr. Robinson. The State would have
24 just reindicted him; is that correct?

25 A. They would have -- they would have reindicted

S. ROBINSON -- CROSS BY MR. WHITMIRE

1 him the same day or the next day probably.

2 Q. Just a few more questions regarding the
3 amendments brought to this court today.

4 A. Okay.

5 Q. Were you able to formulate a defense theory
6 through your representation and preparations?

7 A. We tried to. We looked at -- we looked at the
8 -- we went down to the -- the site. It happened at,
9 um, this boat lodge. We tried to find people that
10 maybe had seen anything. It was in the dark and so
11 forth, but we couldn't find anyone that could -- that
12 actually saw what happened.

13 Q. But your defense was benefited by credibility
14 concerns regarding some of the witnesses?

15 A. There really were no witnesses in this case.
16 You had -- I -- if I can remember this right, he -- he
17 was in a -- I guess they -- they chased -- it was like
18 a drug deal almost -- kind of his father, and these
19 guys that Mr. Sanders was with, Mr. Sanders had a gun.
20 And at one point, took shots through the windows of the
21 car that killed his father and stepmother.

22 Q. Mr. Robinson, you spent a year plus on this
23 case, when you took Mr. Sanders to enter a guilty plea,
24 if he wanted you to investigate any of these other
25 issues he's bringing up today, would you had withdrawn

L. SANDERS -- DIRECT BY MS. WHISENHUNT

1 it and investigated them?

2 A. We would have stopped; absolutely.

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

4 Thank you.

5 THE COURT: All right. And I apologize for
6 standing, but my back is bothering me. Anything on
7 redirect?

8 MS. WHISENHUNT: At this point, Your Honor, I
9 don't have any additional questions for Mr. Robinson,
10 but I do need to call Landon Tom Sanders to the stand.

11 THE COURT: Okay. Thank you, sir.

12 THE WITNESS: Thank you.

13 THE COURT: You can step down. Do you want to
14 keep Mr. Robinson here?

15 MS. WHISENHUNT: That would be good.

16 THE COURT: Okay.

17 MS. WHISENHUNT: That would be helpful.

18 THE COURT: Have you got time to stay for just a
19 little while?

20 THE WITNESS: Yes, I can --

21 THE COURT: And we'll finish.

22 THE CLERK: I need you to raise your right hand.

23 LANDON T. SANDERS, having
24 been first duly affirmed, testified as follows:

25 THE CLERK: If you would take the witness stand,

L. SANDERS -- DIRECT BY MS. WHISENHUNT

1 and state your name and spell your last name for the
2 record.

3 THE WITNESS: Yes, sir. My name is Landon Thomas
4 Sanders.

5 DIRECT EXAMINATION BY MS. WHISENHUNT:

6 Q. Mr. Sanders, do you understand the purpose of
7 this PCR hearing?

8 A. Yes, ma'am.

9 Q. Okay. Do you understand we're here on your
10 application that you filed for the hearing?

11 A. Yes, ma'am.

12 Q. Okay. And you also understand that the judge
13 has given us some leeway to ask you about some
14 additional issues related to your trial preparation and
15 the preparation for the plea, and the case
16 investigation; do you understand that?

17 A. Yes, ma'am.

18 Q. All right. Do you understand that if you are
19 successful in this hearing, you will not automatically
20 be released?

21 A. Yes, ma'am.

22 Q. And have I explained the risks of the PCR to
23 you, and being successful at the PCR?

24 A. Yes, ma'am.

25 Q. Okay. If your plea is set aside, do you

L. SANDERS -- DIRECT BY MS. WHISENHUNT

1 understand that you would have the opportunity to
2 negotiate either another plea or go to trial?

3 A. Yes, ma'am.

4 Q. Okay. And it's possible, as a result of
5 either another plea or trial, you could actually get
6 more time than you have now?

7 A. Yes, ma'am.

8 Q. Okay. Understanding those risks, do you want
9 to go forward with the PCR?

10 A. Yes, ma'am.

11 Q. Okay. Let's talk about your plea, and we'll
12 start with the events leading up to your plea. Okay.
13 Prior to the plea, did you meet with Mr. Robinson?

14 A. Yes, ma'am, towards -- towards when it was
15 time for me to get ready to plea, he and the
16 investigators would come talk to me.

17 Q. Okay. And he mentioned two investigators, a
18 Brad Baxter and a Jeff Black; are you familiar with
19 those individuals?

20 A. Yes, ma'am.

21 Q. Okay. And were they either part of the
22 meeting or did they meet with you independently?

23 A. They were a part of the meeting.

24 Q. Okay. There's an issue that you raise in the
25 application about the indictments; did Mr. Robinson

L. SANDERS -- DIRECT BY MS. WHISENHUNT

1 specifically go over the indictments with you?

2 A. No, ma'am, he did not.

3 Q. Did he explain that they were required to be
4 presented to a Grand Jury?

5 A. No, ma'am.

6 Q. Did he explain that if they weren't presented
7 to the -- a Grand Jury, you would actually have to
8 waive presentment?

9 A. No, ma'am.

10 Q. All right. Did, at any point, you understand
11 that there may be a problem with those indictments?

12 A. No, ma'am.

13 Q. Okay. Did you learn that they potentially had
14 a problem after, in fact, you pleaded?

15 A. Yes, ma'am.

16 Q. Okay. Did Mr. Robinson and his investigators,
17 when they met with you, fully explain your
18 constitutional rights to you?

19 A. Fully explain -- no, ma'am, they did not.
20 They stated what they were, but they did not fully
21 explain to where I understood.

22 Q. Okay. Now, we have the transcript of the
23 guilty plea. And you and I talked about that, and the
24 judge asked you about those constitutional rights,
25 right to a jury; the right to call witnesses; the right

L. SANDERS -- DIRECT BY MS. WHISENHUNT

1 to remain silent if you chose to -- all of those
2 things. And I know he went over them in the plea.

3 A. Yes, ma'am.

4 Q. But do you feel like you had enough time that
5 you were able to ask the questions you needed to of Mr.
6 Robinson about those rights?

7 A. No, ma'am.

8 Q. In retrospect, do you feel like you didn't
9 understand them?

10 A. Yes, ma'am. I feel like I did not understand
11 them.

12 Q. Okay. And now let's talk -- before you
13 decided to plea, did Mr. Robinson review the discovery
14 with you that he had received from the State?

15 A. He reviewed bits and pieces of it, but still
16 to this day, I do not have my full discovery. I'm
17 missing some forensics. I'm missing pictures out of my
18 discovery --

19 Q. Let's take one thing at a time. When you say
20 "he reviewed bits and pieces", first and foremost, did
21 he ever send you a packet of discovery, or provide you
22 a copy of the discovery?

23 A. Yes, ma'am.

24 Q. Okay. So you did get some things?

25 A. I got some things.

L. SANDERS -- DIRECT BY MS. WHISENHUNT

1 Q. Okay. And then were there oftentimes when he
2 would bring things to meet with you and show those to
3 you?

4 A. As far as?

5 Q. Other pieces of discovery, or other
6 information that he had gotten?

7 A. Well, if it was something that he had like --
8 like something that he had already sent me, he never
9 brought anything that I didn't have.

10 Q. That you didn't have. Okay. So you had a
11 complete copy. Now, let's talk about that complete
12 copy and what concerns you. All right. In that
13 complete copy, is there a reference to something that
14 you've never seen? Is there a reference in that
15 discovery to something you've never seen?

16 A. Yes, ma'am.

17 Q. And what does that discovery reference that
18 you've never seen?

19 A. Cell phone records, ah --

20 Q. Is that through text messages?

21 A. Yes, ma'am, and that would be in my favor.
22 And there is evidence of -- of a fingerprint being in
23 the victim's car --

24 Q. Okay.

25 A. That I --

L. SANDERS -- DIRECT BY MS. WHISENHUNT

1 Q. The fingerprints in the victim's car, did you
2 ever see those fingerprints?

3 A. No, ma'am.

4 Q. Okay. You knew they existed from the
5 discovery?

6 A. Yes, ma'am.

7 Q. But to your knowledge, did your attorney ever
8 follow-up on those fingerprints?

9 A. No, ma'am, he did not.

10 Q. All right, sir. You've mentioned the
11 telephone records and the fingerprints. Are there
12 anything -- is there anything else that was in your
13 discovery that concerned you that your attorney didn't
14 fully investigate; that if he had may have changed what
15 you -- how you proceeded?

16 A. Yes, ma'am. Because there was a statement
17 made of -- made by a person that I'm not familiar with,
18 that they had said that they was with me on that night,
19 and they handed me a gun, which it was a revolver.
20 Okay --

21 Q. And so there's potentially statements of other
22 witnesses and what they did with guns?

23 A. Yes, ma'am.

24 Q. Okay. All right. And I'm trying to think,
25 was there anything in reviewing that discovery that you

L. SANDERS -- DIRECT BY MS. WHISENHUNT

1 saw that you were concerned that Mr. Robinson may not
2 have fully investigated?

3 A. Yes, ma'am. There -- aside from the -- there
4 were certain statements made about people being in the
5 back seat of the victim's car -- as a matter of fact,
6 it was actually made by one of my co-defendants, that
7 he knew for a fact that there was other people in the
8 back of the victim's car. But they -- the people in
9 the back of the victim's car --

10 Q. So it's your position that would have been
11 witnesses that Mr. Robinson didn't talk to?

12 A. Possibly.

13 Q. And then finally, at the -- the last thing I
14 remember you mentioning to me when we reviewed it, is
15 that -- was there a question about a statement that you
16 had given law enforcement that you brought to your
17 attorney's attention?

18 A. Yes, ma'am. He never had the signature
19 checked to see if it was forged or not, but it is a
20 regular forged confession.

21 Q. Okay. All right. One moment. In regards to
22 him discussing the plea negotiations with you, did you
23 ever discuss alternative plea possibilities with him or
24 alternative resolutions, such as reducing charges, or
25 Y-O-A, or anything like that?

L. SANDERS -- CROSS BY MR. WHITMIRE

1 A. No, ma'am.

2 Q. Were the -- was it possible those weren't an
3 option in the case?

4 A. Not to my knowledge; it was never presented to
5 me.

6 Q. Okay. Uh, when you ultimately decided to plea
7 -- uh, and I -- I may be redundant here, but I just
8 want to make sure the record's clear -- did he go over
9 those waiver of rights information with you prior to
10 the plea?

11 A. Briefly.

12 Q. And it's your position that you didn't fully
13 understand them?

14 A. Yes, ma'am.

15 MS. WHISENHUNT: Those are all the questions I
16 have.

17 MR. WHITMIRE: May it please the court.

18 THE COURT: Yes, sir.

19 MR. WHITMIRE: I just have a few really quick
20 questions.

21 THE COURT: Okay.

22 **CROSS EXAMINATION BY MR. WHITMIRE:**

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. Mr. Sanders, when is the first time you

L. SANDERS -- CROSS BY MR. WHITMIRE

1 learned about post conviction relief in South Carolina?

2 A. Sometime after I got down to prison or maybe
3 right after I took my plea.

4 Q. But do you recall Judge McIntosh explaining to
5 you what post conviction relief is?

6 A. No, sir, I don't recall that.

7 Q. And you also don't recall that he explained he
8 didn't want this case coming back on post conviction
9 relief; if you didn't understand it and you didn't want
10 to go forward?

11 A. Yes, sir.

12 Q. Do you recall that?

13 A. Yes, sir.

14 Q. Okay. Why didn't you tell Judge McIntosh you
15 were having problems understanding your waiver of
16 rights?

17 A. Because it was something me and my lawyer had
18 worked out.

19 Q. So you got the guilty plea you expected going
20 into it?

21 A. Not what they made known to me.

22 Q. Which is the minimum sentence for one murder;
23 is that correct?

24 A. For --

25 Q. Thirty years?

1 A. Yes, sir.

2 Q. And you committed two murders?

3 A. I did not commit no murder.

4 Q. You were served your arrest warrant after your
5 arrest; is that correct?

6 A. Yes, sir.

7 Q. And you knew the State was going to take you
8 to trial or plead you out for these two murders and
9 weapons charges; is that correct?

10 A. Yes, sir.

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

12 THE COURT: Anything else on redirect?

13 MS. WHISENHUNT: Nothing on redirect, Your Honor.

14 THE COURT: All right. Thank you, sir. You can
15 step down.

16 THE WITNESS: Yes, sir.

17 MS. WHISENHUNT: We have no additional witnesses,
18 Your Honor.

19 THE COURT: All right. I'm assuming that you are
20 incorporating any allegations from his application into
21 your argument for me to consider; right?

22 MS. WHISENHUNT: Yes, Your Honor.

23 THE COURT: Which is normal. Anything you need to
24 -- you feel like you need to respond to, that --

25 MR. WHITMIRE: Your Honor, I'd be happy --

1 THE COURT: -- surprised you today?

2 MR. WHITMIRE: -- to answer any questions. At the
3 end of the day, the allegations are the result of mere
4 speculation, no evidence has been produced.

5 Mr. Robinson gave credible testimony. Mr.
6 Sanders was aware the State was going to take him to
7 trial for murder with malice aforethought from day one.
8 This has been an issue that's been cropping up a lot
9 recently from inmate litigation regarding the terms of
10 General Sessions and the indictments. Mr. Robinson
11 gave some testimony to that effect today, what an
12 indictment is, how it plays out in preparation.

13 Like I said, I'd be happy to answer any
14 questions, but --

15 THE COURT: No.

16 MR. WHITMIRE: The respondent rests.

17 THE COURT: No, I -- I have heard it and
18 understand it.

19 MS. WHISENHUNT: And I just wanted to indicate
20 that I know there's some question about whether he got
21 notice. And the issue, Your Honor, is not necessarily
22 the notice from the indictment, but that the
23 indictments were faulty because they were not in a
24 proper session of court. And this is an issue that's
25 been litigated. It's addressed in his brief.

1 I have one additional case that I would like to
2 provide to the court that is a follow-up to a case that
3 he actually cited in his brief, State v. Kohn (ph) --
4 it's Evans v. State. It's the case that we have
5 summarized --

6 THE COURT: And tell me again, just briefly, what
7 the issue is on -- on terms of court? I mean, there
8 was a General Sessions term of court?

9 MS. WHISENHUNT: But our position is -- and I know
10 that Mr. Whitmire will want to respond -- our position
11 is that there is a specific statute -- and I have that
12 statute for you, Your Honor -- that states when those
13 terms of court should be held in the 10th Circuit.
14 That's 14-5-750, terms of court in the 10th Circuit.

15 And the June term of court that was held, in
16 which he was indicted, is not specifically delineated
17 as a term of court that can be held. So his primary
18 position is because it wasn't held during that
19 statutory mandated time, that it's got to be invalid.

20 THE COURT: All right. What happened that week?
21 Was that a week that -- do you know whether that was a
22 week that -- because as often happens, a General
23 Sessions term breaks down, and we go to Common Pleas or
24 vice versa; does anybody know?

25 MR. WHITMIRE: Your Honor, we didn't investigate.

1 It's a 12-B-6. It's also a matter of summary judgment.
2 And I cited the statute that says you can hold General
3 Sessions during a term of Common Pleas on 14-5-410;
4 ultimately, per Gentry v. State, an indictment is a
5 notice document. You heard testimony today that
6 reflects Mr. Sanders was on notice of what he was, uh,
7 called to face at trial.

8 THE COURT: Yeah. I'm just wondering how you
9 ended up -- you're alleging there was a General
10 Sessions term that wasn't scheduled?

11 MS. WHISENHUNT: Well, apparently, there was.
12 Because this indictment is from June of 2011, and that
13 is not a term of court that's mandated by the statute.

14 THE COURT: The indictment is from...?

15 MS. WHISENHUNT: The indictment --

16 THE COURT: Well, then that could have been a -- a
17 Grand Jury term.

18 MS. WHISENHUNT: Well, that's what I'm saying.
19 The -- the --

20 THE COURT: I thought you said General Sessions.
21 You're talking about a Grand Jury?

22 MR. WHITMIRE: Your Honor, the general statute
23 lays out that an indictment -- a Grand Jury must return
24 an indictment during a term of General Sessions, rests
25 strictly if it's been the basis for many successive PCR

1 allegations --

2 THE COURT: Right.

3 MR. WHITMIRE: However, when you read the statute
4 with other statutes, such as the one I cited, it's just
5 a matter of is the inmate indicted within the year of
6 the Grand Jury presentment; is he on notice --

7 THE COURT: I got you. Okay. I -- I understand.
8 I misunderstood you. Okay. All right. If something
9 pops up, if you think of something tonight, I'm not
10 going to hold you to it. If you want to send me a
11 short letter, it'll take me the rest of the week. I've
12 got them packed in here and I've got to be somewhere in
13 a few minutes. So I'll take it under advisement and
14 let you know.

15 MR. WHITMIRE: One final matter, Your Honor, I
16 don't believe applicant is producing proof that he was,
17 in fact --

18 THE COURT: I'm sorry?

19 MR. WHITMIRE: I don't the applicant has produced
20 any -- any proof -- credible proof that he was, in
21 fact, indicted in a term outside of a term of General
22 Sessions, but just as a matter I argued on --

23 THE COURT: Yeah, I'll assume y'all disagree on
24 that.

25 MS. WHISENHUNT: Okay. And for the record, I

1 would like to pass up the two statutes, the one I
2 referenced, and 14-9-170, that deal with the criminal
3 terms of court, and the Grand Jury one that he
4 mentioned that says it should be held during a General
5 Sessions term of court, as well as Evans v. State, just
6 so you have, Your Honor, that --

7 THE COURT: Okay. Ms. Shirley, do you mind
8 getting the dates from her and see if you can tell me
9 what happened that week?

10 THE CLERK: Sure. Thank you.

11 THE COURT: Thank you. All right. Thanks for
12 y'all's patience this morning. I apologize.

13 (Whereupon, the hearing adjourned.)

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1 CERTIFICATE OF REPORTER

2

3 I, SHARON D. JONES, CERTIFIED COURT REPORTER,
4 DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE,
5 ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE
6 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF
7 THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF
8 COMMON PLEAS FOR ANDERSON COUNTY ON THE 19TH OF
9 FEBRUARY, 2014.

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

12

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10.21.15

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Sharon D. Jones

16

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SHARON D. JONES,
CERTIFIED COURT REPORTER

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF ANDERSON)

Landon T. Sanders,
S.C.D.C. No. 236967**A TRUE COPY**

JUL 16 2015

Applicant *Richard M. Bailey*
CLERK OF COURT

TENTH JUDICIAL CIRCUIT

C.A. No. 2013-CP-04-294

COMMON PLEAS AND
GENERAL SESSIONS

JUL 16 2015

FILED-CLERK'S OFFICE
ANDERSON SC

v.

State of South Carolina,

Respondent.

**ORDER OF DISMISSAL
(with prejudice)**

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on February 12, 2013. Respondent filed its responsive pleadings. An evidentiary hearing into the matter was convened on February 19, 2014 at the Anderson County Courthouse. Applicant was present at the hearing and was represented by Linda Whisenhunt, 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 Anderson County Clerk of Court. Applicant was indicted at the June 2011 term of the Anderson County Grand Jury for two counts of murder (2011-GS-04-1030; -1031) and two counts of possession of a weapon during a violent crime (2011-GS-04-1032; -1033). Applicant was represented by Scott Robinson, Esq. On May 9, 2012, Applicant pled guilty as indicted. Applicant was sentenced by the Honorable R. Lawton McIntosh pursuant to negotiations to two terms of confinement for thirty years (30) for both indictments of murder, and five years for both indictments of possession of a weapon during a violent crime. The sentences were to be served concurrently. Applicant did not

appeal.

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

1. The Circuit Court lacked subject matter jurisdiction to take his plea.
2. Ineffective Assistance of Counsel:
 - a. failure to investigate State's evidence and exculpatory evidence limited to ballistics, phone records, fingerprints, and witness statements;
 - b. failure to expend an sufficient amount of time discussing the consequences of pleading guilty with Applicant;
 - c. failure to object to the Circuit Court's lack of subject matter jurisdiction.

SUMMARY OF EVIDENCE AND TESTIMONY PRESENTED

(a) Applicant's Testimony

Applicant alleged counsel was ineffective for failing to investigate ballistics, fingerprints, phone records, and exculpatory statements made by witnesses. He testified that he recently obtained a copy of the State's discovery disclosures in his case. He stated that he was unaware of certain evidence that included phone records, text messages and fingerprints obtained from the victim's vehicle. Applicant testified he recently learned that State disclosed witness statements. He vaguely exclaimed that one witness placed the murder weapon in another person's possession. He also vaguely exclaimed that another witness gave a statement that put unknown persons in the backseat of the victims' vehicle at the time of the murders. Applicant did not name these unknown witnesses. Next Applicant testified that counsel never looked into ballistics evidence to determine the trajectory of the shots fired into the vehicle. He speculated that the ballistics investigation would have constituted exculpatory evidence. He claimed that he never confessed and accused the police of forging his confession. However, Applicant stated that he met with counsel and his two investigators prior to trial.

Applicant alleged counsel was ineffective for failing to object to plea judge's lack of subject matter jurisdiction to accept his negotiated plea. According to Applicant, the Anderson County Grand Jury did not meet during a scheduled term of General Sessions when he was true billed. Applicant cited to a discrete code section in support of his allegation. Applicant claimed counsel never discussed the indictments with him. Yet, he testified that the four arrest warrants, two murder charges and two weapons possession during the commission of a violent offense, were served on him soon after the murders. Furthermore, he acknowledged that he understood that the State accused him of murder and was planning on taking his case to trial. Applicant also alleged the same baseline facts and arguments substantiated an involuntary guilty plea claim based on the plea judge's lack of subject matter jurisdiction.

Last, Applicant alleged counsel's performance rendered his guilty plea involuntary. He testified that counsel advised him of his constitutional waiver of rights with Applicant prior to the plea hearing but claimed counsel should have spent more time explaining the plea to him. Applicant recalled hearing about PCR when the plea judge cautioned him to speak candidly because he did not want the entire case relitigated at a future PCR hearing.

(b) Counsel's Testimony

Counsel testified to his course of conduct during the representation. Counsel was retained and inherited Applicant's case from the seasoned Anderson County Public Defender, Andy Potter, Esq. Applicant had made court appearances with his Attorney Potter when his representation began. Counsel labored for over one year on this case. He stated that his efforts were aided by his defense team that included two private investigators. The defense team would meet with Applicant at his beckon call. He stated that they met with Applicant numerous times prior to his plea hearing. Counsel noted that the State's ballistics evidence was not beneficial to

Applicant's defense. The phone records were immaterial where there was no alibi evidence. Counsel echoed the same sentiment regarding irrelevant fingerprints found in the victims' vehicle. He stated, "[Applicant] killed his father and step mother. We didn't have an alibi or anything like that." Applicant had the gun and shot through the victims' vehicle and killed them. Counsel testified he extensively sought out any and all witnesses in formulating a defense theory of the case. He noted that there were no helpful witnesses here. Counsel testified he would have pursued any viable defense during the representation had it been warranted.

Counsel stated Applicant knew exactly what he was facing. The arrest warrant served on Applicant clearly stated that the police had probable cause to believe Applicant killed both victims with malice aforethought. He recalled no reason to make a motion to quash the indictments. Furthermore, counsel noted that a successful motion to quash would have only resulted in Applicant being reindicted. Counsel was incredulous that Code Section Fourteen carried any real practice significance because South Carolina is a notice jurisdiction.

Last, counsel testified to the terms and conditions of the plea offer. He advised counsel of every germane aspect about the plea offer. Counsel adamantly testified that he would not have allowed Applicant to go forward with the plea had he been aware Applicant was not on notice that he was charged with murder.

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 Applicant received the benefit of competent counsel concerning the allegations at issue. The representation lasted over a year where counsel was aided by two private investigators. The seasoned solicitor's comments at Applicant's plea hearing evidenced the defense team's success in exploiting minor weaknesses in the State's evidence despite the overwhelming evidence of Applicant's guilt. As a result Applicant received a generous plea deal from the State. Despite Applicant's recent consternation to the contrary, this court finds that the credible evidence unequivocally shows Applicant entered a knowing, intelligent and voluntary guilty plea. This Court finds Applicant's allegation that the plea court lacked subject matter jurisdiction based upon an alleged procedural irregularity in the manner the Grand Jury indicted Applicant to be facially without merit.

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), SCRCP; 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, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). After careful review based on the standard discussed above, the Applicant has failed to carry his burden in this action.

A.

This Court finds Applicant's allegation that Judge McIntosh lacked the subject matter jurisdiction to take accept his plea and impose a sentence to be wholly without merit.

"[T]he United States Supreme Court, in United States v. Cotton, 535 U.S. 625 (2002), held that a defective indictment does not deprive a court of jurisdiction." State v. Gentry, 363 S.C. 93, 99, 610 S.E.2d 494, 498 (2005). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). See also S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the indictment document. See Gentry, 363 S.C. 93, 610 S.E.2d 494; Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994). An Applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d

846 (2001), overruled in part by Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). However, "[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters." Gentry, 363 S.C. 93, 610 S.E.2d 494, 499 (2005); see also S.C. Const. Art. V, § 7.

This Court finds Applicant's argument that the Grand Jury was not scheduled to convene when his indictments were signed is without merit. While terms of court are technically prescribed by statute, this Court notes general sessions matters may be transacted during common pleas terms of court and vice versa. See S.C. Code Ann. §§ 14-5-410, -420 (Supp. 2003). Regardless, this Court finds counsel's testimony that Applicant was certainly on notice of the State's charges to be dispositive. Therefore, this allegation is denied and dismissed with prejudice.

Similarly, this Court finds Applicant's companion allegation that counsel was ineffective for failing to object to Circuit Court's lack of subject matter jurisdiction to be without merit. For reasons announced above, this Court cannot assign error to counsel for failing to make frivolous jurisdiction argument. Therefore, this allegation is also denied and dismissed with prejudice.

B.

This Court finds Applicant entirely failed to meet his burden to prove ineffective assistance of counsel – failure to investigate State's evidence and exculpatory evidence limited to ballistics, phone records, fingerprints, and witness statements.

"Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (internal citations omitted). "A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's

representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial." Kolle v. State, 386 S.C. 578, 588, 690 S.E.2d 73, 78 (2010)

The allegation was defective and conclusory. See Miller v. Johnson, 200 F.3d 274, 282 (5th Cir. 2000) (A conclusory allegation of ineffectiveness raises no constitutional issue because a petitioner must show how counsel was deficient and how there was prejudice); see also U.S. v. Taylor, 802 F.2d 1108, 1119 (9th Cir. 1986) (Vague and speculative assertions are deficient). In light of counsel's credible testimony on the matter, this Court finds Applicant's allegation rested upon his suspect testimony and speculation. See Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result). Therefore, this allegation is readily denied and dismissed with prejudice.

C.

This Court finds Applicant entirely failed to meet his burden to prove ineffective assistance of counsel -- failure to expend an sufficient amount of time discussing the consequences of pleading guilty with Applicant.

"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 is similarly defective. Turner v. Calderon, 281 F.3d 851, 878 (9th Cir. 2002) (A claim that counsel was ineffective for failure to safeguard defendant's interests failed). Regardless, Applicant has provided this Court with no compelling, let alone credible, justification of why he should be allowed to depart from the presumption of verity in his statements and assurances made to Judge McIntosh during the colloquy. See Crawford v. United States, 519 F.2d 347 (4th Cir.1975) (Statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements). Again, in light of counsel's sufficient testimony on the matter, and for reasons announced above, this allegation is 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 his 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), SCRCR, 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 15 day of July, 2015.


HONORABLE J. CORDELL MADDOX
Presiding Judge
Tenth Judicial Circuit

Anderson, South Carolina

FILED-CLERK'S OFFICE
ANDERSON SC
2015 JUL 16 AM 10:03
COMMON PLEAS AND
GENERAL SESSIONS

WITNESSES

Wayne Mills, Anderson County Sheriff's Dept.

DOCKET NO. 2011GS04 01030

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

JUN 28 2011

Term

ARREST WARRANT NUMBER

J899889

THE STATE

vs.

Landon Thomas Sanders

ACTION OF GRAND JURY

JUN 28 2011

Foreperson of Grand Jury
Date:

VERDICT

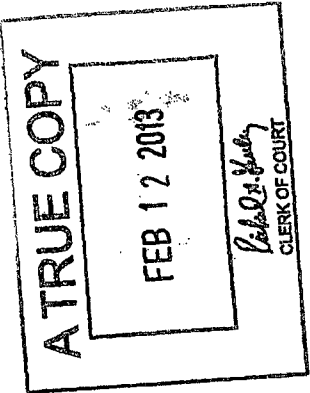
RLC

Indictment for

Murder / Murder

SC Code: 16-03-0010, 0020
CDR Code: 0116

Foreperson of Petit Jury
Date:



STATE OF SOUTH CAROLINA)
)
 COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened JUN 28 2011, the Grand Jurors of
 Anderson County present upon their oath:

Murder / Murder

That Landon Thomas Sanders did in Anderson County, on or about March 22, 2011,
 unlawfully and with malice aforethought kill Jason Ashley Sanders by means of by shooting him
 with a firearm, and that Jason Ashley Sanders died as a proximate result thereof. This is in
 violation of §16-3-10 of the *South Carolina Code of Laws (1976)*, as amended.

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

Ramel Campbell
 ASSISTANT SOLICITOR

