

Volume II of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

RECEIVED

OCT 10 2012

S.C. Supreme Court

JOSEPH MORRISON, III,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2011-201592

A P P E N D I X

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1 the jury had a question.)

2 JURY QUESTION

3 MS. POTEAT: --- detective Broske says that the
4 bullet was found an inch or so away from the hat, but he
5 goes on to speculate maybe it was in the hat before they
6 rolled the body over. I have problems with emphasizing that
7 to the jury if he didn't have any way of knowing. If they
8 just want the answer to where the bullet was found, I think
9 we can agree ---

10 MR. YOUNG: They want the testimony I think is
11 the question.

12 THE COURT: No, they asked me a question. Was
13 it imbedded on the ground or was it on the ground.

14 MR. YOUNG: Well he says it may have been in
15 the hat and it fallen out when they turned him over. They
16 found it on the ground. That's the way he says it.

17 THE COURT: Well ya'll want me to just tell the
18 jury it was found on the ground?

19 MS. POTEAT: If that's where it was found.

20 THE COURT: Ya'll want to read the note?

21 MR. YOUNG: I prefer that they hear the
22 testimony.

23 MS. POTEAT: Well, of course he would because
24 Detective Broske speculates as to whether or not it was in
25 the hat.

1 THE COURT: Well, it's in -- that's the record
2 of the case. You got something you want ---

3 MS. POTEAT: Well, we can answer their question
4 without replaying the testimony. If we replay the
5 testimony ---

6 THE COURT: Not if he disagrees.

7 MS. POTEAT: I don't think we disagree with
8 where the bullet was found.

9 MR. YOUNG: Well it could have either been in
10 the hat and fell out of the hat when he was turned over as
11 he suggests.

12 THE COURT: Well you want me to just tell them
13 it wasn't imbedded in the ground?

14 MS. POTEAT: I think they should be told it was
15 found on the ground.

16 MR. YOUNG: I just like to go with the evidence
17 on the record, Your Honor.

18 THE COURT: Do what?

19 MR. YOUNG: I'd just like to go with the
20 evidence on the record.

21 THE COURT: All right. So what does he say?

22 MR. YOUNG: The testimony is and basically ---

23 THE COURT: Well in one part it says it was
24 found on the ground, right?

25 MR. YOUNG: It was found on the ground.

1 THE COURT: All right. Well we'll play that
2 one part.

3 MR. YOUNG: It may have been in the hat.

4 THE COURT: All right. Well we're not going
5 the play that. We'll play the part that says it was found
6 on the ground.

7 MR. YOUNG: All right.

8 MS. POTEAT: Well ---

9 THE COURT: If they want to hear anything else,
10 I will let them hear whatever else they want.

11 MS. POTEAT: Can we ask them if they just want
12 the answer to the question or if they actually want to hear
13 the testimony? I don't know that we actually need to bring
14 them out here.

15 THE COURT: Bring your client out because we're
16 going to bring them in.

17 THE COURT REPORTER: Can we find it first, Your
18 Honor?

19 THE COURT: I though you already found it.

20 THE COURT REPORTER: We're right there. I just
21 need to know where they need it to start.

22 THE COURT: Well the question was where was it
23 found and when it says it was found on the ground, stop.

24 (WHEREUPON the following testimony was played
25 for the court:)

1 Questioning of Detective Broske by Mr. Young:

2 A There appeared to be a head wound. We couldn't tell
3 whether it was a single head wound or not at the time,
4 but there was a head wound on the victim that was
5 noticeable.

6 Q What kind of head wound was it?

7 A It was really impossible to tell what type of head
8 wound it was. As far as my experience came to mind, it
9 appeared to be a head wound caused by a weapon or a
10 pistol, but there was no way to tell just by looking at
11 it, but from my experience kind of pointed to me that
12 it was a, some type of a ---

13 Q Did you find any evidence at the scene that would infer
14 the existence or possible evidence in connection to a
15 gunshot wound?

16 A Yes, sir. Right at the area of the body and the head,
17 where the hat was, I found two spent shell casings.
18 That means that the nose of the bullet was not in it,
19 it was just an empty rear part of a bullet and one
20 bullet nose which is the actual bullet itself that
21 exits the chamber of the weapon.

22 Q Do you recall where those items were located?

23 A They were located right there by the hat where the head
24 was located before the body was turned over.

25 (WHEREUPON the tape was stopped.)

1 THE COURT: All right. Stop it right there.
2 Start with the question, did you find any physical evidence
3 at the scene and he can say yes, we found two cartridges
4 and go to the end of that.

5 All right. Let's -- can you do that?

6 (WHEREUPON the court reporter found the
7 specific portion.)

8 THE COURT: All right. Let's bring the jury
9 in.

10 (WHEREUPON the jury entered the courtroom at
11 4:20 p.m.)

12 THE COURT: All right. Madame Forelady, I got
13 your note and the note asked, The bullet that went through
14 the neck, was it found ---

15 MS. THOMPSON: Imbedded.

16 THE COURT: --- imbedded in the ground or on
17 the ground itself. I can't answer that question for you,
18 but what I can to is let you hear testimony from a witness
19 who found the item at the scene and hopefully this will
20 answer your question. If you need more information, we'll
21 try and get that by playing whatever testimony that might
22 be helpful to you.

23 All right. Madame Court Reporter -- and the
24 reason that it's taken so long is we had the find it on the
25 tape.

1 (WHEREUPON the following testimony was played
2 for the jury:)

3 Questioning of Detective Broske by Mr. Young:

4 Q Did you find any evidence at the scene that would infer
5 the existence or possible evidence in connection to a
6 gunshot wound?

7 A Yes, sir. Right at the area of the body and the head,
8 where the hat was, I found two spent shell casings.
9 That means that the nose of the bullet was not in it,
10 it was just an empty rear part of a bullet and one
11 bullet nose which is the actual bullet itself that
12 exits the chamber of the weapon.

13 Q Do you recall where those items were located?

14 A They were located right there by the hat where the head
15 was located before the body was turned over.

16 (WHEREUPON the tape was stopped).

17 THE COURT: That's the testimony that we can
18 recall that relates to that information. If you need
19 something more, let me know and we'll be glad to try and
20 find that for you.

21 All right. Ya'll may retire to your jury room
22 and resume your deliberations.

23 (WHEREUPON the jury left the courtroom at 4:22
24 p.m.)

25 THE COURT: All right. I will make this note a

1 Court's Exhibit No. 1, is that correct.

2 THE COURT REPORTER: Yes, sir.

3 THE COURT: Anything from the State with
4 respect to the response to the note?

5 MR. YOUNG: I'm sorry, Your Honor I apologize I
6 was listening to someone else talking to me. You said
7 something and I didn't hear it. I apologize.

8 THE COURT: Well, who's more important than me?

9 MR. YOUNG: Sir, she's prettier than you are.

10 THE COURT: That's not something in dispute.

11 MR. YOUNG: That's no excuse, either but...

12 THE COURT: Do ya'll have anything with respect
13 to the response to the note?

14 MR. YOUNG: No, sir, I don't.

15 THE COURT: Anything from the defendant?

16 MS. POTEAT: No, sir.

17 THE COURT: All right.

18 (WHEREUPON a recess was observed while the jury
19 deliberated.)

20 THE COURT: All right. It's been reported the
21 jury has reached a verdict. Is the State ready to receive
22 the verdict?

23 MR. YOUNG: We are, sir.

24 THE COURT: Is the defendant ready?

25 MS. POTEAT: Yes, Your Honor.

1 THE COURT: All right. Let's bring in the
2 jury.

3 (WHEREUPON the jury entered the courtroom at
4 5:30 p.m.)

5 VERDICT

6 THE COURT: All right. Madame Forelady, it's
7 been reported ya'll have reached a verdict?

8 MS. THOMPSON: Yes, sir, we have.

9 THE COURT: This is the unanimous verdict of
10 all 12 jurors?

11 MS. THOMPSON: Yes, sir.

12 THE COURT: If you would hand the verdict form
13 to the bailiff.

14 THE CLERK: Your Honor, we have State of South
15 Carolina vs. Joseph Morrison III, verdict -- Indictment No.
16 2003-GS-02-871, indictment for murder, we the jury
17 unanimously find the defendant Joseph Morrison III guilty,
18 dated October 23rd, 2003, signed by forelady, Judy
19 Thompson.

20 Madame Forelady, ladies and gentlemen of the
21 jury, if this is your verdict please indicate by raising
22 your right hand.

23 All hands are raised, Your Honor.

24 THE COURT: All right. Anything from the State
25 with respect to the jury?

1 MR. YOUNG: No, Your Honor.

2 THE COURT: Anything from the defendant?

3 MS. POTEAT: No, Your Honor.

4 THE COURT: All right. Madame Forelady, and
5 ladies and gentlemen of the jury, I thank you very much for
6 your service. We're going to turn you loose and you'll be
7 finished for the week. I know this is a difficult process
8 that you have to be involved in. But as you can see our
9 system doesn't work without the participation of members of
10 the community. The good thing about it is you don't have
11 to serve on a jury for another 3 years if you get called
12 for having done this. So again I thank you.

13 If -- is somebody going to see them?

14 THE CLERK: Yes, sir, the bailiff has their
15 checks.

16 THE COURT: All right. If you'll step back
17 here, the bailiff will give you your checks and I'm not
18 sure what else, but again thank you ya'll very much and
19 have a nice weekend. Ya'll are finished for the week.

20 Let me tell ya'll one thing before you go. If
21 ya'll are approached by anybody about this case, you don't
22 have to talk to them. If you want to, you're certainly
23 free to talk to anybody you want to talk to about it, but
24 if you don't want to, just tell them that you're not
25 interested in talking. If they continue to pursue or

1 persist, get their names and let me know who they are and I
2 will deal with them.

3 All right. Thank you ya'll.

4 (WHEREUPON the jury left the courtroom at 5:40
5 p.m.)

6 **SENTENCE**

7 THE COURT: All right. Anything from the
8 State?

9 MR. YOUNG: No, Your Honor.

10 THE COURT: Anything from the defendant?

11 MS. POTEAT: No, sir.

12 MR. YOUNG: There's a matter concerning, of
13 course the appropriate statute and sentence given the date
14 of this offense. There's a 1994 statute affecting murder
15 convictions. You have a copy of that I provided to the
16 defense.

17 THE COURT: All right. Apparently under this
18 statute, there's only one sentence and that is life without
19 parole, or just life and then it doesn't look like they
20 give him -- under the present statute, it's 30 years to
21 life. This says persons convicted or pleading guilty must
22 be punished by death or by imprisonment for life and is not
23 eligible for parole until the service of 20 years. So it
24 doesn't sound like we have much option in terms of
25 sentence.

1 Do you agree or disagree with that, Ms. Poteat?

2 MS. POTEAT: I agree that those are the
3 options, yes, sir.

4 THE COURT: I mean life is the only option I
5 have would, you agree to that.

6 MS. POTEAT: Well, sir, the only other case
7 recently I've seen come up with this similar issue, the
8 defendant was given the opportunity to choose between the
9 30 years or life that was available under the new statute
10 or being sentenced under the old statute. But there were
11 some further negotiations in that case and that was a case
12 where the death penalty had originally been sought. Is
13 this a situation where the defendant gets to choose which
14 statute he's sentenced under?

15 THE COURT: I wouldn't think so. I would think
16 he would be sentenced under this statute. Of course, I
17 don't know why he would want to be sentenced under the new
18 statute.

19 MS. POTEAT: Yes, sir.

20 THE COURT: 30 years to life, day-for-day, you
21 get no parole.

22 MS. POTEAT: Yes, sir.

23 THE COURT: This one you're eligible for parole
24 at the end of 20 years.

25 MS. POTEAT: Well I agree that would be the

1 more lenient of the two sentences, but my concern is if I
2 need the have a discussion with Mr. Morrison about options.

3 THE COURT: Well, I'm not sure that he has any
4 options. What options are you saying?

5 MS. POTEAT: Well I have understood some judges
6 to say under similar circumstances that a defendant in this
7 situation or similar situation gets to choose whichever
8 statute they want to come under.

9 THE COURT: I've never heard or seen that. Do
10 you have something that says you have the right to choose
11 as to whether or not he's sentence under the new statute,
12 the existing statute or the statute that existed at the
13 time the murder took place?

14 MS. POTEAT: Well the premise that they get the
15 benefit of any change in the law. If there is a question
16 as to whether or not there is a benefit.

17 THE COURT: If you want to wait until tomorrow,
18 you can see what you can find out. I will be happy to
19 sentence in the morning if you want me too. The way I see
20 it he's -- the only option I have under this 1994 statute
21 is life.

22 MS. POTEAT: Under the '94 statute, that's
23 true.

24 THE COURT: Well, do you want to wait until
25 tomorrow and see what you can find?

1 MS. POTEAT: Could I have a minute to speak
2 with Mr. Morrison please?

3 THE COURT: Sure.

4 MS. POTEAT: We'll go ahead and go forward this
5 evening, Your Honor.

6 THE COURT: Under this statute?

7 MS. POTEAT: Yes, sir.

8 THE COURT: All right. Ya'll want to step up
9 here, please.

10 All right. Anything you want to tell me about
11 this defendant? Anything from the victim's family?

12 MR. YOUNG: Yes, Your Honor. Ms. Pollin and
13 Mr. Pollin's the decedent's father would like to say
14 something.

15 Ms. Pollin you want to go first?

16 This is Diane Pollin.

17 THE COURT: All right. Thank you. Diane
18 Pollin?

19 MR. YOUNG: Yes.

20 MS. POLLIN: Mr. Barber and to the court, this
21 has been the hardest 9 years I ever experienced in my life.
22 And we're so grateful that the jury found this man guilty
23 because it's been known that he was guilty all the time.
24 Even behind the jails I feel like he had been working with
25 me and my family because this girl that testified today,

1 Ms. Bartley, she's been in my house. She's been in my
2 house. She's been knocking on my door and she had nerve to
3 know this man, have a child by this man and she comes to my
4 house and I had no idea who she was.

5 And the first time I knew who she was when we
6 met her before and probably today, I bet she think I don't
7 remember, but I know she been to my home and it hurts to
8 know that this woman's been in my home, taking advantage of
9 things. She never asked me anything. I don't know what
10 she wanted.

11 THE COURT: All right.

12 MS. POLLIN: And yes, my son didn't have to
13 die, whether it was money, drugs, whatever, he didn't have
14 to die. There was other ways this could have been solved.
15 You did not have to kill my son. Chris was a beautiful
16 person and he will always be a beautiful person in our
17 hearts. You took something from us that we can never get
18 back. He has a son. He's 9 years old, two months old when
19 his father died and he's 9 years old with no father.

20 He has a beautiful mother, but he has no
21 father. I don't know whether you know what it's like to be
22 without a father. I just lost my father and I'm a grown
23 woman. I'm nearly 50 years old and I know what it's like
24 to be without a father and he has to live the rest of his
25 life without his father. Never know who he was or who he

1 was about. You have destroyed a family.

2 My life has been destroyed from day one when
3 you shot and killed my son. It's never been the same since
4 and it never will be the same because my son's gone and you
5 did this to us. My family hurts. All my family hurts.
6 And never once, every time I hear something about Joe
7 Morrison, it was never that Joe Morrison said that he was
8 sorry, Joe Morrison regret what he done. Even though he
9 wasn't even pronounced guilty at the time.

10 THE COURT: I need you to talk to me.

11 MS. POLLIN: Even though he wasn't pronounced
12 guilty at the time, but you hear everything in the street
13 but no one ever said that he had any kind of remorse.
14 Chris supposed to have been your friend from what I
15 gathered. I didn't know Joe Morrison. I had never met
16 him. As far as I know I had never met him. But I'm told
17 that they were supposed to be friends and never once anyone
18 come to me to say he had any kind of remorse about what had
19 happened whether he did it or not. He should have felt
20 something. Was he at the funeral? Was he at the funeral
21 home? Was he anywhere near us to console us? No. Never
22 once have I seen him until I came to this court and what I
23 seen in the papers.

24 And you has really destroyed my life for the
25 past 9 years and it will be destroyed for the rest of my

1 life because my son is gone.

2 I thank you, Judge.

3 MR. YOUNG: Your Honor, this is Christopher
4 Pollin, Sr.

5 THE COURT: Yes, sir?

6 MR. POLLIN: Yes, Your Honor, I'm glad that you
7 gave me this opportunity to speak. I want the court to
8 know and everybody else to know and Joe Morrison to know
9 how, not only did he shatter my son, Chris and end his
10 life, but it ended my family's life also. I can start with
11 my sister. She cannot even bear the thought of even
12 thinking about talking about the tragedy that happened to
13 her nephew.

14 My mother, bless her heart, she is still torn
15 up about it. Her life was ruined as his mother's was in
16 1994 when this tragedy happened to our son. And the day of
17 the funeral of my son, that was the first day that I ever
18 saw my father shed tears. So I know what it did to him
19 too. And he was unable to attend this trial because of his
20 health condition and it would only have made it worse.

21 So he has also shattered my family's life, not
22 to mention what it has done to me. It is not a day that
23 goes by, maybe I'm fortunate the Lord spares me. Not one
24 day that the death of my son does not cross my mind.
25 Again, he has shattered my family's lives. He changed our

1 lives forever.

2 So, therefore, I ask you to sentence him to the
3 maximum that you can for my family's lives is worse than
4 the children's Humpty Dumpty story. Without my son Chris,
5 our lives, the pieces of our lives can never be put back
6 together again.

7 THE COURT: All right. Thank you, sir.

8 MR. YOUNG: Your Honor, the State has a prior
9 record on Mr. Morrison if you choose to hear it.

10 THE COURT: Okay.

11 MR. YOUNG: Mr. Morrison's criminal history
12 begins in March of '92, Your Honor, with assault and
13 battery, criminal domestic violence, failure to obey a
14 lawful order of an officer about 9 months after that
15 conviction; simple possession of crack cocaine conviction
16 in '93, July of '93; assault and battery again in July of
17 '93; driving under suspension 5 days later. He was placed
18 into custody status on the basis of a YOA sentence that he
19 received under the distribution charge -- I'm sorry, on the
20 simple possession of crack cocaine charge in October of
21 '93.

22 THE COURT: You got to speak up.

23 MR. YOUNG: I'm sorry, sir. And he had another
24 assault and battery charge in May of '95; a simple larceny
25 and assault and battery in July of '95. And another

1 assault and battery in August of '95. And again returned
2 to the custody status based upon a youthful offender
3 sentence in '99 and on the basis of an offense of some kind
4 that is not demonstrated here in my records, Your Honor.

5 With regard to Georgia, Your Honor, he was
6 serving time on the basis of the possession of intent to
7 distribute crack cocaine, at the time he was arrested on
8 this charge. It's a 5 year sentence which was concurrent
9 with a prior sentence he received. His custody status
10 remained such until he was placed into the custody of the
11 State of South Carolina based upon this arrest charge in
12 this case.

13 THE COURT: All right. Ms. Poteat?

14 MS. POTEAT: Your Honor, I don't think we have
15 anything additional than what's been put before the court
16 already. Especially given that this court does not have
17 any discretion regarding the sentence. We just ask you to
18 give him an opportunity to spoke.

19 THE COURT: Mr. Morrison how old are you? 31?

20 MR. MORRISON: Yes, sir.

21 THE COURT: Is there anything you want to tell
22 me?

23 MR. MORRISON: I'd like to say something to the
24 family. Despite what you all think about me killing your
25 son, your grandson, nephew, cousin, I am not the murderer.

1 And I hope in time the murderer will come forward because
2 he know who he is and then you all will know that I'm not
3 the man who took ya'll family member's life. I have never
4 been the man. I have been accused. My name has been
5 scandalized. My life has been destroyed also along with my
6 children. I used to live in this town.

7 THE COURT: I need you to talk to me now.

8 MR. MORRISON: And I used to be a member of
9 this town, Your Honor. I committed some crimes and I did
10 some things wrong, but I did not take the young man's life.
11 And the man that took it is still in the street right now,
12 today and he knows he killed him. He also threatened me to
13 take my life if I ever told that he did it. There's people
14 always making sounds; there's people that also maintained
15 silence about this man, including myself and my silence has
16 caused me to lose my life in this courtroom before you and
17 this family and everybody else here. My silence and to my
18 silence alone my conviction came.

19 THE COURT: All right. Is this statute 163-20,
20 is that the statute?

21 MR. YOUNG: Yes, sir, I believe that's correct.

22 THE COURT: All right. Under the statute, the
23 way I read the statute, it says that if it's not a death
24 penalty case, the punishment is not optional, it's life
25 imprisonment and not eligible for parole until the service

1 of 20 years.

2 So the sentence of this court you be committed
3 to the Department of Corrections for a determinate term of
4 life imprisonment as per 163-20 of the 1994 Code of Laws of
5 South Carolina. Plus costs and assessments as applicable.
6 I give you credit for time served.

7 How long have you been incarcerated?

8 MR. MORRISON: In Aiken County?

9 THE COURT: On this charge? Since January?

10 MR. MORRISON: 10 months.

11 THE COURT: Okay. Good luck.

12
13
14 * * * * * END OF TRANSCRIPT * * * * *

Voir Dire

Case No.: 2003-GS-02-871 Judge: James R. Barber III
 Date: October 21-23, 2003 County: Aiken
 Plaintiff/State: State of South Carolina Attorney: Frank Young
Ben Moore
 Defendant: Joseph Morrison III Defense Attorney: Regina Poteat

Brenda W. Sigwald, Circuit Court Reporter

Juror #	Name	Sex	Race	*Court	Strikes		Accept
					Plaintiff	Defendant	
152	Sherry Byars	F	W				1
142	Robert Williams	M	W				2
51	Julian Harley	M	W			1	
54	Sharon Harville	F	W				3
33	John Edison	M	W				4
96	Julie Orillion	F	W				5
157	Cheryl Inlow	F	W			2	
65	Donna Hilton	F	B				6
13	Michael Brown	M	B				7
7	Tina Blizzard	F	W				8
92	Nancy Mills	F	W			3	
102	Johnny Rich	M	W			4	
130	Judy Thompson	F	W				9
158	Simon Jones	M	W			5	
66	Eston Hoffman	M	W				10
122	John Steele	M	W				11
27	Johnnie Cook	F	W				12

[illegible]

*For the Court Column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for Defense.

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF AIKEN)

CERTIFICATE OF REPORTER

3
4
5
6
7 I, THE UNDERSIGNED, Brenda W. Sigwald, Official
8 Court Reporter for the Second Judicial Circuit of the State
9 of South Carolina, do hereby certify that I reported the
10 proceedings in the captioned case in the Court of General
11 Sessions in and for the State of South Carolina on the 21st
12 through 23rd day of October 2003.

13 I FURTHER CERTIFY that the foregoing pages,
14 numbered 3 through 518, constitute a true, accurate and
15 complete transcript of said hearing.

16 I FURTHER CERTIFY that I am neither kin,
17 counsel, nor of interest to any party hereto.

18 IN WITNESS WHEREOF, I have hereunto set my hand
19 and seal at Aiken County, this 5th day of January 2004.
20
21

22 Brenda W. Sigwald
23 Brenda W. Sigwald,
24 Court Reporter and Notary Public
25 For the State of South Carolina
My commission expires
February 25, 2010

STATE OF SOUTH CAROLINA

County of AIKEN

IN THE COURT OF COMMON PLEAS

JOSEPH MORRISON, III, 208001

Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

2006-CP-02-858
 2003-GS-02-871
 Filed June 12, 2006
 J. Robert
 C.C.C.P. & G.S., Aiken County
 Deputy Clerk Time 11:11
 Trial Judge James B. Barks
 Trial Atty. Regina Parent
 Court Reporter Brenda Sigin
 Sec: PCR Petitioner ☒ Solicitor
 General Sessions ☒ Atty. Gen.
 Appointed Atty. ☒

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.

- Place of detention MCCORMICK CORRECTIONAL INSTITUTION, 386 REDEMPTION WAY, MCCORMICK, SOUTH CAROLINA, 29899
- Name and location of Court which imposed sentence AIKEN COUNTY COURT OF GENERAL SESSIONS
- Name(s) of co-defendant(s) (if any) TRACY FULLER / JOSEPH HANKERSON
- The indictment number or numbers (if known) upon which the offenses for which sentence was imposed:
 (a) 2003-GS-02-871 - MURDER

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

I, the undersigned, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

JUN 12 2006

C.C.C.P. & G.S., Aiken County, S.C.

Deputy Clerk

- (b) _____
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) OCTOBER 23, 2003
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty TRIAL
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. COURT OF APPEALS
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. APPEAL DISMISSED
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. FILED JULY 13, 2005
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. 2005-UP-429
- ii. _____
- iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) N/A

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) SEE ATTACHMENT
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE ATTACHMENT
- (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. _____

- iv. _____
- (c) the disposition thereof:
- i. N/A _____
- ii. _____
- iii. _____
- iv. _____
- (d) the date of each such disposition:
- i. N/A _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A _____
- ii. _____
- iii. _____
- iv. _____
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:

(a) FIRST PCR APPLICATION

(b) _____

(c) _____

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

(a) your arraignment and plea? YES

(b) your trial, if any? YES

(c) your sentencing? YES

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

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. REGINA POTEAT, ESQ. AIKEN COUNTY PUBLIC DEFENDERS OFFICE,
AIKEN, S.C., 29801

ii. JOSEPH L. SAVITZ, III, ESQ., S.C. OFFICE OF APPELLATE DEFENSE,
1205 PENDLETON ST., ROOM 306, COLUMBIA, S.C., 29201

iii. _____

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

i. TRIAL/SENTENCING

ii. DIRECT APPEAL

iii. _____

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

I, JOSEPH MORRISON, III, 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.

Joseph Morrison, III
Applicant

SWORN or affirmed to and subscribed before me this

17 day of June, 2006

Joyce L. Young
Notary Public

My Commission Expires: 8-28-2011

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

CONVICTION VACATED; NEW TRIAL GRANTED

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

VERIFICATION

County of AIKEN)

I, JOSEPH MORRISON, III, 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.

Joseph Morrison III
JOSEPH MORRISON, III #2080001

SWORN to and subscribed before me this 17
day of June, 2006

Joseph L Young (L.S.)
Notary Public

My Commission Expires: 8 28 2011

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
 FOR THE 2ND JUDICIAL CIRCUIT

JOSEPH MORRISON, III, #208001)
APPLICANT,)
)
 -VS-)
)
STATE OF SOUTH CAROLINA,)
RESPONDENTS.)

ATTACHMENT TO APPLICATION
 FOR
 POST-CONVICTION RELIEF

NOW COMES THE AFORE MENTIONED APPLICANT, A STATE PRISONER, ACTING PRO-SE., AND SETS FORTH THE GROUNDS, ALLEGATIONS AND SUPPORTING FACTS AS REQUESTED IN QUESTIONS NINE (9) AND TEN (10) OF THE APPLICANT'S APPLICATION FOR POST-CONVICTION RELIEF.

A.) INEFFECTIVE ASSISTANCE OF COUNSEL

B.) DENIAL OF DUE PROCESS

C.)

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

) IN THE COURT OF COMMON PLEAS
) FOR THE SECOND JUDICIAL CIRCUIT
) Case No.: 2006-CP-02-858

Joseph Morrison, III, #208001,

Applicant,

v.

State of South Carolina,

Respondent.

RETURN

Respondent, making its Return to the application for post conviction relief (PCR) filed June 12, 2006, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. Applicant was indicted at the May 12, 2003, term of the Aiken County Grand Jury for Murder (2003-GS-02-871). Regina P. Poteat, Esquire, represented him. On October 21-23, 2003, Applicant was found guilty as indicted. The Honorable James R. Barber, III, sentenced him to life imprisonment.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. After a review pursuant to Anders v. California, 386 US 738 (1967), The South Carolina Court of Appeals dismissed the appeal. State v. Morrison, 2005-UP-429, filed July 13, 2005. The remittitur was sent on July 29, 2005.

Attached herewith and incorporated herein by reference are the records of the Aiken County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, Anders Brief, and the Record on Appeal.

II.

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

1. Ineffective assistance of counsel; and
2. Involuntary guilty plea.

III.

Respondent interprets each of Applicant's allegations to be claims that he received ineffective assistance of counsel. In a post-conviction relief action, 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, 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, *Id.*

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, *Id.* 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, 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 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, 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).

Respondent submits that 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, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

In his second (2nd) allegation Applicant alleges that he did not plead guilty freely and voluntarily. The State submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The State submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the

validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The State submits Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

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

V.

The State therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the State 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.

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

VII.

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

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

ASHLEY A. McMAHAN
Assistant Attorney General

By: Ashley A. McMahon
ATTORNEYS FOR RESPONDENT

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

10/30, 2006
Columbia, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS

2006-CP-02-858

JOSEPH MORRISON, 208001)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

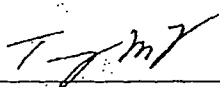
STATE OF SOUTH CAROLINA,)

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 Respondent's Return to Motion To Dismiss in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Andrew Marine, Esquire
P.O. Box 1488
Aiken SC 29802

DATED this 30th day of October, 2006



Tommy McGrath, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

) IN THE COURT OF COMMON PLEAS
) FOR THE SECOND JUDICIAL CIRCUIT
) Case No.: 2006-CP-02-858

Joseph Morrison, III, #208001,

Applicant,

v.

State of South Carolina,

Respondent.

AMENDED RETURN

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A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. After a review pursuant to Anders v. California, 386 US 738 (1967), The South Carolina Court of Appeals dismissed the appeal. State v. Morrison, 2005-UP-429, filed July 13, 2005. The remittitur was sent on July 29, 2005.

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

1. Ineffective assistance of counsel; and
2. Denial of due process.

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Respondent interprets each of Applicant's allegations to be claims that he received ineffective assistance of counsel. In a post-conviction relief action, 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, 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, Id.

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, Id. 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, 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 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, 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).

Respondent submits that 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, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant further alleges that he was denied due process of law. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a *prima facie* showing which would entitle him to relief

before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a *prima facie* showing, the Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

V.

The State therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the State 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.

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

VII.

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

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

[Signatures continued on next page]

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: Mary S. Williams
ATTORNEYS FOR RESPONDENT

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

Nov. 20, 2008
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

2006-CP-02-0858

JOSEPH MORRISON, 208001

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

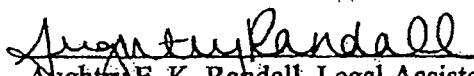
STATE OF SOUTH CAROLINA,

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:

Michael Chesser, Esquire
 Post Office Box 1018
 Aiken SC 29802-1018

DATED this 24th day of November, 2008.


 Aughtry E. K. Randall, Legal Assistant
 For Respondent

County of Aiken
State of South Carolina

Joseph Morrison, III,
Petitioner
vs.
The State of South Carolina,
Respondent

In the Court of Common Pleas
Second Judicial Circuit

**Amendment to Petition for Post-
Conviction Relief, Alleging
Additional Ground**

2006-CP-02-858
PCR

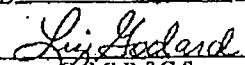
Petitioner hereby moves to amend his Petition for Post-Conviction Relief to add an additional ground, to wit, after-discovered evidence. The previously-alleged grounds of ineffective assistance of counsel, including, inter alia, ineffective cross-examination of key witnesses such as Tracy Fuller, ineffective investigation, and ineffective presentation of inconsistencies and conflicts in physical evidence, such as shoeprints and location of the body and gunshots, has already been developed.

This after-discovered evidence consists of the testimony of one Deidre Balde, regarding the whereabouts of the pistol which was used in this crime, which testimony was presented by the State in the case of *South Carolina v. Joseph Hankerson*, 2007-GS-02-1344, and which testimony is inconsistent with Petitioner's guilt.

The undersigned avers further that this amendment was served upon counsel for the State by email on this date.

Aiken, South Carolina
June 16, 2011


Michael Chesser
Attorney for the Petitioner

FILED 16 June 20 11

L.C.P. & G.S.
1:35 Angel Miles am
Deputy Clerk

State of South Carolina)
County of Aiken)

Court of Common Pleas
2006-CP-02-00858

Joseph Morrison, III)
Plaintiff)
vs.)

Transcript of Record

State of South Carolina)
Defendant)

February 3, 2009
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

Michael W. Chessser, Esq.
Attorney for the Plaintiff

Mary S. Williams, Esq.
Attorney for the Defendant

Lisa H. Davenport, RPR
Official Court Reporter

INDEX OF WITNESSES

Joseph Morrison, III,

Direct by Mr. Chesser.....

4

EXHIBITSNO.DESCRIPTIONIDEV

(none offered)

1 (Whereupon, on February 3, 2009 the following
2 proceedings were held:)

3 MS. WILLIAMS: This is the case of Joseph Morrison
4 versus the State of South Carolina; 2000-CP-02-0858.
5 Mr. Morrison was brought to trial and was sentenced on
6 October 23 of 2003 on a charge of murder to life
7 imprisonment. His appeal was dismissed and a remittitur
8 was issued on July 29 of 2005. His PCR application was
9 timely filed on June 12 of 2006. He is represented today
10 by Michael Chesser.

11 His allegations are ineffective assistance of counsel
12 and denial of due process, but there has been no specific
13 facts as required by 17-27-50 and at this time we would
14 ask the applicant to tell us the grounds he is proceeding
15 on today.

16 THE COURT: Mr. Chesser, what are your specifications
17 of allegations of ineffective assistance of counsel?

18 MR. CHESSER: Specifically what Mr. Morrison alleges
19 is ineffective assistance of counsel at trial. He was
20 represented by Mrs. Poteat and there were -- the state's
21 primary witness was Tracy Fuller and he gave very
22 inconsistent statements and these were not properly
23 explored by defense counsel.

24 In addition, at the scene which was the old Jewish
25 cemetery bloodhounds were taken and it was based on the

1 bloodhounds what the inference would be is that the victim
2 was accompanied by another individual and walked over to
3 Hahn Village and then returned and then was killed at the
4 grave yard and the shoes -- the plaster cast was made of
5 the shoes and no match was ever found and this was
6 completely contrary to the story which was told by this
7 Tracy Fuller who talked about the victim being transported
8 to the scene in a vehicle and this complete contradiction
9 of the bloodhound evidence with the story of Tracy Fuller
10 also was not exploited properly by Mrs. Poteat.

11 THE COURT: He is saying that the cross examination
12 was not effective, basically?

13 MR. CHESSER: Yes, sir.

14 THE COURT: All right. I'll be glad to hear from
15 him.

16 MR. CHESSER: Okay.

17 THE COURT: Come around, sir.

18 JOSEPH MORRISON, III, after being duly sworn,
19 testified as follows:

20 THE CLERK: Please have a seat in the box and state
21 your full name name for the court, please.

22 THE WITNESS: My name is Joseph Morrison, III.

23 THE COURT: Mr. Chesser?

24 DIRECT EXAMINATION

25 BY MR. CHESSER:

1 Q Mr. Morrison, you were convicted after trial of
2 murder; is that correct?

3 A Yes, sir, I was.

4 Q And you were given a sentence of life imprisonment?

5 A Yes, sir, I was.

6 Q And you're presently housed in McCormick Correctional
7 Institute?

8 A Yes, sir, I am.

9 Q Now, this actual trial took place back in October of
10 2003?

11 A Yes, sir.

12 Q Okay. Did you take the stand in that case?

13 A No, sir, I didn't.

14 Q Okay. Now, just sort of to go over the facts to some
15 extent, this was a killing that took place in the Jewish
16 cemetery in Aiken. You have heard that or you're aware of
17 that?

18 A That's what I was told by Deidre Lloyd.

19 Q Now, you were, in fact, of course, charged with this
20 murder; right?

21 A Yes, sir, I was.

22 Q Okay. Now, what was the name of the victim?

23 A Christopher Pollan.

24 Q Okay. Christopher Pollan?

25 A Yes, sir.

1 Q Now, it was alleged that you killed Christopher
2 Pollan and that another individual Joe Hankerson -- is
3 that correct -- that he was present?

4 A That's the alleged ---

5 Q That's the allegation?

6 A Yes, sir.

7 Q Okay. Now, subsequent to your trial,
8 Mr. Hankerson -- He was tried for murder; correct?

9 A Yes, he was.

10 Q And he was found not guilty?

11 A Yes, sir.

12 Q Okay.

13 A No, sir. No, sir. It was a mistrial or something.
14 Something happened. I haven't received any information
15 from this.

16 Q Okay.

17 A From this case.

18 Q Now, against you what was the -- who was the primary
19 witness for the state?

20 A Tracy Fuller.

21 Q Now, are you acquainted with Tracy Fuller?

22 A I have met him.

23 Q Okay. Now, when he contacted the authorities and
24 indicated that he had some knowledge of a crime he was in
25 prison, wasn't he?

1 A Yes, sir, he was.

2 Q And for armed robbery?

3 A Yes, sir, he was.

4 Q Okay. Now, Christopher Pollan -- do you recall when
5 Christopher Pollan was actually killed?

6 A Yes, sir.

7 Q And what was the approximate date?

8 A I think it was 1994.

9 Q Okay. So, when you were tried in 2003 this would be
10 a cold case; right?

11 A Yes, sir.

12 Q Okay. Now, Tracy Fuller -- He gave a statement to
13 the authorities that this shooting took place at dusk;
14 right?

15 A Yes, sir.

16 Q Now, in fact, Christopher Pollan was seen alive at
17 12 a.m. and 1 a.m. of that particular night, wasn't he?

18 A By six different -- six different friends of his,
19 yes, sir.

20 Q And then so at trial it was established that the
21 statement that Tracy Fuller gave that the killing took
22 place at dusk, that was -- that that was incorrect; right?

23 A Yes, sir. It was incorrect.

24 Q Okay. But anybody who would have actually been
25 present at the killing or the murder, they would have

1 known what time it took place; right?

2 MS. WILLIAMS: I object to this question. I believe
3 it calls for speculation. The witness only testifies to
4 what is in his personal knowledge.

5 THE COURT: That's sustained. That's correct. Move
6 along.

7 Q Now, Mr. Pollan [sic]-- he also in his statements
8 indicated that Christopher Pollan was shot and then ran?

9 A Yes, sir.

10 Q And was shot again; right?

11 A Yes, sir.

12 Q Okay? Now ---

13 THE COURT: That was a statement of Mr. Fuller, not
14 of Mr. Pollan. Mr. Pollan is dead.

15 MR. CHESSER: I'm sorry. That's correct.

16 Mr. Fuller. Okay.

17 Now, Mr. Morrison -- Your Honor, I guess with respect
18 to this issue of dusk versus night time I would just refer
19 The Court to pages 156 and 157.

20 THE COURT: Of the transcript?

21 MR. CHESSER: Yes, sir.

22 THE COURT: Okay. I'll read that -- 156, 157.

23 Q Now, in fact, Christopher Pollan was killed by shot
24 to the head; isn't that correct?

25 A Yes, sir.

1 Q And you have sat through the trial, obviously, so you
2 heard all of that?

3 A Yes, I have.

4 Q All right. Now, there is no way he could run after
5 he got shot to the head; right?

6 MS. WILLIAMS: Again, I would ask that that be struck
7 as speculation. He's not been qualified as an expert.

8 THE WITNESS: Dr. Joel Sexton ---

9 THE COURT: Hold on a second. You can't testify
10 about that. Move along. Sustained.

11 Q Now, Mr. Morrison, your allegation here -- the
12 allegation you can make is that your counsel was
13 ineffective to the extent that you were deprived of your
14 Sixth Amendment. Can you tell the court in what ways in
15 your own words that your counsel was ineffective?

16 A My counsel was ineffective by page 415.

17 THE COURT: I'm sorry. By what?

18 THE WITNESS: Page 415.

19 THE COURT: 415?

20 THE WITNESS: Yes, sir. While ---

21 THE COURT: Hold on. Let me find it. 415. All
22 right, sir.

23 THE WITNESS: 415. While Mrs. Poteat was questioning
24 Detective Dewayne Courtney about the shoe print evidence
25 Detective Courtney admitted that the shoe print evidence

1 was the only physical evidence in my case. Okay. And
2 also there was testimony about the foot tracks leading
3 into the grave yard, leading back out to the grave yard
4 and walking right along beside him -- that the first
5 gunshot was the gunshot that disabled him which led him to
6 the ground which that's why -- that's how they was able to
7 make the shoe cast molding of the killing -- that being
8 the killer because he fell right there where he stood.

9 The cast molding was made. The shoes was took from
10 my home. I was the only one that they took shoes from,
11 but there was three other suspects: Otis Grooms, Emanuel
12 Toney, and Joseph Hankerson. They took none of those
13 people's shoes as supposed to be a match to the cast
14 molding that was made in the grave yard.

15 Okay. My lawyer was ineffective because she didn't
16 pursue the cast molding. It's been almost I think 13
17 years that have passed and this evidence has still not
18 been introduced to the court. If this evidence would have
19 been introduced to the court it would have let them know
20 that it was another party that could have committed this
21 crime other than myself. Okay? I have also in this case
22 there was a shoe print evidence that was never admitted.

23 Do you have it today?

24 Q The only evidence -- There is no physical report as
25 far as I know of the shoe print.

1 A There's not a cast?

2 Q There is a cast.

3 A Is it here today?

4 Q It's at the City of Aiken. No, it's not.

5 A It's not. Well, we have a problem.

6 Your Honor, we have a problem.

7 THE COURT: What is the problem?

8 THE WITNESS: The problem is that the evidence should
9 be introduced at my PCR hearing. Well, it should have
10 been introduced when they first tried me. It should have
11 been turned over to my lawyer.

12 THE COURT: So you're telling me that the foot
13 cast -- the actual foot casts themselves was not
14 introduced?

15 THE WITNESS: No, sir, it was not into evidence.

16 THE COURT: And you think it needs to be introduced
17 here today?

18 THE WITNESS: Your Honor, yes, I do think it needs to
19 be introduced.

20 THE COURT: You want me to continue this hearing to
21 give you --

22 THE WITNESS: Yes, sir.

23 THE COURT: -- your counsel time enough --

24 THE WITNESS: I see ---

25 THE COURT: -- to run that down?

1 THE WITNESS: Yes, sir. I don't even see the lawyer
2 that represented me -- Mrs. Poteat.

3 THE COURT: She is going to be -- She is in Texas.
4 We have her ---

5 THE WITNESS: It was -- Your Honor, there was also
6 six other witnesses in this case that identified Joseph
7 Hankerson and Christopher Pollan together the night that
8 he murdered him and these six people was Christopher
9 Pollan's friends and I feel that they need to be present
10 in the courtroom to testify as well.

11 THE COURT: Okay. Who are those six people? You can
12 give that to your lawyer, can't you?

13 THE WITNESS: Yes, sir, I can. I gave it to him
14 already. I sent it to him, you know, all the witnesses.
15 I sent him a list of all of the witnesses that I wanted
16 present here today. I don't see nobody here.

17 THE COURT: Mr. Chesser, were you able to find those
18 witnesses?

19 THE WITNESS: I asked for Otis Grooms. I asked for
20 Emanuel Toney. I asked for Tracy Fuller to be brought
21 back. I asked for -- I don't have my paperwork.

22 THE COURT: That's okay.

23 MS. WILLIAMS: Your Honor, it is my understanding
24 that Mr. Hankerson has been convicted of some charge and I
25 could get that record. I'll be glad to get that record

1 from the solicitor. I had also spoken with Frank Weeks
2 prior to this and he was unavailable today but would be
3 willing to testify in this matter at a future time.

4 MR. CHESSER: Your Honor, I would respectfully and --
5 request a continuance. I want a -- You know, Mr. Morrison
6 is doing life and I would appreciate it.

7 THE COURT: Well, considering the severity of the --
8 not severity, but considering what the sentence is, i.e.,
9 life in prison without the possibility of parole, I will
10 continue it so you can look at footprint evidence or the
11 cast evidence and if there is some additional witnesses we
12 need here I think it needs to be done so Mr. Morrison has
13 a full post-conviction relief hearing.

14 I'll retain jurisdiction over it, and, Madam AG, I'll
15 be glad to reconvene it outside of the PCR week if it
16 suits everybody so it won't cost us a whole lot of money.
17 When I say cost money -- the state having to transport
18 people back and forth. I'll do it however y'all deem
19 appropriate.

20 I will also allow y'all to between now and the time
21 we reconvene to take Mrs. Regina Poteat's testimony by
22 deposition as long as Mr. Morrison has access to a phone
23 when y'all do it. Do it by phone. That's the way we used
24 to do it.

25 MR. CHESSER: Thank you, Your Honor.

1 THE COURT: Does that suit you, Mr. Morrison? In
2 other words, Mrs. Poteat is now in -- I've had problems
3 locating her. She went to Germany. I think she married
4 somebody in the military. She's been good to keep up with
5 us. She's in Texas. She was on standby today, but
6 perhaps after Mr. Chessser is able to look at all of this
7 other stuff then we can do her --

8 THE WITNESS: Yes, sir.

9 THE COURT: -- by telephone and you'll be present
10 when the questions are asked.

11 THE WITNESS: That will be fine.

12 THE COURT: Suit you?

13 THE WITNESS: Yes, sir.

14 MS. WILLIAMS: So we'll just adjourn the hearing
15 today and leave the record open.

16 THE COURT: Sure. All right. Mr. Chessser, address
17 all of his concerns so he'll have a full and fair and
18 complete hearing.

19 MR. CHESSER: Thank you, Your Honor.

20 (End of Transcript of Record.)

21

22

23

24

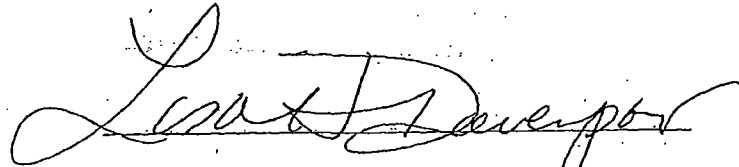
25

CERTIFICATE OF REPORTER1
2
3
4 State of South Carolina)5 County of Aiken)
6
7

8 I, Lisa H. Davenport, Official Court Reporter for the
9 Second Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete Transcript of Record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the Court of Common Pleas for Aiken
14 County, South Carolina, on the 3rd day of February, 2009.

15 I do further certify that I am neither of kin,
16 counsel nor interest to any party hereto.
17
18

19 May 1, 2012
20

21 

22 Lisa H. Davenport, Court Reporter
23
24
25

State of South Carolina
County of Aiken

Court of Common Pleas
06-CP-02-858

Joseph Morrison
Plaintiff
vs.

Transcript of Record

The State of South Carolina
Defendant

December 3, 2009
Bamberg, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

Michael Chessser, Esq.
Attorney for the Plaintiff

Mary S. Williams, Esq.
Attorney for the Defendant

Lisa H. Davenport
Official Court Reporter

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
P-1	Map	3	3
P-2	Autopsy report	3	3
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1 (Whereupon, on December 3, 2009 the following
2 proceedings were held:)

3 (Whereupon, Plaintiff's Exhibit Nos. 1-2 were marked
4 for identification only.)

5 MS. WILLIAMS: May it please the court, this is
6 Joseph Morrison, 2006-CP-02-0858. You had begun to hear
7 this case back in February of this year. I think maybe
8 two or three lines into the testimony we stopped and had
9 some additional witnesses to procure at that time and
10 we're back here today to resolve this case.

11 Mr. Morrison was represented by Regina Poteat on a
12 charge of murder. He was sentenced in October 2003 to a
13 term of life imprisonment. He had an appeal. That was an
14 Anders brief and pro se brief was submitted and that
15 appeal was dismissed in 2005 and his PCR application was
16 timely filed in July 12, 2006.

17 It is my understanding that Mr. Morrison is alleging
18 today ineffective assistance of counsel and that the
19 primary thrust will be ineffective cross examination and
20 failing to highlight inconsistencies in the state's case.

21 THE COURT: Mr. Chesser?

22 MR. CHESSER: That's an accurate summation of the
23 status of the case and our position and our grounds and
24 we're ready to proceed. We would call Sheriff Michael
25 Hunt, Your Honor.

1 THE COURT: Sheriff, come up, please.

2 SHERIFF MICHAEL HUNT, after being duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. CHESSER:

6 Q You're Sheriff Michael Hunt of Aiken County?

7 A Yes, sir.

8 Q Sheriff Hunt, were you involved in the investigation
9 of the death of Chris Pollin on or about October 6 of
10 1994?

11 A Yes, sir.

12 Q Mr. Pollin -- Is this correct -- Mr. Pollin was found
13 actually still alive but mortally wounded in the Jewish
14 cemetery in Aiken, South Carolina on or about October 6,
15 1994; right?

16 A Yes, sir.

17 Q Okay. Now, you were called -- at that time were you
18 working with the dogs in Aiken County?

19 A I was working for Aiken Public Safety and I did
20 supervise the tracking team.

21 Q Okay. And, so, at some point were you called to run
22 the dogs in connection with this case?

23 A We were called to pour a cast of a footprint. We did
24 not run the bloodhounds.

25 Q Okay. Now, this footprint -- where was it located?

1 A. On a dirt road walking in to where the victim was
2 lying.

3 Q Okay.

4 A Coming from Laurens Street.

5 MR. CHESSER: Your Honor, if it please the court,
6 we've had a couple of exhibits marked at this time.

7 Exhibit 1 is a -- it's sort of a picture map of the area
8 and no. 2 is the autopsy report, and just for the sake of
9 expediency at the time I'd move to introduce them without
10 objection, I believe.

11 MS. WILLIAMS: I don't have any objection. It is my
12 understanding these were from defense counsel files at the
13 time of trial.

14 THE COURT: Thank you.

15 (Whereupon, Plaintiff's Exhibit Nos. 1-2 were
16 admitted into evidence.)

17 Q Sheriff Hunt, let me show you this exhibit no. 1 --
18 Plaintiff's exhibit no. 1.

19 A Okay.

20 Q Do you recognize on there an area that would
21 correspond to the Jewish cemetery in Aiken?

22 A Yes, sir.

23 Q Okay. Can you show the court where on that
24 Plaintiff's exhibit no. 1 the Jewish cemetery is located?

25 A That would be here. Is that right? This is the

1 cemetery. This picture, you know, it's kind of rough.

2 Q If I were to suggest to you that this corner area
3 were the Jewish cemetery --

4 A I think the whole thing is the cemetery. You're
5 talking about this one little place.

6 Q Right.

7 A Okay.

8 Q Would you be in a position to agree, and, obviously,
9 you know, you may or may not, but this was the actual
10 portion that's designated as the Jewish cemetery? If you
11 don't know, that's fine.

12 A I don't know.

13 THE COURT: Mr. Chesser, you've been out there? Can
14 you represent to us all that that is?

15 MR. CHESSER: Yes, sir.

16 THE COURT: It's in 1994. So, I don't know that
17 anybody --

18 MR. CHESSER: Right. I would submit to the court
19 that this area at the lower left is the section that is
20 reserved or designated as the Jewish cemetery, Your Honor.

21 THE COURT: Okay.

22 Q Now, Sheriff Hunt -- and, again, it's been 15 years
23 and we're not asking you to testify to anything that you
24 don't recall, but looking at that map this area where you
25 found the track can you show the court approximately where

1 it was?

2 A Well, I don't see any street names on here so I am
3 going to be very careful, but the dirt road ran from
4 Laurens Street into the cemetery. So the tracks were on
5 that dirt road that runs that short piece. It is about a
6 two-block-long dirt road.

7 Q Now, just, again, the Jewish cemetery is located
8 between Laurens Street and what other street? What is the
9 street on the other side?

10 A The corner street is Hampton Avenue and then the
11 other side is -- I can't remember. It might be Columbia.

12 Q But we're talking about the intersection then of
13 Laurens and Hampton; correct?

14 A Correct.

15 Q Okay.

16 A That's the main --

17 Q That's the main entrance to the cemetery?

18 A Right.

19 Q Now, so, you were directed to take this plaster cast
20 because this was deemed a footprint of interest; is that
21 correct?

22 A Yes, sir.

23 Q Okay. Were you trained in taking plaster casts?

24 A Yes, sir.

25 Q Okay. Can you tell us about your training?

1 A My training came from learning from SLED with their
2 forensics people on pouring impressions -- foot
3 impressions.

4 Q Did you go to classes to do that?

5 A I went to SLED to do it.

6 Q Had you -- how many occasions had you had to make
7 plaster foot casts previously?

8 A A lot.

9 Q Okay.

10 A We poured a lot of foot tracks.

11 Q All right. Now, so, you created this plaster cast.

12 Was it a day or two after the event on?

13 A That day.

14 Q That same day?

15 A Yes, sir.

16 Q Presumably it would be October 6 of '94 then?

17 A Yes, sir.

18 Q And was that plaster cast ever tied to Joseph
19 Morrison?

20 A Not that I know of.

21 Q Okay. That's all the questions I have.

22 Your Honor, I would ask to move this plaster cast
23 into evidence. It would be plaintiff's no. 3.

24 THE COURT: Is that the cast you made?

25 THE WITNESS: Yes, sir.

1 THE COURT: Without objection. No problem.
2 Any questions of the Sheriff?
3 (Whereupon, Plaintiff's Exhibit No. 3 was marked for
4 identification and received into evidence.)

5 CROSS-EXAMINATION

6 BY MS. WILLIAMS:

7 Q Was Dewayne Courtney involved in this case at that
8 time?

9 A Yes, ma'am.

10 Q And he would have been working with you in the case?
11 Is that kind of a fair thing to say?

12 A I had nothing else to do with the case. He was, I
13 believe, the lead investigator. He asked me to come out
14 and pour these foot casts. I did that and I left.

15 Q All right. Thank you.

16 THE COURT: Anything else?

17 MR. CHESSER: I beg the court's indulgence for just a
18 second, please.

19 REDIRECT EXAMINATION

20 BY MR. CHESSER:

21 Q Is it normal procedure to send a shoe print like that
22 to SLED to have it further analyzed?

23 A If you have something to match it to.

24 Q Okay. And do you have any knowledge that shoes were
25 obtained from the various suspects in the case?

1 A I don't know.

2 Q Okay.

3 A You would have to ask Dwayne Courtney.

4 Q Do you have any knowledge of other shoe prints being
5 found in the area of the Jewish cemetery that were deemed
6 of interest?

7 THE COURT: Did you take any other casts?

8 THE WITNESS: I think we took a cast of the victim's
9 footprint, but I don't know -- I don't think we took any
10 more.

11 MR. CHESSE: Thank you. That's all the questions I

12 have.

13 THE COURT: May the Sheriff be excused?

14 MR. CHESSE: Yes, Your Honor.

15 THE COURT: Good to see you. If I don't see you,
16 have a happy holiday season. Thank you for coming.

17 Mr. Chesser?

18 MR. CHESSE: Your Honor, at this point we would call
19 Regina Poteat. She is available, as I understand it, only
20 by phone.

21 (Whereupon, the following proceedings were held in
22 the conference room and the witness was on
23 speakerphone.)

24 REGINA CROZIER, after being duly sworn,
25 testified as follows:

1 BY MR. CHESSER:

2 Q Regina, this is Michael Chesser. Can you hear me?

3 A Yes, I can.

4 Q How are you doing?

5 A I am good. How are you?

6 Q I'm good. Of course, we're here today on the case of
7 Joseph Morrison, III.

8 A Yes.

9 Q Now, you, of course, represented Joseph Morrison;
10 right?

11 A Right.

12 Q Okay. Now, in general, he was charged with the
13 murder of Chris Pollin, but he was not tried until a
14 number of years after Mr. Pollin was actually murdered; is
15 that right?

16 A That's right.

17 Q Mr. Pollin was found and I'm sure -- It's been, you
18 know, a lot of years. I am sure it's not easy for you to
19 remember this, but Mr. Pollin was found on October 6 of
20 1994. Do you recall that or does that sound right to you?

21 A Yes.

22 Q Okay. And he was found in what's known as the Jewish
23 cemetery or the Jewish cemetery in Aiken; right?

24 A That's right.

25 Q And then you know -- and that's located -- the

1 cemetery -- the main cemetery is located at the corner of
2 Laurens and Hampton. Does that sound right?

3 A Yes.

4 Q And then the Jewish section is actually if you were
5 on Hampton it would be the farthest back and to your
6 right. Does that sound right?

7 A That does sound right.

8 Q Okay. So, the graveyard as a whole, again, occupies
9 the corner of Laurens and Hampton; right?

10 A I can't remember how much -- how large it was or how
11 much area it occupied. I just remember the approximate
12 location of it.

13 Q Right. And there's a street -- I believe it's called
14 the Sons of Israel Street that actually leads from Laurens
15 back to the Jewish cemetery. Do you recall that?

16 A I don't recall that being the name of the street. I
17 thought that the Sons of Israel was the actual name of
18 that portion of the cemetery, but as you say it's been a
19 while.

20 Q Okay. Would you agree, though -- Do you recollect
21 that there is a street that leads from Laurens back to the
22 Jewish cemetery?

23 A Yes, I do remember that.

24 Q Okay. Now, the -- the state's case -- Well,
25 obviously, in '94 they were not able to develop enough to

1 actually proceed at that point; is that right?

2 A That's right.

3 Q Okay. Now, subsequently -- that is, years later --
4 Tracy Fuller contacted the authorities from the South
5 Carolina Department of Corrections; is that right?

6 A Yes.

7 Q Okay. And I believe -- and it is probably hard for
8 you to remember this, but would you agree or would you
9 disagree that that was about in August of 2002?

10 A When he -- when Tracy Fuller first contacted them?

11 Q Yes.

12 A I know it was in 2002 and I know they interviewed him
13 more than once. That sounds about right for the initial
14 interview. I am not sure. Well, actually, I guess he
15 wrote a letter initially before they interviewed him.

16 Q And he -- is it fair to say that he offered to
17 cooperate -- Well, in connection with his offer of
18 cooperation he demanded something in return?

19 A Right.

20 Q Okay.

21 A He was pretty upfront about wanting help on his
22 current sentence.

23 Q Right. So, again, if we're talking about August of
24 '02 to October of '94, basically, it's approximately eight
25 years after the event; right?

1 A I think it was October of '03.

2 Q Okay. Now, the -- Tracy Fuller -- as you said, he
3 gave several statements to law enforcement; correct?

4 A That's right.

5 Q And some were videotaped; right?

6 A That's right.

7 Q And is it fair to say that his statements were not
8 all consistent?

9 A No, they weren't.

10 Q Okay. In the trial--

11 THE COURT: Hold on a second. Are you okay?

12 THE APPLICANT: There was a spot missing out of the
13 tape.

14 THE COURT: You'll get a chance to say all of that.

15 Q In the trial, Regina, your focus -- at least one of
16 your primary focuses was on the lack of credibility of
17 Tracy Fuller; right?

18 A Yes, that's right.

19 Q And in the first place that was because he wanted
20 something for his cooperation; right?

21 A Well, that was part of it. To me the primary source
22 of lack of credibility was how much time had lapsed since
23 he decided to come forward or before he decided to come
24 forward combined with the fact that he was clearly
25 expecting something in exchange.

1 Q And then also there was the matter of the
2 inconsistencies of his various statements; correct?

3 A Oh, sure.

4 Q Now in the trial, Regina, one of the things that you
5 emphasized was that in one of his initial statements he
6 said that this happened in the afternoon; correct?

7 A Yea. He was, apparently, I can almost say coached by
8 the investigators from Public Safety who were aware of
9 what time the shooting had actually happened and it
10 appeared to me suspiciously as if they had indicated to
11 him what his testimony needed to be and he did originally
12 say afternoon and then he gradually fudged it around to
13 dusk and then, you know -- Well, you read the transcript.

14 Q He eventually came around to about two or three at
15 night; is that right?

16 A Yes.

17 Q Can you hear me, Regina?

18 A I can hear you.

19 Q Okay. He eventually testified that it happened
20 around two or three at night; is that right?

21 A Yes.

22 Q Okay. So, but it's -- it is also true that you cross
23 examined him about that inconsistency going all of the way
24 from the afternoon to the dead of night; correct?

25 A Yes, I did.

1 Q Okay. Now, he also told law enforcement initially
2 that the gun had been thrown in the Savannah River; is
3 that correct?

4 A That's right.

5 Q Did he -- Was he consistent with that statement?

6 A No. He later actually admitted not just that that
7 wasn't true, but he actually admitted he lied.

8 Q Did you bring that out in front of the jury?

9 A Yes, I did.

10 Q In connection with your representation did you have a
11 theory about why he would just lie about the gun being
12 thrown in the river?

13 A I don't remember if I had a specific theory or not.
14 I'm sorry, I don't recall anything about that.

15 Q Okay. Now, he testified at trial and I'm going to
16 lead you a little bit if counsel and the court permit just
17 to get to the point, but he testified at trial that late
18 at night he was in a vehicle with Joseph Morrison, Joseph
19 Hankerson also known as Tree, and Chris Pollin; correct?

20 A That's correct.

21 Q And then he stated that they pulled up near I think
22 something known as the Tri-County Center; is that correct?

23 A I'm not sure I'm following you. The Tri-County
24 Development building is like on the back side of where the
25 cemetery was.

1 Q Right. In other words Laurens is on one side and
2 opposite that side is this Tri-County Development Center;
3 correct?

4 A Right. That's right.

5 Q And he testified that they parked there and that Tree
6 Hankerson, Joseph Morrison, and Chris Pollin got out of
7 the vehicle; is that right?

8 A That's right.

9 Q Subsequently, though, Chris Pollin also got out of
10 the vehicle. That was his testimony; right?

11 A Well, I thought he testified that they all three got
12 out at the same time.

13 Q I'm sorry. You're right. Subsequently, Tracy Fuller
14 testified that he also got out of the vehicle; right?

15 A Yes. He claims that they were gone for a little
16 while and then he followed them.

17 Q Okay. And then just again so the court gets a
18 picture of this, can you just sum up his testimony as to
19 what happened then?

20 A Tracy Fuller testified that it was very dark and he,
21 basically, followed the path until he started hearing
22 voices, and from his description he says that he saw a
23 confrontation taking place between Joe Morrison and Chris
24 Pollin with Joe Hankerson standing nearby, and he claims
25 that Joe Hankerson saw him and, basically, was like, you

1 know, Why did you get out of the car? Why did you come
2 down here?

3 It doesn't appear from his testimony that Joe
4 Morrison is supposed to have seen him. His testimony was
5 that Joe Morrison and Chris Pollin were having this
6 argument and that he saw Joe Morrison pull out a gun and
7 shoot Chris Pollin at which point he claims he turned
8 around and ran back to the car.

9 Q Now, it's significant also that he stated that when
10 he testified that Joe Morrison shot Chris Pollin that
11 Chris Pollin screamed. That's significant, is it not?

12 A Yes, it was.

13 Q And then you recall his further testimony that Chris
14 Pollin began to run away at that point also?

15 A He said he tried to run away. His testimony as I
16 recall was that Joe Morrison is supposed to have had hold
17 of the front of his shirt or sweatshirt or whatever he had
18 on, thereby preventing him from running away.

19 Q Okay. Now, based on that scenario that Tracy Fuller
20 testified to, Regina, I want to move directly from there
21 to the circumstances regarding where Tracy Fuller --
22 excuse me -- yea, where Chris Pollin was found and the
23 bullets. Do you recall that issue?

24 A Yes.

25 Q Okay. Can you tell the court the circumstances of

1 Chris Pollin's location and where a bullet and two shell
2 casings were found?

3 MS. WILLIAMS: If I can --

4 THE WITNESS: Well, the part that I found most
5 helpful to our case was that one bullet was recovered from
6 Chris Pollin's head during the autopsy and another bullet
7 was recovered from the ground beneath where his body was
8 found. If he had been shot in the neck first which
9 Dr. Sexton, the coroner, testified he would have been able
10 to continue screaming -- if he had been shot in the neck
11 first, that bullet would not have been found on the ground
12 beneath him. So, the physical evidence indicated that the
13 first shot had to be the one to the skull which made him
14 drop down and fall unconscious and then the second shot
15 through the neck with the result that the bullet lodged in
16 the ground beneath him.

17 Q In that regard, Regina, the testimony was consistent
18 that it appeared that Chris Pollin was killed in one
19 particular spot without a struggle or being dragged; is
20 that correct?

21 A Right. The investigators who processed the crime
22 scene testified that there was no real signs of struggle
23 and also the two shell casings were found close together
24 indicating that the two shots were fired while the shooter
25 was standing in essentially the same place.

1 Q Okay. And, now, forgive me for being slightly
2 repetitive. I want to keep it to a minimum, but this is
3 an important point. The fatal bullet was actually --
4 never exited the body; correct?

5 A That's correct. It was recovered during the autopsy.

6 Q Okay. But a bullet that -- Well, let me just say
7 this. The decedent Chris Pollin had on what was referred
8 to as a hoodie; correct?

9 A That's right.

10 Q And that hoodie had a hole in it; right?

11 A That's right.

12 Q And that hole was associated with the bullet that
13 entered his neck -- the non-fatal wound; correct?

14 A Yes, I believe so.

15 MS. WILLIAMS: May I just -- the transcript is in
16 the record, and, you know, I'm objecting to the leading.
17 I'm objecting to the transcript being the best evidence of
18 what the evidence was, I guess.

19 THE COURT: Well, I am going to let him lead because
20 we don't have a jury or anything and get through it
21 quicker, but how is this going to the ineffective
22 assistance of counsel?

23 MR. CHESSER: Your Honor, on this this particular
24 issue with regard to the location of the bullets it -- I
25 would just -- for the Court's information it was the most

1 important piece of evidence that would tend to be in
2 Mr. Morrison's favor.

3 THE COURT: I'll let you go ahead and develop it.

4 MR. CHESSER: Thank you.

5 And, Regina, as you stated there was a bullet found
6 underneath the deceased's body or head; is that correct?

7 THE WITNESS: Yes.

8 Q Okay. And, again, as you stated if that was the neck
9 wound, then that would indicate that the disabling shot
10 was the first shot; correct?

11 A That's where the physical evidence seemed to point to
12 and I went into a fair amount of description in my closing
13 argument to try and clarify that point to the jury.

14 Q Okay. And just, finally, the point being that the
15 physical evidence indicated that the first shot was the
16 shot that remained that, basically, lodged in his brain
17 and was a disabling -- immediately disabling shot;
18 correct?

19 A Dr. Sexton testified that the bullet wound to the
20 head would have rendered Mr. Pollin immediately
21 unconscious --

22 Q Okay.

23 A -- to where he would not have been capable of
24 shouting, screaming, or otherwise struggling after he was
25 shot in the head.

1 Q Now, I know you don't have the transcript --

2 A Yes, I do.

3 Q Oh, you do? Okay. Well, in your closing you
4 addressed that on pages 460 and 461; right?

5 A Uh-huh.

6 Q Okay. Do you feel like you emphasized that sort of
7 correctly or to the correct degree?

8 A I did the best I could.

9 Q Okay. Do you --

10 THE COURT: Let me see the transcript. Thank you.

11 Q Let me ask you, Regina, why would the jury not have
12 accepted that argument?

13 MS. WILLIAMS: Calls for speculation.

14 THE COURT: I don't know that she can answer that,
15 now. If you can, I am going to elevate you.

16 THE WITNESS: Then I would have a whole other set of
17 skills I could sell.

18 Q Did you feel like that was a good argument?

19 A I did. I really did feel like the physical evidence
20 did not match Tracy Fuller's description of the events and
21 that, therefore, was a very good reason in addition to
22 what they already had for the jury not to believe Tracy
23 Fuller and the jury had to believe Tracy Fuller in order
24 to convict Joe Morrison, and, so, I did everything I knew
25 to discredit Tracy Fuller.

1 Q This is in addition to Tracy Fuller's first talking
2 about this happening in the afternoon; right?

3 A Sure. There was a lot to pick on with Mr. Fuller --
4 quite a bit.

5 Q Going back through the state's case they did have --
6 Excuse me for just a second. There was a witness who
7 stated that Joe Morrison had said that he had taken care
8 of his situation with Chris Pollin; correct?

9 A That's right.

10 MR. CHESSER: Okay. I beg the court's indulgence.

11 (Whereupon, Mr. Chesser conferred with his client.)

12 Q Now, did you present an alibi defense?

13 A Of a sort, yes. It -- We had alibi witnesses to
14 testify as to Mr. Morrison's whereabouts on the night of
15 the shooting. It wasn't what I would call an iron-clad
16 alibi because it didn't account for every minute of his
17 time to where it couldn't be disputed.

18 Q Right. And I believe that was a girlfriend?

19 A Yes.

20 Q Okay.

21 A A couple of them, actually.

22 Q Okay. How did you reach the decision or how did
23 Mr. Morrison reach the decision -- Tell me how it happened
24 that he did not testify.

25 A Well, we had the usual discussions about what would

1 happen if he testified. Normally -- Well, as you know a
2 defendant is not required to testify against -- you know,
3 testify at all and he had a criminal record which would
4 have come out if he had testified. It's just one of those
5 things that you have to decide in every case whether or
6 not the defendant takes the stand. The decision is
7 ultimately up to the defendant. He was questioned by the
8 judge about that and elected not to take the stand.

9 Q Okay.

10 (Whereupon, Mr. Chesser conferred with his client.)

11 Q Did Mr. Morrison, in your opinion, did he understand
12 that it was ultimately his decision?

13 A I believe he did understand that, yes.

14 Q Okay. Did you make the decision for him?

15 A Oh, goodness, no. I never do that. That has to be
16 the defendant's decision.

17 Q Regina, do you recall the issue of tracks or dog
18 tracking at the Jewish cemetery on or about October 6 of
19 1994?

20 A Yes.

21 Q Okay. There was -- Do you recall that there was a
22 plaster cast taken of a footprint of interest?

23 A Yes.

24 Q Okay.

25 A They never matched that up to anybody.

1 Q Okay. Did you introduce that evidence at trial?

2 A Well, no. Since it was never tied to anybody I
3 wasn't allowed -- I mean, I extracted from the officer
4 testimony that this footprint existed and that it wasn't
5 matched to anybody including Joe Morrison, but I'm not
6 allowed at trial to introduce evidence that somebody else
7 did it unless I can pretty much, you know, prove it.

8 MR. CHESSE: Okay. I beg the court's indulgence
9 just a minute, please.

10 (Whereupon, Mr. Chesser conferred with his client.)

11 Q Regina, just continuing with the shoes, it was true
12 that they seized shoes from Mr. Morrison and from other
13 suspects; correct?

14 A I don't recall them seizing shoes. I know that they
15 made comparisons, but by their own admission they never
16 found a match at all.

17 Q Okay. All right. Regina, in terms of the trial do
18 you -- Is there something that occurs to you that you
19 should have done that you didn't do?

20 A You know, I can honestly say no. I was actually
21 fairly surprised that Mr. Morrison got convicted because I
22 felt like we had a lot of evidence in our favor and I felt
23 like I did actually a pretty good job. Goodness knows I
24 did everything in my power to discredit Tracy Fuller and I
25 felt like I did -- I felt like I did that. I really don't

1 know, you know, why the jury didn't agree with me, but I
2 can't -- I honestly can't think of a thing I could have
3 done or should have done that I didn't.

4 Q What was your relationship like with Mr. Morrison?
5 Did y'all -- How many times did y'all meet?

6 A I don't remember how many times we met.

7 Q Okay.

8 A I don't have my personal file to review, but I felt
9 like he was one of the more cooperative defendants. You
10 know, I had the usual problems trying to explain to him
11 some of the rules of evidence and why we couldn't do
12 things a certain way, but there is nothing unusual in
13 that, but he was very cooperative. He gave us names of
14 witnesses and, you know, was very actively involved in
15 preparing his case for trial.

16 Q He was incarcerated while y'all were preparing for
17 trial?

18 A Yes.

19 Q Okay. That's all the questions I have. Thank you,
20 Regina.

21 CROSS-EXAMINATION

22 BY MS. WILLIAMS:

23 Q If you don't mind I will fill in just a couple of
24 quick things. Regina, can you tell me about your legal
25 experience? How long had you been an attorney at this

1 time?

2 A At the time that Mr. Morrison's case went to trial I
3 had been admitted to the bar for 11 years and had been
4 actively engaged in the practice of criminal defense for
5 10 years.

6 Q All right. Now, did you have an investigator to
7 assist you with this case?

8 A Yes.

9 Q Okay. Did that investigator meet with both yourself
10 and Mr. Morrison?

11 A Yes. Usually -- Usually he was with me when I met
12 with him and he was with me during the trial of the case.

13 Q Okay. Now, the alibi defense -- was that something
14 that you developed with Mr. Morrison?

15 A Yes. He provided me with the names of his witnesses
16 and actually a couple of them I knew from, you know, prior
17 cases and such. And his witnesses were cooperative.

18 Q And he assisted you also -- would it be fair to say
19 he assisted you also in cross examination in some of these
20 areas?

21 A Well, yes. He was seated right next to me during the
22 trial and we took advantage of every opportunity during
23 the trial to discuss with him during the breaks what the
24 witnesses were saying, what they might say. He
25 participated fully in the trial.

1 Q In terms of the evidence you had some statements from
2 Mr. Fuller and did you see those statements?

3 A Yes.

4 Q And had Mr. Morrison seen them?

5 A I believe so, yes.

6 Q Okay.

7 A I think -- Sometimes if it was practical we would
8 provide our clients with copies of everything. Sometimes
9 if the file was really thick that wasn't practical, but,
10 certainly, I would physically go over everything with the
11 defendant.

12 Q And I am going to ask you if you can sum up your
13 trial strategy in this case just in a very brief way how
14 would you sum that up?

15 A Trial strategy primarily consisted of discrediting
16 Tracy Fuller. Mr. Morrison, of course, was a big
17 proponent of his alibi defense, but I could see all too
18 well that the alibi didn't entirely preclude him from
19 having been involved in the crime. Basically, since the
20 only thing they had to take the case to trial was Tracy
21 Fuller I had to discredit Tracy Fuller.

22 Q And you do remember discussing with him the issue of
23 testifying at trial; is that correct?

24 A I don't have any specific recollections of it, no.
25 What little I recall was that it was fairly routine. He

1 understood. It was not the first time he had been in
2 court. He understood about his right to testify and that
3 it was not necessarily in his best interest, but...

4 Q I think that's all I have. Thank you so much for
5 your time.

6 A You're welcome.

7 MR. CHESSER: Thank you, Regina. I don't have
8 anything further.

9 THE COURT: Thank you, ma'am.

10 THE WITNESS: You're welcome.

11 THE COURT: We're going to hang up. Hold on one
12 second. One second.

13 THE WITNESS: Okay.

14 THE APPLICANT: Can I speak to her?

15 (Whereupon, Mr. Chesser conferred with his client.)

16 REDIRECT EXAMINATION

17 BY MR. CHESSER:

18 Q Regina, if you will permit me, I may have been over
19 this, but I have just -- I hate to repeat myself, but are
20 you saying that you're not aware that a pair of shoes was
21 seized from Mr. Morrison's residence?

22 A No. I am just saying I don't remember.

23 Q Okay. If they had shoes and a shoe cast, would it be
24 normal in a murder case that they would do a forensic
25 comparison?

1 A I'm sorry. I'm not following you. They didn't --

2 Q They didn't do any -- You didn't get any forensic
3 comparisons or scientific analyses or comparisons of
4 shoes belonging to Joe Morrison with the foot cast, did
5 you?

6 A Oh, well, no, because the police admitted that there
7 was no match. So, I mean, there was nothing there to
8 challenge.

9 (Whereupon, Mr. Chesser conferred with his client.)

10 THE WITNESS: Normally, the state seeks to introduce
11 shoes saying this shoe from this defendant made this
12 footprint, but since the police admitted that Joe
13 Morrison's shoes didn't make that footprint it was a moot
14 point.

15 MR. CHESSER: Okay. Thank you. That's all I have.

16 THE COURT: Thank you, ma'am. We're going to hang
17 up.

18 THE WITNESS: All right.

19 THE COURT: Bye.

20 (Whereupon, a break was taken and the following
21 proceedings were held in open court.)

22 THE COURT: All right. You may call your next
23 witness.

24 MR. CHESSER: I'd call Joseph Morrison, Your Honor.

25 THE COURT: Mr. Morrison, come on around, please.

1 JOSEPH MORRISON, III, after being duly sworn,
2 testified as follows:

3 THE COURT: Comfortable? Need some water? You okay?

4 THE WITNESS: No, sir. I'm fine.

5 DIRECT EXAMINATION

6 BY MR. CHESSE:

7 Q State your name, please.

8 A My name is Joseph Morrison, III.

9 Q Mr. Morrison, you went on trial about October 21 of
10 2003 for murder in Aiken County; correct?

11 A Yes, I did.

12 Q And you were represented by Regina Poteat; right?

13 A Yes, I was.

14 Q Okay. At that trial the jury reached a verdict of
15 guilty and you were sentenced to life in prison; is that
16 correct?

17 A Yes, I was.

18 Q How old are you now?

19 A I'm 37 years old.

20 Q Okay. So back then in '03 you must have been 33
21 years old?

22 A Thirty-one.

23 Q Thirty-one. You're from Aiken?

24 A Yes, sir -- Well, no, I'm from New York.

25 Q Oh, are you? How long did you live in Aiken?

1 A I moved in Aiken when I was about 12 years old.

2 Q Okay. So, you lived there almost 20 years before you
3 went to trial on this case?

4 A Aiken and various other places in South Carolina.

5 Q Okay. And you're currently housed in McCormick?

6 A Yes, I am.

7 Q Okay. Now, you're here today on the basis that your
8 lawyer Mrs. Poteat rendered ineffective assistance of
9 counsel; correct?

10 A Yes, I am.

11 Q And you're seeking a new trial; right?

12 A Yes, I am.

13 Q Okay. Now, in what way do you think-- and the judge
14 is the sole judge of this case. What way would you tell
15 the judge that Mrs. Poteat was ineffective?

16 A Well, I think Regina Poteat was ineffective in my
17 case by not properly pursuing the shoe print evidence in
18 my case. The shoe print evidence, Your Honor, was
19 relevant enough for the police to make a plaster cast.

20 THE COURT: Like Sheriff Hunt testified about this
21 morning.

22 THE WITNESS: Yes, sir. Like Sheriff Hunt testified
23 this morning that the cast was legible. The cast should
24 have been sent to the crime lab so it could be tested
25 properly by people with the proper knowledge. There was

1 also some shoes confiscated out of my home of
2 in 1994 which was supposed to be a match to the shoes
3 that was found in the graveyard -- to the shoeprint that
4 was found in the graveyard. They never sent the shoes to
5 the crime lab that was confiscated. They never sent the
6 shoe cast molding that they made to the crime lab. They
7 never brought -- the prosecution never brought this cast
8 mold into the courtroom even in presenting it whether to
9 say that it was one took or it wasn't a match made or what
10 have you or we sent it and it was tested or nothing.

11 Q Let me ask you this.

12 THE COURT: If it had been tested what would have
13 been the best case scenario for you?

14 THE WITNESS: For me, Your Honor? It would have
15 cleared me, Your Honor.

16 THE COURT: How?

17 THE WITNESS: The shoe print evidence would have
18 cleared me because Dr. Joel Sexton testified to the first
19 gunshot wound as being the fatal gunshot wound --

20 THE COURT: Right.

21 THE WITNESS: -- which went in the side of his skull.
22 He said that he fell right there where he stood. Tracy
23 Fuller testified that there was a struggle. Dr. Joel
24 Sexton cleared that up that it wasn't a struggle when he
25 said that he fell right there where he stood. If he -- if

1 Tracy Fuller was telling the truth about a struggle it
2 would have been a sign of a struggle or movement or stuff
3 on the ground. So, that was the first sign of him lying.

4 THE COURT: I'm talking about the footprint. How
5 would that have helped you?

6 THE WITNESS: Because the shoe print -- they would
7 have had to come up with a shoe size, okay? They would
8 have had to come up with other shoe tracks in the
9 graveyard and compare that to the testimony that Dr. Joel
10 Sexton and the other officers gave that the shoe print
11 that was found beside the dead body was also the shoe
12 print that was found walking beside him in the graveyard
13 and back out the graveyard and back into the grave yard.
14 You understand? Because they would have been able to make
15 a shoe print of Christopher Pollin's shoe and the shoe
16 print that was made beside him so they would have had two
17 shoe prints to compare against the other shoe prints that
18 were was found walking beside each other in the graveyard.
19 Okay?

20 So, to me from their testimony they said that the
21 shoe print that they found right beside the body was the
22 shoe print that was walking beside him. If they would
23 have tested that shoe print evidence, they would have
24 found that they was not my shoe. It was not my size.
25 Nothing.

1 THE COURT: Well, I thought they admitted it was not
2 your shoe.

3 THE WITNESS: Your Honor, they can't admit that
4 because it didn't go through the proper analysis.

5 THE COURT: I see.

6 THE WITNESS: What gave them the capability to make
7 that decision that that wasn't my shoe print or that it
8 wasn't --

9 Q In other words, Mr. Morrison, what you're saying is
10 that that should have been presented as evidence proving
11 your innocence?

12 A It should have been presented as evidence in defense
13 of my innocence as well to cover the prosecution so that I
14 wouldn't be able to come back and use it now. Okay?

15 Q Mr. Morrison, moving from the shoe print --

16 THE COURT: Hold on. On the shoe print, though, it
17 was never used in the trial of the case and they never
18 claimed it was your shoe; is that correct? They never
19 said it was your shoe.

20 THE WITNESS: No, they never said it was my shoe.

21 THE COURT: One way or the other.

22 THE WITNESS: No, sir, but they indicated that it was
23 or they thought it was because they came into my home and
24 took shoes out of my home supposedly to be a match to the
25 shoe print that they made.

1 THE COURT: But it was not a match?

2 THE WITNESS: We don't know, Your Honor, because they
3 never sent the evidence to the crime lab so that the
4 proper people can investigate the evidence --

5 THE COURT: I understand.

6 THE WITNESS: -- you know, so the proper decision
7 could have been made in my case.

8 THE COURT: I see.

9 THE WITNESS: So, I feel like they violated my Fifth
10 Amendment, my right to due process, Strickland versus
11 Washington. I will cite that case, Your Honor.

12 Strickland versus Washington, 404 U.S. 281, 1971.

13 Strickland versus Washington, Your Honor.

14 THE COURT: All right. Go ahead.

15 Q Mr. Morrison, what was your relationship like with
16 Mrs. Poteat while you were preparing for the trial of your
17 case?

18 A Well, I only seen Mrs. Poteat one time before my
19 trial and I seen her the week -- that Friday before I went
20 to trial, whichever -- it was like two or three days
21 before. They came a day before I went to trial and said,
22 You're going to trial tomorrow, and then I seen her -- her
23 and the investigator for the second time.

24 Q Okay. And do you recall the name of the
25 investigator?

1 A Bob Harte.

2 THE COURT: Who?

3 THE WITNESS: John Harte or Bob Harte; whoever was
4 the guy that got fired.

5 Q Okay?

6 A Was that Bob? Is he a Harte or something?

7 MR. CHESSER: You know, I can't remember that
8 person's name.

9 THE WITNESS: I just know the investigator was John
10 something. I'm not --

11 THE COURT: Well, there's John Harte the lawyer who
12 has just got resigned, but I don't know --

13 THE WITNESS: No.

14 MR. CHESSER: No. It was the investigator that lost
15 his job at some point.

16 THE WITNESS: Is it John? The old investigator.

17 MR. CHESSER: I honestly don't recall.

18 MR. ANDERSON: Bill Hartman.

19 THE WITNESS: Bill Hartman. Right.

20 Q Okay. Now, Mr. Morrison, you were accused of
21 shooting Chris Pollin in the company of Joseph Hankerson;
22 correct?

23 A Yes, sir, I was.

24 Q Let me ask you just who is Joseph Hankerson?

25 A That's my first cousin.

1 Q Okay. At the time that this is supposed to have
2 happened in October of '94 were you acquainted with Joseph
3 Hankerson?

4 A Yes, I was.

5 Q Okay. And he eventually -- he actually was tried for
6 murder also, was he not?

7 A I wasn't here.

8 Q You weren't here?

9 A But that was the word that he was also tried for
10 murder.

11 Q Okay. Why wasn't he tried with you?

12 A Because they hadn't caught him yet.

13 MS. WILLIAMS: Calls for speculation. He doesn't
14 know why.

15 THE COURT: If you know. If you know why he wasn't
16 tried.

17 THE WITNESS: Because he wasn't caught yet.

18 Q In other words, he was a fugitive?

19 A Yea and all the evidence that was pointing to him
20 they kept it out of the courtroom because he wasn't
21 present and so I couldn't use the evidence in my defense.

22 Q Okay. Now, in your case you presented an alibi
23 defense; right?

24 A Yes, I did.

25 Q Okay. A girlfriend of yours testified that you were

1 at her house the night that Chris Pollin was killed;
2 correct?

3 A Yes, sir. Yes, I did.

4 Q Okay. Do you feel that Mrs. Poteat could have done
5 that better?

6 A Actually, Mrs. Poteat sent Hattie Mae Bartley home
7 and told her they didn't need her to testify. She sent
8 Deidre Lloyd home.

9 THE COURT: Who is Hattie Mae?

10 THE WITNESS: That was Tantalea Bartley's mother, the
11 girl I was with that night. She told her she didn't need
12 her so she didn't testify in my case. She also told
13 Deidre Lloyd that she didn't need her and sent her home
14 and she later on testified for the state against Joseph
15 Hankerson in the murder trial against him. Deidre Lloyd
16 testified --

17 MS. WILLIAMS: I object. He said he didn't know
18 anything about the trial and now he is telling us what
19 happened.

20 THE COURT: I am going to let him make his record.

21 THE WITNESS: Your Honor, later on the state used
22 Deidre Lloyd to testify against Joseph Hankerson trying
23 him for murder as well. After the state lost their
24 preliminary hearing they came to McCormick Correctional
25 Institution and requested me -- the solicitor did, Your

1 Honor, and several other people with Keith Glover and some
2 other investigators requested me and I told them about
3 what happened that night and everything and they asked me,
4 well, why didn't I take a lie detector test? I told them
5 because the night he murdered him the next day when I
6 asked him about it he put a gun to my head and he
7 threatened to kill me that if I said anything about it,
8 also. So, that's why I never took a lie detector test.
9 That's why when they came to get me I said I wasn't taking
10 it because I was fearing for my life. If they let him go,
11 he was going to kill me just like he did Chris in the
12 cemetery face down and leave him dead. So, Your Honor, I
13 didn't say anything.
14 So, they asked me when they came to question me why
15 am I willing to take the lie detector test now. I said
16 because they have him in custody, number one, and
17 everybody lied on me, Your Honor. I didn't say anything
18 about what my baby mother told me that night. I came home
19 because I didn't want to get killed. I didn't want her
20 killed, and, Your Honor, I didn't want to have nothing to
21 do with my cousin going to prison for something he did or
22 he didn't do. It didn't matter. I didn't know want
23 nothing to do with it. Okay? And then --

24 THE COURT: Will you take a lie detector test now?

25 THE WITNESS: I took it, Your Honor, and I passed it.

1 They said the reason why they gave me the lie detector
2 test was because they had newly-discovered evidence that
3 may prove that I wasn't the shooter. After they gave me
4 the lie detector test at the law enforcement center the
5 man said, Mr. Morrison -- this evidence showed that
6 Mr. Morrison may have not been involved in the shooting
7 death of Chris Pollin.

8 Q Do you have a piece of paper that pertains to that?

9 A Yes, I do, your Honor. And, Your Honor, also, when
10 they gave Tracy Fuller a lie detector test against me they
11 asked him favoritism questions. They didn't ask him --

12 MS. WILLIAMS: Again, he was not at a lie detector
13 test for Tracy Fuller.

14 THE WITNESS: Didn't have to be, Your Honor. I got
15 the evidence right here.

16 THE COURT: Let me see what you got. When did you
17 take the polygraph test?

18 THE WITNESS: Two thousand, I think, seven. 2007,
19 Your Honor. Here go the lie detector test that they gave
20 him that was --

21 THE COURT: I am not worried about his. I am worried
22 about yours.

23 THE WITNESS: After I took the lie detector test they
24 brought me back to Aiken County jail and they wanted me to
25 testify to information about the gun, Your Honor, and I

1 told them that if I wasn't allowed to tell the whole truth
2 so everybody will know the real truth that I prefer not to
3 speak on it at all, you know, and then the judge respected
4 my decision that I made and they told me that I could go,
5 Your Honor.

6 There are so many lies been told in this case and
7 this man's mother has been drug up and down the road and
8 she thinks that she has a fair and just conviction for her
9 son's murder, but she don't, and the guy that killed her
10 son after the state wasn't able to convict him and they
11 already had me they made a deal with him to give him 10
12 years for accessory to murder for the guy that he actually
13 murdered. She still doesn't have justice for her son's
14 murder right now today, Your Honor.

15 THE COURT: All right. Answer any further questions
16 he has.

17 Q Mr. Morrison, now you stated that you felt like
18 Mrs. Poteat should have called some witnesses that she
19 didn't call; correct?

20 A Yes, I do, Your Honor. I mean, yes, I do.

21 Q And what would those witnesses have testified to?

22 A Well, if she would have contacted Curt Diggs she
23 would have known that I left -- Friday
24 night -- with Curt Diggs that night. She
25 would have had that and that would have took me from my

1 house to my cousin Dottie's house. Me and my baby mama at
2 this time was having problems so anytime that I went to
3 her house I would let somebody in my family know. Now, I
4 couldn't tell my girlfriend because I have two daughters
5 six weeks apart. So, really, I was sneaking from one
6 girl's house to the other girl's house and I used him as a
7 escape goat. Okay?

8 She never did call my cousin Dorothy. She never did
9 call Curt Diggs. She told Hattie Mae Bartley she didn't
10 need her to testify. She sent Deidre Lloyd home and then
11 the state turned around and used Deidre Lloyd later on in
12 the case against Joseph Hankerson.

13 Q What would Deidre Lloyd have said at your case?

14 A Deidre Lloyd would have told them that she gave
15 Joseph Hankerson the gun that I never knew nothing about,
16 Your Honor.

17 THE COURT: Hold on a second. I can't let him
18 testify to what --

19 MS. WILLIAMS: That's --

20 THE COURT: -- she would say.

21 THE WITNESS: I never knew nothing about it.

22 THE COURT: Hold on a second. Who would have
23 established your alibi? Give me the names without telling
24 me what they would say.

25 THE WITNESS: Tantalea Bartley establishes --

1 THE COURT: Miss Bartley.

2 THE WITNESS: Hattie Mae Bartley.

3 THE COURT: That's her mama.

4 THE WITNESS: Curt Diggs would have been able to
5 establish when he took me from Freiday Lane to my cousin
6 Dorothy's house and Dorothy would have testified to me
7 telling her I was going to Tantalea's house which was
8 roughly two blocks away.

9 THE COURT: All right. Why did Mrs. Poteat not call
10 these people?

11 THE WITNESS: Your Honor.....

12 THE COURT: If you know.

13 THE WITNESS: You know, I'm not one to --

14 THE COURT: If you know why she didn't call them.

15 THE WITNESS: I feel like she was helping the state,
16 Your Honor.

17 THE COURT: Well --

18 THE WITNESS: That's my honest opinion --

19 THE COURT: Okay.

20 THE WITNESS: --- because --

21 THE COURT: Well, let me ask you this now. Where are
22 these people today?

23 THE WITNESS: Hattie Mae Bartley dead. Tantalea
24 Bartley dead. Curt Diggs is still living. Deidre Lloyd
25 still living. Mr. Hunt still living and all of the other

1 witnesses in my trial that I could have used in my
2 defense, they are all still living.

3 Your Honor, if I may, before I went to trial they had
4 evidence hearing, Your Honor, and because Joseph Hankerson
5 had not been apprehended at this time all of the witnesses
6 that could verify seeing Joseph Hankerson with Christopher
7 Pollin the day before the murder and could have testified
8 to the arguments that took place the day before and them
9 knowing about their drug dealing and him owing him money
10 they could have testified in my defense. They wouldn't
11 allow them to testify because Joseph Hankerson was not yet
12 apprehended. So, in the evidence hearing before my trial
13 the judge would not allow it into the courtroom.

14 MS. WILLIAMS: Would you note my objection at least
15 to his lack of personal knowledge about any of this?

16 THE COURT: You're protected.

17 MS. WILLIAMS: Thank you.

18 THE COURT: Strictly alibi witnesses. Leave Mr. Hunt
19 and all of those out of it. Just the people who could
20 have allegedly said where you were, two of them are dead?

21 THE WITNESS: Yes, sir. The two main ones are dead,
22 Your Honor.

23 THE COURT: How did they die?

24 THE WITNESS: Well, one died of cancer and they found
25 the other one face down dead, Your Honor, sadly as it may

1 be. They found her face down dead. As a matter of fact,
2 they died like six months in between. It was the
3 hurtingest thing in my life to lose my children's mother
4 behind these walls and my kids was left out there with
5 nobody and I sit in a prison cell for a murder that I
6 didn't commit, Your Honor, and I have been dealt this
7 great deal of injustice in this crime and I haven't been
8 given a fair opportunity to represent myself so I can
9 still be a father to my children. I understand everyone's
10 grief and everything everyone else went through, Your
11 Honor, but my family is going through grief as well.

12 Now, I can't account for what Mr. Hankerson did.

13 Now, I feel a certain amount of sympathy in my heart and
14 grief for Mr. Rollin's mother. I feel grief in my heart
15 for the whole eight years living with knowing that my
16 cousin killed her son and couldn't say nothing about it,
17 Your Honor. That was worst grief I ever felt.

18 THE COURT: Why couldn't you say anything about it?

19 THE WITNESS: Because, Your Honor, I didn't want to
20 be in a courtroom. I didn't want to be labeled as
21 testifying against my first cousin or my baby mama. The
22 eight years had done passed in between the time for when
23 he put the gun to my head after Chris got murdered that --
24 like he got murdered that night, the next day when I
25 questioned him about it and said, Why did you mix my baby

1 mama up in that BS and he put the gun to my head and said,
2 I didn't mix her up in nothing, but if you cross me or say
3 anything about it I'll blow your brains out, too. That's
4 why I have been silent about it the whole time. My cousin
5 has been on the street, Your Honor. You see what they
6 did.

7 THE COURT: All right. Answer anything more he's
8 got.

9 Q Mr. Morrison, there was a testimony from a Miss Byrd
10 at your trial and she testified that you stated in her
11 hearing that you shot him because he had too much mouth.
12 Do you recall that testimony?

13 A Yes, I do.

14 Q And was that true?

15 A No, it wasn't. Your Honor --

16 THE COURT: Who is Miss Byrd?

17 THE WITNESS: Your Honor, Felicia Byrd is a girl that
18 sat behind me in ninth grade English in high school.

19 Okay? She's also someone that wants to be a part of
20 something that's right, but she was wrong, Your Honor.

21 When I was standing on the strip Leo Jackson which was her
22 boyfriend at the time had done heard about the guy got
23 shot at the graveyard and said Joe did it. I went to high
24 school with Felicia. I went to high school with Leo
25 Jackson, Your Honor. You understand what I'm saying?

1 I said they said I shot them. I said, I ain't shot
2 nobody. I didn't even know the man. He said, Well, I
3 hear they said you shot him for running through the
4 graveyard. I said, I don't know what they said. All at
5 the same time, Your Honor, I knew that my cousin murdered
6 him, and the guy that murdered him was standing right
7 there beside me and I could --

8 THE COURT: How do you know your cousin murdered him?

9 THE WITNESS: Because my baby mother told me. He
10 told me the next day, Your Honor, when he put that gun to
11 my head when I questioned him. When I got home at
12 5 o'clock that morning, Your Honor -- 5 o'clock that
13 morning and knocked on that window she opened that window
14 like she was sitting right there waiting on me. She came
15 to that front door. She said, Where you been, Joe? I
16 said, I have been at Dottie's house, which was my cousin
17 who I let know I'm going to my girl's house. I been at
18 Dottie's house. She said, You're lying, Joe. I said, I
19 ain't lying. She said, I just left there. I said, Didn't
20 I tell you about questioning me? She said, Joe, tell me
21 the truth. I said, Didn't I tell you about questioning
22 me? Don't ask me no more questions. Just like that. She
23 said, Joe, tell me the truth. I said, Mind your damn
24 business. Then she turned around and said, Tree killed
25 Chris. When she said Tree --

1 MS. WILLIAMS: Object to hearsay on that.

2 THE WITNESS: When she said Tree killed Chris my
3 world went black.

4 THE COURT: All right. Answer any questions.

5 Q Mr. Morrison, how did you reach a decision not to
6 testify in your defense at your trial?

7 A Well, once again, before we went -- actually got into
8 the trial, Your Honor, we had another a little recess and
9 it is something about briefing me about the trial and
10 different things like that in testifying. When I told the
11 lawyer -- she said, Do you want to testify? I said, yes,
12 I do, Mrs. Poteat. She said, Well, you know your past
13 record will be brought up. I said, I don't care if my
14 past record will be brought up. I said, There is a
15 difference between being a drug dealer and a killer.
16 Okay? I said, I am not a killer and a drug dealer. I am
17 just a drug dealer, okay? She said, Mr. Morrison, it will
18 be my advice to you from your past record not to testify
19 by experience.

20 She stood up in the courtroom before we actually had
21 court and she told the judge that Mr. Morrison wants to
22 testify but it is my advice because of his past record for
23 him not to testify. So, he is solely making the decision
24 today on not testifying because of my advice. So that's
25 what she said for my recollection. I can't tell you word

1 for word, but that's my recollection.

2 Q Mr. Morrison, her job is to give you advice; right?

3 A Yes, it is.

4 Q So, who's decision was it that you weren't going to
5 testify? Was it yours or hers?

6 A Ultimately, it's my decision at the end of the day,
7 but my lawyer is my guide. She's supposed to guide me
8 properly, and if I tell her I wants to testify, she's
9 supposed to go along with me. She don't supposed to try
10 to manipulate me into not testifying because of my past
11 record. An innocent man will stand firm and make it
12 known. A guilty man will try to hide behind the shadows,
13 and being that I listened to her it made me look like that
14 I was a guilty man that I had something to hide when I had
15 nothing to hide.

16 She also told me the reason why she didn't want me to
17 testify is because I had a manipulating personality and to
18 the jury that would seem to be somewhat deceiving to them.

19 Q She didn't think you would make a good impression?

20 A She didn't think I would make a good impression on
21 the jury.

22 Q And you feel -- and I am not putting this down or
23 criticizing anybody, but you feel like that was bad
24 advice?

25 A Yes, I know it was bad advice.

1 Q Uh-huh. Okay. And you've got a right to have good
2 advice from your lawyer; right?

3 A Right.

4 Q Okay. What other basis do you have for feeling that
5 her performance was defective?

6 A Well, you know, it was known throughout my trial that
7 Tracy Fuller had four or five different kinds of death,
8 Your Honor, as we would say. It was also known in my
9 trial that Tracy Fuller said that him, Christopher Pollin,
10 myself, and my cousin Joseph Hankerson had been riding
11 around in the car all day long. Mrs. Poteat never asked
12 them what color the car was, what model and make it was,
13 or nothing, Your Honor. That was relevant to me in a
14 murder case.

15 What was also relevant to me that Mrs. Poteat didn't
16 question Tracy Fuller about is -- my bad. What was also
17 relevant to me is that they didn't provide no witnesses
18 against me that could identify me as knowing this person,
19 Your Honor. Ninety-five percent of the people that's
20 murdered, Your Honor, are by people that they know. As
21 small as Aiken County is -- I went to Aiken High School
22 and it was brought to my attention that he went to Aiken
23 High as well. With all of his circle of friends that live
24 in this particular area that knew me and knew him, they
25 would have known if I had some dealing with this man or

1 not. They would have known if he was selling drugs for me
2 or if he was seen with me sometime or another, Your Honor.
3 They could not even bring no one in the courtroom to make
4 those allegations against me, your Honor. Okay?

5 You know what they did, Your Honor? They made up
6 allegations. They used people behind the prison walls
7 that was trying to wedge themselves out of the
8 penitentiary and used the knowledge of the murder that he
9 participated in and committed in -- you understand what
10 I'm saying -- to weasel his way out of the penitentiary
11 after he was already serving 18 years for armed robbery,
12 Your Honor. This is how he got out of the penitentiary.
13 He used his knowledge that he knew about the murder that
14 he committed with my cousin to wedge himself out of the
15 penitentiary.

16 Q Mr. Morrison, let me ask you one other point. You
17 state that the government told you in 2007 that they had
18 new evidence that indicated you were not guilty. Is that
19 what you said?

20 A They said the reason for giving me -- it's on the lie
21 detector test I think --

22 MS. WILLIAMS: It is hearsay.

23 THE WITNESS: -- is the reason for giving me the lie
24 detector test that they had newly discovered evidence that
25 may prove that I was not the shooter.

1 Q Have they told you what that newly discovered
2 evidence is?

3 A No, they have not, Your Honor.

4 THE COURT: Well, Mr. Chesser, do you know what it
5 is?

6 MR. CHESSER: No, I don't, Your Honor. I will just
7 tell you that.

8 THE COURT: Well, they got an officer's name on here
9 I can't read. It is signed -- I am not sure what he is
10 signing.

11 THE WITNESS: Your Honor, I just want a fair break.

12 I don't --

13 THE COURT: Just hang on. I am just trying to get to
14 the bottom of it. Go ahead.

15 MR. CHESSER: Well, that's --

16 THE COURT: I mean, I am reading the same thing
17 you're reading.

18 MR. CHESSER: I do not know what it is.

19 THE COURT: Additional information has surfaced that
20 the examinee may not be involved in the shooting of the
21 victim. Examinee was offered a polygraph test to
22 determine if he was involved in the shooting. The
23 results. Did you shoot Chris on October 1994? No. The
24 results. No responses indicative of attempted deception
25 are noted to the relevant issue. You don't know what the

1 evidence is?

2 MR. CHESSER: No, sir. No, sir. I don't want to get
3 into a swearing match, and me and Mr. Morrison have gotten
4 along fairly well. He has a different version of this,
5 but when I visited with him he told me he had taken a
6 polygraph and my recollection was he asked me to find out
7 what the results were and I was never able to communicate
8 with Barbara Morgan at that time and I'm not trying to,
9 you know, disagree with Mr. Morrison, but the first time I
10 saw that paper was today. If I -- I feel like, you know,
11 I went to see him and he told me, but if he had just
12 showed it to me I would have known that, but -- and
13 particularly it's significant where it talks about that
14 they have new evidence that tends to exculpate him, but in
15 any event that is --

16 THE COURT: Well, we're going to get to the bottom of
17 it.

18 MR. CHESSER: -- my representation, Your Honor.

19 MS. WILLIAMS: If I can interject. To the extent
20 that if he is going to allege newly discovered evidence I
21 am going to have to leave the record open because we
22 didn't know about --

23 THE COURT: I promise you we're going to leave it
24 open. I am going to have a hearing with whoever the
25 officer is who says there is additional evidence to find

1 out what it is.

2 Just who came to you and asked you to take the
3 polygraph?

4 THE WITNESS: I think it was --

5 THE COURT: Did you ask them to take it or did they
6 come to you?

7 THE WITNESS: They asked me why didn't I take it and
8 I told them because --

9 THE COURT: Who told you that? When did they come?

10 THE WITNESS: In 2007. Your Honor, whenever they --

11 I can't say specifically. My lawyer might have this

12 information on record somewhere, but whenever Joseph

13 Hankerson went to a preliminary hearing. They threw his

14 case out in the preliminary hearing. When they threw the

15 case out in preliminary hearing they came back and

16 questioned me. So, maybe that will give you some type of

17 timeframe if you could find out when they did that.

18 THE COURT: Okay.

19 MS. WILLIAMS: I do know who represented Mr.

20 Hankerson and will be glad to get Mrs. Kelly Brown. I'm

21 sure she could help.

22 THE COURT: You will -- and I am not taking what he
23 said -- he's just giving me his best guess of what's going
24 on.

25 THE WITNESS: And, you know, I did ask for my

1 witness. I don't know why she didn't -- my lawyer have
2 Deidre Lloyd to be here because she testified for the
3 state. I don't know exactly what went on during that
4 trial, but I was told some things I thought it was very
5 relevant for her to be here and testify as well because
6 she testified to giving the man the weapon that he
7 actually assaulted Mrs. Pollin's son with.

8 MS. WILLIAMS: I have a transcript of the plea from
9 that, but I don't have a transcript of the trial.

10 THE COURT: Go ahead, Mr. Chesser.

11 Q Now, Tracy Fuller was the primary witness against
12 you, correct?

13 A Yes, he was.

14 Q Okay. Your lawyer, she questioned him about
15 inconsistent statements that he had given to law
16 enforcement; correct?

17 A Yes, she did.

18 Q And including initially he said that he witnessed a
19 shooting in the afternoon; right?

20 A Right; in the afternoon.

21 Q Why do you feel that her handling of this primary
22 witness for the state was incorrect or ineffective?

23 A Because after he testified to the murder being in the
24 afternoon, then he went to dusk, then he went to dark,
25 then he went to 12 o'clock at night, then he went to every

1 other change that they made in the courtroom for him to go
2 ahead and slide off into. Okay? Every lie that he told
3 he came back and suddenly told another truth and then he
4 told another truth and it just all added up to one big
5 lie.

6 Q All right.

7 THE COURT: She cross examined him about all of the
8 lies, didn't she?

9 THE WITNESS: Yes, she did, Your Honor.

10 THE COURT: You don't think she was effective?

11 THE WITNESS: If she was effective in cross examining
12 him I wouldn't have been here, Your Honor.

13 THE COURT: What is his name?

14 THE WITNESS: Tracy Fuller. He was probably in your
15 courtroom again on some more charges.

16 THE COURT: Go ahead.

17 MR. CHESSER: Your Honor, that's all the questions I
18 have for Mr. Morrison.

19 THE COURT: Mr. Morrison, answer anything that the
20 AG's office has.

21 CROSS-EXAMINATION

22 BY MS. WILLIAMS:

23 Q Mr. Morrison, where were you when you were charged
24 with this murder?

25 A I was in Georgia.

1 Q And what name were you going by then?

2 A Sam Colon.

3 Q Sam what?

4 A Sam Colon.

5 Q How do you spell that?

6 A S-A-M C-O-L-O-N.

7 Q I'm sorry. I couldn't hear very well. I apologize.

8 What were you in prison in Georgia for at that time?

9 A Possession of cocaine.

10 Q Now, tell me again why didn't you testify at your
11 trial?

12 A Because I didn't want to testify on my baby's mother.

13 I didn't want to testify against my first cousin and when

14 I questioned him about killing Chris and mixing my baby

15 mother up in it he put the .38 to my head and said if I

16 say anything about it he is going to blow my brains out,

17 too. That's why I was quiet.

18 Q So, that's not affecting your decision now?

19 A He's in prison.

20 Q Did you see all of the discovery in the case? Did
21 she show you evidence?

22 A Who?

23 Q Mrs. Poteat.

24 A She gave me motion of discovery.

25 Q Okay. Did y'all go over that?

1 A I went over it.

2 Q By yourself?

3 A Yes, I did.

4 Q Now, when was the first time you met with her?

5 A I can't exactly remember the first time that I met
6 with her, but I'm sure it probably was in 2002 sometime.

7 Q 2002. When was the next time you saw her after that?

8 A The day before my trial.

9 Q Now, when was the first time you met the
10 investigator?

11 A He came and seen me sometime in between after the
12 first time she came. No, he actually came with her the
13 first time when he came to see me.

14 Q Did he come see you in between as well?

15 A He came and seen me one time.

16 Q Just one time --

17 A After --

18 Q He came with her the first time?

19 A The first time he came with her. He came to see me
20 in between time to try to get me to cop a plea or say I
21 did this -- see if he could get me 10 years and all kind
22 of crap like that and I told him I wouldn't take six
23 months for a murder I didn't commit.

24 Q All right. Which meeting did you tell Mrs. Poteat
25 about your alibi witnesses?

1 A The first meeting that I had with her.

2 Q So that --

3 A I told her everything.

4 Q That was something that you wanted to pursue with
5 her; is that correct?

6 A What? About any alibi witnesses?

7 Q Uh-huh.

8 A Yes, it was.

9 Q About this last incident here, did you contact law
10 enforcement or did they contact you?

11 A They came one day I was going to work on the hill
12 and somebody told me oh, your cousin went to court today.

13 The next thing I know it was about five people up there in
14 all kind of suits and I'm going to work and they are
15 snatching me from work on lock-up to the warden's office.
16 I am scared because you don't go to the warden's office
17 for nothing. When you go to warden's office -- I already
18 got life. So, when you go to warden's office you done did
19 something wrong, you know? And back then I had a little
20 cigarette thing going on on the hill so I thought he had
21 done smashed me out about that, but it wasn't, you know.

22 So, when I went in there the lawyers and detectives
23 and the district attorneys was in there. It was like five
24 of them in there. I was like, What's going on? I said,
25 oh, then when I finally knew who it was I said, oh, y'all

1 finally come to see me, huh? I said, I been waiting on
2 this for five years. I knew you'll get here. Sure did.

3 Q And you took the lie detector test then?

4 A The following Monday.

5 Q All right. When did you find out your cousin was in
6 jail?

7 A The following Monday or Tuesday. I seen it on the
8 news.

9 Q After your lie detector test?

10 A No. I seen it on the news -- I think he got caught
11 in '07 and that's -- actually, I was on lock-up at work
12 and when I came back from work the guy said, boy, your
13 cousin been on the news. You been on the news. Boy, they
14 said you might -- they might find some lenience for you
15 since they done found him and all kind -- you know how the
16 guys are in prison, you know. When they see one of us in
17 -- you know, one of us on the news, it's a big thing for
18 them, you know, but they said they may have found some
19 leniency that they caught the other guy.

20 Q Did you tell Mrs. Poteat the version of events that
21 you're telling us now that your cousin did this?

22 A I told my lawyer everything.

23 Q So you told her this?

24 A Everything.

25 Q Okay. You told her specifically that Mr. Hankerson

1 is the one who did this?

2 A Yes, I did.

3 Q Okay. Thank you very much.

4 THE COURT: Anything else?

5 MR. CHESSER: Not for this witness, Your Honor.

6 THE COURT: All right, sir. You may step down.

7 MR. CHESSER: I would call Robert Anderson.

8 THE WITNESS: Thank you, Your Honor.

9 ROBERT ANDERSON, after being duly sworn,
10 testified as follows:

11 MR. CHESSER: Your Honor, I would move that
12 document -- the piece of paper that purports to be a
13 polygraph result, specifically where it refers to newly
14 discovered evidence into evidence as no. 4.

15 THE COURT: Any objection?

16 MS. WILLIAMS: I don't know.

17 THE COURT: When was that polygraph taken, given? I
18 mean, I see the date on it, but how is that -- was that
19 obviously after his trial?

20 MR. CHESSER: It was July 24 of '07, Your Honor. It
21 must have been in connection with Mr. Hankerson's case,
22 the possibility of retrying him or in connection with his
23 first trial.

24 THE COURT: Mr. Hankerson was tried for murder and he
25 was found a mistrial because of a hung jury and going to

1 be retried again and then plead guilty to accessory after
2 the fact of murder?

3 MR. CHESSER: Yes, Your Honor.

4 MS. WILLIAMS: Yes, sir, and I have a copy of that
5 transcript. I guess it's an official copy. May I
6 approach?

7 (WHEREUPON, Plaintiff's Exhibit No. 4 was marked for
8 identification only.)

9 DIRECT EXAMINATION

10 BY MR. CHESSER:

11 Q State your name, please.

12 A Robert Anderson.

13 Q Where are you employed, sir?

14 A I work with the Aiken County Public Defender's
15 Office.

16 Q How long have you been with the Public Defender's
17 Office?

18 A Four years.

19 Q And what capacity do you work there?

20 A I am a Legal Investigator.

21 Q What did you do prior to that?

22 A Prior to that I was with -- I was Investigations
23 Captain with the Aiken County Sheriff's Office for 11
24 years. I taught criminal justice at Piedmont Tech in
25 Greenwood, South Carolina for four years and then I came

1 to the Public Defender's Office. I have been there four
2 years.

3 Q You worked -- I'm sorry. You worked where for 11
4 years?

5 A Aiken County Sheriff's Office.

6 Q Okay. What was your title there?

7 A I was the Criminal Investigations Captain.

8 Q What type of training did you have in connection with
9 that?

10 A All of the basic training, plus advanced training --

11 Q And --

12 A -- from the South Carolina Academy Law Enforcement
13 Division.

14 Q That -- South Carolina is a Criminal Justice Academy?

15 A Yes, sir.

16 Q Okay. Is that administered by SLED? Does it have
17 any connection with SLED?

18 A It did prior and then the Department of Public Safety
19 took it over, so, but it's a state entity. Yes, sir.

20 Q So, when you study there do you learn investigative
21 techniques?

22 A Yes, sir. After the initial academy when brand new
23 officers are graduated as their career progresses
24 opportunities for advanced training becomes available and
25 I had 11 years of that.

1 Q Okay. So, you didn't start out as a captain with the
2 Sheriff's Department?

3 A Oh, no.

4 Q Can you tell about your progression to become a
5 captain?

6 A Well, I started out working the road as a regular
7 patrolman. I became a juvenile investigator where I
8 specialized in criminal sexual assaults on children. I've
9 worked numerous child abuse cases, elderly abuse cases.
10 Then I moved into investigations. I kind of climbed the
11 ladder. In investigations I was a lieutenant over
12 juvenile. I was lieutenant in adult investigations. I
13 have worked countless homicides, violent crimes, property
14 crimes.

15 Q And when you worked those homicides and violent
16 crimes have you had occasion to conduct the field
17 investigation, the crime scene investigation?

18 A Oh, yes.

19 Q And can you give the court an idea of how many times
20 you've done that?

21 A Countless.

22 Q Okay.

23 A Just countless.

24 MR. CHESSER: I would ask that Mr. Anderson be
25 qualified as an expert in crime scene investigation, Your

1 Honor.

2 VOIR DIRE EXAMINATION

3 BY MS. WILLIAMS:

4 Q Did you have any involvement in this particular case?

5 A The only involvement I had is when I reviewed this
6 case for the Joseph Hankerson trial.

7 MS. WILLIAMS: Okay. I don't have any objection to
8 his qualification as a crime scene expert with that
9 limitation.

10 CONTINUED DIRECT EXAMINATION

11 BY MR. CHESSE:

12 Q Mr. Anderson, let me jump to something. Do you have
13 any knowledge of what this newly discovered evidence is
14 referenced in Plaintiff's exhibit no. 4?

15 A No, sir. I listened to the testimony and I have no
16 idea what this is, but, obviously, SLED did it and it
17 was --

18 THE COURT: Are you talking about the polygraph exam?

19 THE WITNESS: Yes, sir and it --

20 THE COURT: He passed it, didn't he?

21 THE WITNESS: It looks like Aiken Department of
22 Public Safety initiated it and it was performed by a SLED
23 polygrapher and no response is indicative of attempted
24 deception so -- He passed questions regarding, Did you
25 shoot Chris in October of '94, and he also passed, Were

1 you present when Chris was shot? He also passed that
2 question.

3 Q In connection with the preparation for the Joseph
4 Hankerson case you had occasion to review what was
5 essentially the file on this case; is that right?

6 A Yes, sir.

7 Q Okay. Now, with respect to the bloodhound or
8 tracking, can you summarize for the court what that
9 evidence was?

10 A What was significant in regard to the tracking when I
11 reviewed this case was that Mike Hunt tracked two sets of
12 prints from Laurens Street through the cemetery to where
13 the body fell and in his report he specifically says that
14 he tracked from the victim's body to all the way -- all
15 the way to the road which is probably a quarter of a mile,
16 maybe a little more, and there was two sets of tracks and
17 nothing else. It was just those two sets of tracks as if
18 somebody was walking beside him and then shot the victim.

19 Q Now, is that consistent with the testimony of Tracy
20 Fuller?

21 A Not at all.

22 Q Okay. Now, you've heard testimony that -- or you may
23 not have heard it, but if I were to tell you that Tracy
24 Fuller testified that the victim Chris Pollin screamed or
25 yelled after he was shot, how would you reconcile that

1 with the location of the bullets found at the scene?

2 A I don't follow the line of your questioning very
3 well. What I can say is that the police reports, the
4 criminal -- the crime scene, the forensics in no way
5 support the argument that the Defendant was the shooter
6 because --

7 THE COURT: Say that again.

8 THE WITNESS: The forensics don't -- the forensics do
9 not support what their star witness said.

10 THE COURT: Well, we have that a lot of times. Of
11 course, that's why we have juries to determine who is
12 telling the truth. How does that make Mrs. Poteat
13 ineffective in her counsel of this Defendant?

14 MR. CHESSER: The --

15 THE COURT: I am asking him that question.

16 MR. CHESSER: Yes, sir.

17 THE WITNESS: Well, when I reviewed it, Your Honor, I
18 looked at the transcript and it wasn't the fact that she
19 did a poor job in challenging the officers on the stand,
20 but she didn't challenge them at all and their star
21 witness claimed that there was four people there and the
22 shooting occurred down at the bottom of the cemetery where
23 this big iron gate is and he was shot once in the chest
24 and he was actually shot in the head and then -- so, there
25 was a scuffle, he was shot, he screamed out, and then the

1 star witness -- he fled and as he's running away he heard
2 another shot and this all happened he said within 15 feet
3 of him at the bottom of this cemetery near this giant old
4 iron gate at bottom of the Jewish part of the cemetery.

5 Well, the body and the projectiles and and the shell
6 casings are found 40 yards up on top of the hill.

7 THE COURT: Did defense counsel -- did she employ any
8 crime scene expert or investigator to testify about all of
9 this evidence? If you know?

10 THE WITNESS: Regina?

11 THE COURT: Poteat.

12 MS. WILLIAMS: She did call Detective Courtney as
13 part of the defense case and inquired of him at some
14 length. I believe that that testimony begins on page 415.
15 He testified earlier as part of the state's case, but she
16 called him as a witness at page 415.

17 THE COURT: Did she hire any independent investigator
18 or any independent crime scene investigator to talk about
19 the discrepancies that you're talking about?

20 THE WITNESS: Not to my knowledge. I didn't see any
21 of that type of testimony in the transcript. If it was
22 entertained, I don't know. It is just apples and oranges
23 from what -- and I am only basing my opinion on the
24 officers' reports themselves. It's --

25 THE COURT: The reports didn't fit the physical

1 evidence?

2 THE WITNESS: No, not at all. I was shocked actually
3 when I read it.

4 THE COURT: Read what?

5 THE WITNESS: Read the case.

6 THE COURT: Read the transcript?

7 THE WITNESS: Yes, sir, and reviewed the case itself.

8 THE COURT: What all did you review to reach this
9 decision?

10 THE WITNESS: Well, I read the case file. I read the
11 case jacket and I compared the case jacket to what
12 happened in the transcript -- you know, what was said at
13 trial.

14 THE COURT: Case jacket is what?

15 THE WITNESS: The file; what we get through
16 discovery.

17 THE COURT: Who were you working for at this time?

18 THE WITNESS: When I reviewed this case I was working
19 with the Aiken County Public Defender's Office. Regina
20 Poteat had already left and Wallis Alves was the Chief
21 Public Defender at that time and I was working for Kelly
22 Brown who was representing Joseph Hankerson who you had
23 presided over on the other charge.

24 THE COURT: If I remember correctly I took
25 Hankerson's plea, but I don't think I tried the mistrial

1 case.

2 THE WITNESS: No, sir, you didn't.

3 THE COURT: Judge Russo? The jury stayed out real
4 late that night?

5 THE WITNESS: That's right and Hankerson, if I am not
6 mistaken, took an Alford plea.

7 THE COURT: He plead guilty to me on accessory after
8 the fact.

9 THE WITNESS: Oh, okay.

10 THE COURT: But in -- Mr. Gibbons -- He was a
11 solicitor at that time. It says that we had already had
12 conflicting statements that conflicted from the statements
13 from the earlier trial that conflicted from the statements
14 that were taken when the investigation first started and
15 -- in other words, it was just a conflict from A to Z on
16 everything. Now, this is on Hankerson's plea. After
17 Hankerson was tried for murder there was a mistrial;
18 correct? After that he plead guilty to accessory after
19 the fact?

20 THE WITNESS: Yes. That's right.

21 THE COURT: Go ahead.

22 Q Mr. Anderson, you recall there was a bullet that was
23 found underneath the deceased's head, if I am not
24 mistaken?

25 A That's right.

1 Q And I'm not clear on the details of that. Can you
2 explain to the court where that bullet was found exactly
3 and the significance of it?

4 A One bullet was still in his head. It was removed at
5 autopsy. The other bullet was found underneath him on the
6 ground beside his hoodie of his sweatshirt.

7 THE COURT: All right. Let me stop you right there.
8 There were only two casings found or two bullets found all
9 together?

10 THE WITNESS: Both bullets were recovered and both
11 shell casings were recovered.

12 THE COURT: And he had been shot how many times?

13 THE WITNESS: Twice.

14 THE COURT: Both head wounds?

15 THE WITNESS: One in the head, one through the neck.

16 THE COURT: And the head wound was the fatal wound?

17 THE WITNESS: The head wound -- it is believed that
18 the head wound was the fatal wound where he dropped right
19 there and the second one was an aftershot and it went
20 through his neck.

21 THE COURT: What is significant about all of that?

22 THE WITNESS: Well, what's significant about that is
23 the testimony when you compare it to the testimony of the
24 star witness that there was a struggle, he was shot in the
25 chest 40 yards away down at the bottom of the hill and all

1 of that evidence is up on top of the hill that there was
2 some -- that there was a struggle -- that there is no
3 indication that -- the officer said there was no signs of
4 a struggle. We're talking about all sand here, Your
5 Honor. It is just sand and scrub. It is very easy to see
6 these tracks, but --

7 THE COURT: So, the defense --

8 THE WITNESS: -- the first shot knocked him, dropped
9 him right where he said. As the officers indicated in
10 their report that the first shot dropped him where they
11 found him and the second shot would have been the one
12 through the neck and that's what doctor --

13 THE COURT: So, they found no evidence of any
14 struggle?

15 THE WITNESS: No struggle at all.

16 THE COURT: And he couldn't have struggled because he
17 was killed on the first shot?

18 THE WITNESS: Killed on the first shot or he was
19 mortally wounded on the first shot.

20 THE COURT: So what you're saying is the physical
21 evidence didn't make match up at all with what the star
22 witness was testifying to?

23 THE WITNESS: Yes.

24 THE COURT: But, yet, the jury believed the star
25 witness, apparently. So, how do we get around -- How do

1 we get from there to saying that she was ineffective?

2 THE WITNESS: When I reviewed the transcript there
3 was no challenge to the officers in that regard.

4 THE COURT: Mr. Chesser?

5 Q Mr. Anderson, with respect to the shots, one other
6 point I want to ask you about. Is the bullet that was
7 found underneath the body again was associated with the
8 entry wound at the neck area; correct?

9 A Yes, sir.

10 Q As a crime scene investigator then with the bullet
11 being found there it would indicate to you that the shot
12 was fired in a downward direction; correct?

13 A It is hard to make that determination. However,
14 because he was shot in his head and he had the fleshy part
15 here and the bullet was right under where he was, yes. It
16 is possible that he could have been shot standing up and
17 the bullet hang up in the clothing and fall with him,
18 but --

19 THE COURT: Have we got Sexton's autopsy report?

20 MR. CHESSER: Your Honor, that's our first exhibit.

21 THE COURT: Let me see it.

22 THE WITNESS: The one thing that's clear is that he
23 was shot up on top of the hill because both shell casings
24 and both bullets were found with the body and that's in
25 stark contrast with what the witness said. I don't think

1 there was much of a challenge in that.

2 THE COURT: Challenge by the defense lawyer?

3 THE WITNESS: Yes, sir. I couldn't find anywhere
4 where that was challenged.

5 Q Mr. Anderson, I want to ask you this. Tracy Fuller
6 having testified that after the first shot there was
7 screaming and that the victim ran, that's inconsistent
8 with the first shot being the bullet that stayed in his
9 head; correct?

10 A That's correct. Tracy Fuller on his videotaped
11 statement with law enforcement said that he felt confident
12 he was shot in his upper torso and he screamed and but he
13 was still standing and he said that Mr. Morrison had a
14 hold of him and they had a hold of each other and they
15 were scuffling and that according to Tracy Fuller that
16 happened down at the gate which is to me --

17 THE COURT: How far is the gate from where he was
18 found?

19 THE WITNESS: Over 40 yards.

20 THE COURT: 120 feet?

21 THE WITNESS: About 121 feet and it's -- it is two
22 completely different locations. That was not challenged.
23 I couldn't believe it.

24 THE COURT: Hold on a second. Is everything okay
25 back there? Ladies, are y'all okay?

1 THE POLICE OFFICER: Yes, sir.

2 MR. CHESSER: Please answer any questions.

3 CROSS-EXAMINATION

4 BY MS. WILLIAMS:

5 Q Mr. Anderson, are you aware that Tracy Fuller took a
6 lie detector test?

7 A I may be. I may remember that. I am not sure what
8 happened on that.

9 Q Would you dispute the fact that he passed several
10 polygraphs with regard to this matter?

11 A I wouldn't dispute it.

12 Q And in your review of the statements did you have an
13 opportunity to review Mr. Dewayne Courtney's report there?

14 A Yes, I've seen this.

15 Q Did you find anything inconsistent with that report
16 and this trial testimony that Courtney gave?

17 A I'm sorry, ma'am?

18 Q Did you find anything that Detective Courtney said at
19 trial that was inconsistent with that report?

20 A I would have to have the time to read this.

21 Q All right.

22 A I don't think I had a problem with anything that he
23 testified to as much as I was troubled by what he didn't
24 testify to in regard to a challenge.

25 Q Okay. What about you said there was no testimony

1 that there was no evidence of a scuffle?

2 A That's right. Their reports indicated there was no
3 scuffle and their reports also indicated that the first
4 shot appears to be the fatal wound which is inconsistent
5 with what the star witness said.

6 Q And at page 211 I want to show you the testimony of
7 Ed Browksi.

8 THE COURT: Who is Ed Browksi?

9 MS. WILLIAMS: Ed Browksi was the investigator. I
10 guess he was the lead investigator of this case there. I
11 have highlighted beside it.

12 Did Browksi, in fact, testify that there was no sign
13 of a scuffle there?

14 THE WITNESS: Yes.

15 Q Okay. And he continues on to page 212, 213. Would
16 that be consistent with what is in that report and what
17 you're telling us here today?

18 A Yes.

19 Q Okay.

20 THE COURT: What are you trying -- I mean, he is
21 saying that the body fell right there and there was no
22 sign of struggle; is that correct?

23 THE WITNESS: Yes.

24 THE COURT: Okay.

25 MS. WILLIAMS: Let me beg the indulgence for just a

1 moment. I think that's all I have.

2 THE COURT: And that was her cross on that?

3 MS. WILLIAMS: Yes, sir, it was. And I'll also bring
4 out some other things from the transcript in my closing
5 argument. I won't play 20 questions with the transcript,
6 but thank you. I believe I was going to put that report
7 in evidence. I'm sorry.

8 THE COURT: All right. Anything else?

9 MS. WILLIAMS: If I could place this report I think
10 into evidence --- is that at issue?

11 MR. CHESSER: No objection.

12 (WHEREUPON, Defendant's Exhibit No. 12 was marked for
13 identification and received into evidence.)

14 THE COURT: Any other questions?

15 MS. WILLIAMS: I have no further questions.

16 MR. CHESSER: No further questions.

17 THE COURT: Any additional witnesses?

18 MR. CHESSER: No, Your Honor.

19 THE COURT: What do you want to do, Mr. Chesser?

20 MR. CHESSER: Your Honor, what I would ask the court
21 to do is simply to give me an opportunity to pursue the
22 issue of newly discovered evidence that has actually not
23 been disclosed at all and I would like to pursue that.

24 THE COURT: I am not sure it's newly discovered or
25 what it is, but it certainly says it's something, doesn't

1 it? I guess we need to go to -- Well, I'll leave that up
2 to you as to how to investigate that. How long do you
3 need, Mr. Chesser? How long do you need to do that? Here
4 is what I am going to do. I am going to give you an
5 opportunity to investigate that and report back to me
6 after the first of the year. Don't let this get on the
7 back burner now.

8 MR. CHESSER: Thank you.

9 THE COURT: And then we may have to reconvene the
10 hearing. I need to know what's going on.

11 MR. CHESSER: Thank you, Your Honor.

12 THE COURT: Then then we'll do closing arguments and
13 briefs and all of that once we complete that.

14 MR. CHESSER: Very good.

15 MS. WILLIAMS: Save argument for later?

16 THE COURT: Yes, ma'am. We'll stand at ease until we
17 reconvene, but now, Mr. Chesser, you know, you and I get
18 along fine. Don't let this thing get on the back burner.
19 Keep it boiling.

20 MR. CHESSER: I'll do that, Your Honor.

21 THE COURT: Thank you. All right.

22 Do you understand what I'm doing?

23 THE APPLICANT: Yes, I do, sir.

24 (End of Transcript of Record.)

25

CERTIFICATE OF REPORTER

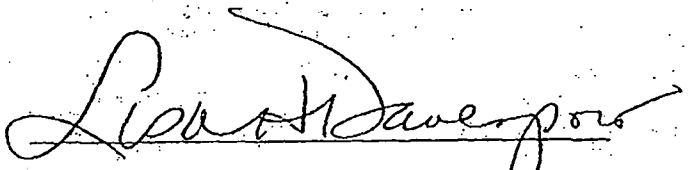
State of South Carolina)

County of Aiken)

I, Lisa H. Davenport, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal in the Court of Common Pleas for Bamberg County, South Carolina, on the 3rd day of December, 2009.

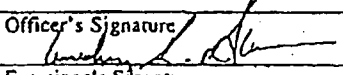
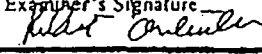
I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 15, 2010



Lisa H. Davenport, Court Reporter

Weyne
Ruchoff
H. H.
O. W. G. 1.2

 SOUTH CAROLINA LAW ENFORCEMENT DIVISION POLYGRAPH REPORT 			
This is an official report of the South Carolina Law Enforcement Division Polygraph Department and is to be used in connection with an official criminal investigation. This report is intended only for the use of the agency to which it was disseminated and may contain information that is either privileged or confidential. Its contents are not to be distributed outside your agency except to those with appropriate legal interest. Robert M. Stewart, Chief South Carolina Law Enforcement Division			
Date of Examination July 24, 2007	Examinee Joseph Morrison III	Examination Results No Deception Indicated	Polygraph Case P07 - 427
Polygraph Examiner Robert Antonelli	Victim Christopher Pollin	Location of Examination Columbia; S.C.	
Testing Issue The examinee was charged and convicted in the shooting death of the victim. Additional information has surfaced that the examinee may not be involved in the shooting of the victim. The examinee was offered a polygraph test to determine if he was involved in the shooting.			
Examiner's Results No responses indicative of attempted deception were noted to the relevant issue. The following relevant questions were used: R4) Did you shoot Chris in October of 1994? Examinee Response: No R6) Were you present when Chris was shot in October of 1994? Examinee Response: No PLAINTIFF'S EXHIBIT 4			
Testing Format Air Force MGQT		Instrumentation: Axciton computerized polygraph	
Post-Test Interview/Comments None.			
This opinion should be considered a final report; however, all examinations undergo a Quality Control Review. Should this Quality Control Review change the results of this examination, your agency will be promptly notified by written report.			
Officer's Signature 	Agency Aiken Department of Public Safety	Date Notified July 24, 2007	
Examiner's Signature 	Agency South Carolina Law Enforcement Division	Date of Report July 24, 2007	

AIKEN PUBLIC SAFETY CASE #95-6062

HOMICIDE

VICTIM: CHRISTOPHER POLLIN 20 YR OLD B/M
 INCIDENT LOCATION: BETHANY CEMETARY AIKEN S.C.
 INVESTIGATOR: DWAYNE COURTNEY

THIS CASE CAME TO THE DEPARTMENT AFTER A WORKER IN THE BETHANY CEMETARY FOUND THE VICTIM ON THE GROUND. VICTIM WAS ACTUALLY STILL BREATHING AT THE TIME AND ORIGINALLY TRANSPORTED TO THE AIKEN COMMUNITY HOSPITAL BY AMBULANCE. FEW PICTURES WERE TAKEN AT THE CRIME SCENE BY ORIGINAL INVESTIGATOR ED, BROSKIE AS THE VICTIM HAD TO BE MOVED FOR MEDICAL TREATMENT. THE SCENE WAS PROCESSED BY THE POLICE INVESTIGATORS AND RECOVERED AT THE SCENE WERE TWO BULLET CASINGS, AND ONE BULLET. THESE ITEMS WERE FOUND IN CLOSE PROXIMITY TO THE VICTIMS BODY. THERE WERE NO SIGNS OF A STRUGGLE ANY WHERE IN THE CEMETARY. IT APPEARED THAT THE VICTIM WAS SHOT WHILE HE WAS STANDING UP AND THAT HE FELL, FROM THAT POSITION, WHERE HE WAS AGAIN SHOT WHILE ON THE GROUND. THE FIRST SHOT APPEARS TO BE THE FATAL WOUND AS IT ENTERED THE SKULL. THE SECOND SHOT PASSED THROUGH SKIN TISSUE ONLY AND WAS FOUND ON THE GROUND UNDER THE VICTIMS NECK. A COMPLETE SEARCH OF THE ENTIRE CEMETARY AND SURROUNDING WOODS WAS CONDUCTED BY INVESTIGATORS AND THE PUBLIC SAFETY BLOODHOUND TEAM. A PLASTER MOLD WAS MADE OF A SHOE PRINT FOUND BY OFFICER MIKE HUNT OF THE TRACKING TEAM AS THIS SHOE APPEARED TO HAVE BEEN WALKING ALONGSIDE THE VICTIM AT SOME POINT ON THE DIRT ROAD LEADING BEHIND THE CEMETARY. THAT PLASTER TRACK HAS BEEN CHECKED AGAINST ALL SHOES OF EVERY SUSPECT DEVELOPED IN THIS CASE. A MATCH HAS NOT BEEN FOUND. THIS ROAD IS KNOWN TO HAVE A LARGE AMOUNT OF FOOT TRAFFIC AND WE COULD NOT SAY ABSOLUTE THAT THIS SHOE WAS OF THE SUSPECT.

ORIGINAL INFORMATION DEVELOPED BY INVESTIGATORS REVEALED A SEVERE CONFLICT BETWEEN THE VICTIM AND EMANUEL PLUMMER TONY. THIS INFORMATION WAS WORKED AND DEVELOPED THROUGH FRIENDS AND FAMILY OF THE VICTIM. THE FACTS DEVELOPED ON EMANUEL TONY WERE FOLLOWED UP, AND HE WAS GIVEN A POLYGRAPH EXAM AT SLED WHICH HE PASSED. THERE WERE NO INDICATIONS THAT TONY WAS INVOLVED IN THE MURDER OF CHRIS POLLIN.

ADDITIONAL INFORMATION BEGAN TO UNFOLD, INDICATING AFUAH HENDERSON, JOSEPH HANKERSON AKA DREDS, AND JOE MORRISON AKA MAN.. AFUAH HENDERSON FAILED A POLYGRAPH AT SLED.. MORRISON AND HANKERSON REFUSED TO TAKE A POLYGRAPH. MORRISON AGREED BUT NEVER SHOWED UP "TWICE" INITIAL INFORMATION REVEALED THAT THE VICTIM POSSIBLY OWED HANKERSON MONEY FOR DRUGS. ADDITIONAL INFORMATION REVEALED THAT THE VICTIM HAD BEEN CAUGHT IN THE BED WITH MORRISONS GIRLFRIEND, DIEDRA LLOYD. LLOYD DENIES THIS AND REFUSED TO COOPERATE WITH THE INVESTIGATION. ATTEMPTS WERE MADE ON NUMEROUS OCCASIONS TO TALK WITH LLOYD., EACH TIME SHE REFUSED AND STATED THAT IT WOULDN'T DO ANY GOOD SINCE CHRIS WAS DEAD. I SINCERELY BELIEVE THAT LLOYD KNOWS ABOUT THE MURDER OF CHRIS POLLIN AS WELL AS AFUAH HENDERSON, JOE MORRISON AND JOE HANKERSON.

A DRUG CASE WAS LATER MADE AGAINST THESE SUSPECTS AND A 25 AUTO PISTOL RECOVERED IN THE SEARCH OF THEIR RESIDENCE. SLED LAC INDICATES THAT THIS WAS NOT THE GUN USED TO SHOOT CHRIS POLLIN. AGAIN, ATTEMPTS WERE MADE TO FORCE THE SUSPECTS TO TALK WITH THIS INVESTIGATION. EACH REFUSED. AFUAH

State of South Carolina)
County of Aiken)

Court of Common Pleas
2006-CP-02-00858

Joseph Morrison, III,)
Applicant)
vs.)
State of South Carolina)
Defendant)

Transcript of Record

March 16, 2010
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

Michael W. Chessser, Esq.
Attorney for the Plaintiff

Mary S. Williams, Esq.
Attorney for the Defendant

Lisa H. Davenport, RPR
Official Court Reporter

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1 (Whereupon, on March 16, 2010 the following
2 proceedings were held:)

3 THE COURT: All right. Let's continue on with the
4 PCR of Joseph Morrison.

5 MS. WILLIAMS: Your Honor, the state will call
6 Investigator Keith Glover.

7 A. KEITH GLOVER, after being duly sworn,
8 testified as follows:

9 THE CLERK: Please have a seat in the witness box and
10 state your full name for the court.

11 THE WITNESS: Anthony Keith Glover. G-L-O-V-E-R,
12 last name.

13 DIRECT EXAMINATION

14 BY MS. WILLIAMS:

15 Q Can you tell me where you're currently employed?

16 A At the Aiken Department of Public Safety.

17 Q How long have you been there?

18 A Twenty-three years.

19 Q A short while ago I sent you what has been marked in
20 this case as Plaintiff's Exhibit 4. It's A South Carolina
21 Law Enforcement Division polygraph report. Do you have a
22 copy of that document handy?

23 A Yes, ma'am.

24 Q Okay. And were you actually part of the
25 administration of this particular polygraph test?

1 A Yes, ma'am.

2 Q Can you tell me how this test came to be
3 administered?

4 A We're in the process of going to trial with the
5 co-defendant Mr. Hankerson. When meeting with the
6 attorneys and the investigator we decided to go interview
7 Mr. Hankerson at the McCormick Institution after a letter
8 that he sent to the victim's mom about pleading his
9 innocence and talking about his cousin's guilt for a
10 potential witness in the case. So, at that time after
11 talking with him we wanted to give him a polygraph before
12 using him on the stand.

13 Q So this polygraph was given as a result of a letter
14 received from Mr. Morrison?

15 A Yes.

16 Q And did the results indicate here is that the
17 accurate representation of what the results of that test
18 were given that day?

19 A Yes, ma'am.

20 Q Okay. And can you tell me was Mr. Morrison ever
21 called as a witness in Mr. Hankerson's trial?

22 A They brought him to Aiken. Mr. Hankerson once he got
23 here refused to testify and at that time he was ordered by
24 Grant Gibbons to take him back to McCormick, South
25 Carolina.

1 MS. WILLIAMS: I don't have any further questions.

2 Thank you.

3 THE COURT: Mr. Chesser?

4 CROSS-EXAMINATION

5 BY MR. CHESSER:

6 Q Investigator Glover, how are you?

7 A I am doing fine, sir.

8 Q So, this exam -- examination was administered on July
9 24 of 2007?

10 A Yes, sir.

11 Q Okay. Did you participate in the examination at
12 McCormick? Is that where it was administered?

13 A No, sir. They transported him up to SLED

14 Q Okay. Now, you were preparing for the trial of
15 against Joseph Hankerson; right?

16 A Yes, sir.

17 Q Okay. And he was tried for murder; correct?

18 A Yes, sir.

19 Q Okay. Now, this polygraph report indicates that
20 exculpatory evidence was found with respect to Joseph
21 Morrison; is that right?

22 A Yes, sir. That's what it says.

23 Q Okay. Do you know what the nature of that
24 exculpatory evidence was?

25 A It was just based on what Mr. Morrison was telling us

1 about his innocence and we just wanted to -- actually, the
2 attorney involved wanted to go ahead and have him
3 polygraphed just to corroborate his story to put him on
4 the stand to be a witness.

5 Q Now, who was the attorney that you're referring to?

6 A Rochelle Oldfield.

7 Q She was assisted by another prosecutor in the
8 prosecution of Joseph Hankerson; isn't that right?

9 A Yes, sir. The lead investigator -- the lead
10 solicitor was Grant Gibbons and also we had Wayne Huff
11 which was an investigator at the time.

12 Q Okay. Now, so Joseph Morrison was brought to Aiken
13 in order to testify to what -- What was it that you
14 expected that Joseph Morrison would testify to?

15 A About Mr. Hankerson's involvement with the murder of
16 Christopher Pollan.

17 Q Well, isn't it true that what Mr. Morrison was
18 supposed to say -- what you thought he was going to say,
19 what you brought him here to say was that Joseph Hankerson
20 fired the shot that killed Tracy Pollan?

21 A Basically, it was to tie him into the crime scene and
22 his story was that he was the one that fired the shot.

23 Q That who was?

24 A That he was the one that fired the shot --
25 Mr. Hankerson.

1 Q In other words, Morrison -- what he told you at this
2 polygraph interview was that Hankerson fired the shot --
3 the fatal shot; correct?

4 A That's's what he said.

5 Q And that's what you brought him here to testify to;
6 correct?

7 A No. We just basically brought him here because to
8 talk about Hankerson's involvement with the murder.

9 Q You wouldn't bring a key witness to a case that you
10 didn't believe his story, would you?

11 A Well, with him being a part of it and with him
12 talking about Hankerson's involvement we thought maybe he
13 could shed a little bit of light on it; so they wanted to
14 bring him down so he could tell his side of the story
15 based on a letter that he sent to Ms. Pollan.

16 Q Well, I am not understanding this completely. When
17 you interviewed Joseph Morrison he told you that Hankerson
18 shot the decedent; correct?

19 A I am not sure on exactly what he told, but if he told
20 them that, I mean, we were just following up based on his
21 story based on Hankerson's involvement in the drug deal
22 between Hankerson and Mr. Pollan.

23 Q Well, Investigator Glover, this was the second time
24 that you had been involved in the trial of the death of
25 Tracy Pollan; correct?

1 A Chris Pollan?

2 Q Chris Pollan.

3 A Yes, sir..

4 Q And this second time you brought the person who was
5 convicted in the previous trial; correct?

6 A Yes, sir..

7 Q And your testimony here today is you don't recall
8 what it was that he was going to testify about?

9 A You're talking about back in 2007.

10 Q Right.

11 A No, sir, I don't.

12 Q You don't?

13 A It was they wanted to bring him here to, basically,
14 tie Mr. Hankerson into the case against Mr. Pollan.

15 Q Okay. Who all went up there with you to the
16 polygraph administration?

17 A Rochelle Oldfield and Wayne Huff from the solicitor's
18 office.

19 Q Okay. Did you discuss the result of the exam with
20 Mr. Gibbons?

21 A I would assume that Rochelle Oldfield and Wayne Huff
22 discussed it with him.

23 Q Okay. And your testimony here today is you don't
24 remember what Joseph Morrison said at this polygraph
25 administration?

1 A Actually, at the polygraph examination I wasn't in
2 the room when they gave the polygraph. I was sitting in
3 the lobby. So, exactly what he told them in the room I
4 don't know, but just based on the questions they have on
5 the polygraph is the only thing I know what he told the
6 polygraph examiner in the room.

7 Q In other words, he said according to the result and
8 according to your investigation then at that time he said
9 he didn't shoot Chris Pollan; right?

10 A Yes, sir. That's what he said.

11 Q And that necessarily means Hankerson shot Chris
12 Pollan because y'all tried Hankerson for murder; right?

13 A Yes, sir..

14 Q And that's what you brought Joseph Morrison to court
15 for was to testify that Joseph Hankerson fired the fatal
16 shot; right?

17 A We brought him based as a witness for the state to
18 say -- present whatever evidence that he talked about in
19 the letter because the letter was a part of the case file
20 and talk about his cousin's involvement with the homicide.

21 MR. CHESSER: Nothing further.

22 THE COURT: Redirect, if any.

23 REDIRECT EXAMINATION

24 BY MS. WILLIAMS:

25 Q Investigator Glover, were polygraphs administered to

1 other witnesses in this case as well?

2 A Yes, ma'am.

3 Q Was Tracy Fuller one of those witnesses?

4 A Yes, ma'am.

5 Q And were the results of that polygraph that he was
6 also truthful?

7 A Yes, ma'am.

8 Q Thank you.

9 THE COURT: You may step down. Next witness.

10 MS. WILLIAMS: The state would call Mr. Gibbons.

11 DEGRANT GIBBONS, after being duly sworn,

12 testified as follows:

13 THE CLERK: Please have a seat and state your full
14 name for the court.

15 THE WITNESS: My name is Grant Gibbons; last name
16 spelled G-I-B-B-O-N-S.

17 DIRECT EXAMINATION

18 BY MS. WILLIAMS:

19 Q Mr. Gibbons, where are you currently employed?

20 A I am currently employed with the Public Defender's
21 Office here in Aiken.

22 Q And at the time of Joseph Hankerson's trial what was
23 your employment?

24 A I was an assistant or deputy solicitor with the
25 solicitor's office.

1 Q And are you familiar with the circumstances that led
2 to a polygraph examination being administered to Joseph
3 Morrison?

4 A I am.

5 Q And this is the July 24, 2007 examination?

6 A Yes.

7 Q Okay. Can you tell me what the reason for this
8 examination was?

9 A Well, different people were preparing for the trial
10 of Mr. Hankerson. We were gathering up witnesses and we
11 had a meeting with law enforcement and I became aware that
12 he had been writing -- getting written messages to the
13 victim's family claiming he was not the main person in the
14 crime and that he had information. I never saw the actual
15 letters. That's just what I was told, and, so, we decided
16 to send somebody up there to talk to him just to see if
17 there was anything he could add to the trial of
18 Mr. Hankerson.

19 Q And, just briefly, was this before the first trial of
20 Mr. Hankerson or the second trial? Can you tell me about
21 that history just briefly?

22 A I'm not really sure exactly how that all went. It
23 all was back during the same period of time.

24 Q Okay. So there was a mistrial and then a second
25 trial?

1 A Right.

2 Q Okay. I believe that's all I have. Thank you.

3 A All right.

4 CROSS-EXAMINATION

5 BY MR. CHESSER:

6 Q Mr. Gibbons, at time of the trial of Joseph Hankerson
7 you'd had how many years of experience as a prosecutor?

8 A Sixteen.

9 Q So there is no question you were the lead prosecutor
10 on this case?

11 A That's correct.

12 Q Okay. Now, did you cause Joseph Morrison to be
13 brought to Aiken as a potential witness in the trial of
14 Joseph Hankerson?

15 A I did.

16 Q Okay. And so you were familiar with this polygraph
17 examination; correct?

18 A I was.

19 Q Okay. And this -- you may not have seen it for a
20 while, but the -- you were familiar then with the results
21 that ---

22 THE COURT: Finish the question.

23 Q That is, you were familiar with Mr. Morrison's
24 statement that he did not shoot the decedent?

25 A I was. We had a specific meeting after this

1 polygraph and we had an eye witness saying he was the
2 shooter who also passed a polygraph; so at that point we
3 just kind of discounted both results and were going to go
4 forward with the trial.

5 Q Why did you bring Mr. Morrison to court?

6 A Because he did have some information -- claimed to
7 have some information of Mr. Hankerson admitting to him
8 that he was involved in the shooting and putting him at
9 the scene.

10 Q What was your trial theory of who was the shooter
11 when you were trying Joseph Hankerson?

12 A Well, I was going -- I was trying Mr. Hankerson for
13 murder. I didn't care if we showed he was the shooter or
14 not. He was in it. Both of them were in it enough to be
15 guilty of murder; so it didn't really matter to me who
16 ultimately the jury decided shot. They were both there
17 both acting together.

18 Q Wasn't it true you brought Joseph Morrison to testify
19 that Joseph Hankerson was the shooter?

20 A I really didn't care about that. I wanted him to put
21 Hankerson in the middle of it.

22 Q Do you recall how it is that Joseph Morrison ended up
23 not testifying at the trial of Joseph Hankerson?

24 A I do.

25 Q Can you tell me?

1 A Yes. I went back in the cell block there and asked
2 him if he was going to testify and he said, What are you
3 going to give me? I said, I am not giving you anything.
4 He said, Well, I am not testifying if there is nothing in
5 it for me. Why should I. I said, Fine. That was end of
6 it. I sent him back to the prison.

7 MR. CHESSER: That's all the questions I have.

8 THE COURT: Redirect?

9 MS. WILLIAMS: Nothing further.

10 THE COURT: Ma'am?

11 MS. WILLIAMS: Nothing further and there are no
12 further witnesses from the state.

13 THE COURT: Mr. Chesser, any witnesses?

14 MR. CHESSER: Your Honor, I would call Joseph
15 Morrison to respond to this.

16 THE COURT: He's already testified once, hadn't he?

17 MR. CHESSER: Yes, sir.

18 THE COURT: Mr. Morrison, come around.

19 JOSEPH MORRISON, III, after being duly sworn,
20 testified as follows:

21 THE CLERK: Have a seat and state your full name for
22 the court.

23 THE WITNESS: Joseph Morrison, III.

24 DIRECT EXAMINATION

25 BY MR. CHESSER:

1 Q Mr. Morrison, when you were brought here to Aiken
2 were you prepared to testify against Joseph Hankerson?

3 A Yes, I was.

4 Q And did you discuss your proposed testimony with the
5 prosecution?

6 A They never proposed -- they never discussed the
7 testimony with me. I told them, What am I going to be
8 testifying to today? They said to the gun. I said, To
9 the gun? I said, If I am not allowed to tell the whole
10 truth I would rather not say anything at all.

11 Q Have you told them that Joseph Hankerson was the
12 shooter in this case?

13 A Yes, I did.

14 Q And was that why you were brought to Aiken?

15 A Well, yes, I was brought to Aiken for those reasons
16 and several other reasons. Otheia (phonetic) Henderson --
17 Otheia Henderson that night claimed that Joseph Hankerson
18 was with her all that night, but she also sent Christopher
19 Pollan to the store. Later on Otis and Emmanuel Tony made
20 statements that Joseph Hankerson was trying to borrow
21 their car to take the witness to Hahns Village.

22 MS. WILLIAMS: I object. This would be outside of
23 his personal knowledge.

24 THE WITNESS: Well, the statements is business of the
25 public because they're in my transcript. They also had

1 Deidre Lloyd to testify for the state and she is supposed
2 to be here as a witness today and she's not here again
3 today.

4 Q Okay. Mr. Morrison, I want to ask you again why is
5 it that you didn't testify in the trial of Joseph
6 Hankerson?

7 A Because they wouldn't allow me to testify to the
8 whole truth.

9 MR. CHESSEY: Please answer any questions ---

10 THE WITNESS: Just bits and pieces.

11 MS. WILLIAMS: I have nothing further.

12 THE COURT: Thank you. You may step down.

13 Additional witness? Any other witnesses?

14 MR. CHESSEY: No, Your Honor.

15 THE COURT: All right. Does that conclude all of the
16 testimony and witnesses in regards to the PCR?

17 MS. WILLIAMS: It does for the state.

18 MR. CHESSEY: Yes, Your Honor.

19 THE COURT: What is left is for orders; is that
20 correct?

21 MR. CHESSEY: Yes, sir.

22 THE APPLICANT: Your Honor, can I ask a question?

23 THE COURT: You may.

24 THE APPLICANT: Deidre Lloyd was a witness.

25 THE COURT: Who?

1 THE APPLICANT: Deidre Lloyd was a witness during
2 that time in my case.

3 THE COURT: Yes, sir.

4 THE APPLICANT: Okay. My lawyer sent her home during
5 my PCR -- I mean, during my trial and told her that they
6 didn't need her to be here.

7 THE COURT: Sent her home?

8 THE APPLICANT: Yes, Your Honor.

9 THE COURT: Okay.

10 THE APPLICANT: The state turns around and brings
11 Deidre Lloyd back as a witness against Joseph Hankerson in
12 his trial for murder.

13 THE COURT: Okay.

14 THE APPLICANT: Okay. Today they used her -- She
15 admitted to giving him the gun. She also admitted in the
16 transcript and in the trial that that was the guy that he
17 brought to the house that night that was murdered -- the
18 same guy that my cousin -- that his girlfriend Otheia
19 Henderson sent to the store that night that got murdered
20 was the same guy walking in the graveyard all through that
21 stuff with him because they found his foot tracks at the
22 time.

23 THE COURT: All right.

24 THE APPLICANT: The same shoe print evidence that
25 they kept out of the courtroom on me and didn't give it to

1 my lawyer in my defense, neither did my lawyer bring it
2 forward in my defense, okay, along with the lie detector
3 test. There was 10 or 15 other witnesses in this case
4 that identified Joseph Hankerson with Christopher Pollan
5 the night of the murder and the day before the murder.
6 Out of all of those witnesses, Your Honor, no one has
7 identified me with this person because I didn't even know
8 him -- okay, Your Honor -- and they still keeping the
9 evidence out of the courtroom.

10 Why isn't Deidre Lloyd here today to testify in my
11 PCR hearing like she was here to testify against the
12 state? The same witness that they sent home.

13 THE COURT: Well, number one, what is Ms. Lloyd going
14 to say? Do you know what she would say?

15 THE APPLICANT: I don't know what she'll say, but the
16 state knows because she testified against Joseph Hankerson
17 in the transcript. They had to give me the transcript.

18 THE COURT: Do you know where Ms. Lloyd is now?

19 THE APPLICANT: Yes, sir. She's at work somewhere.
20 She works for the hospital -- Aiken Hospital, somewhere
21 down there. They know where she at, Your Honor. They got
22 her there when they needed her to use her against Joseph
23 Hankerson, but for me she can't be here; so I don't
24 understand. It's like they're playing games to try to
25 keep me in prison for a murder I didn't commit, Your

1 Honor.

2 THE COURT: Hold on one second.

3 Mr. Chesser, what about this lady? Have you talked
4 to her?

5 MR. CHESSER: No, Your Honor, I haven't. I reviewed
6 the transcripts, Your Honor, and I think that there would
7 be a long list of people that in an ideal case that
8 Mr. Morrison would want brought to testify, but the -- I
9 have reviewed the transcripts and I don't see at this
10 point the need to have anybody else here.

11 THE APPLICANT: Your Honor, he told me he didn't even
12 have the transcript of Joseph Hankerson's trial because I
13 asked him for it and I also asked him to mail it to me --
14 to send me a copy of it. He told me that he didn't even
15 have a transcript. I just asked him five minutes ago did
16 he have it.

17 THE COURT: He is talking about the transcript of
18 your trial. Do you have one of Hankerson's trial?

19 MR. CHESSER: Your Honor, it's -- I didn't review it
20 for today, but I've got Hankerson's -- pretty much his
21 whole file in my office and the last time I reviewed it --
22 it's been a while, but my recollection is -- Well, I have
23 been over it. I am not sure if I have it in my office or
24 not, Your Honor.

25 THE APPLICANT: Your Honor, they came down to the

1 McCormick Correctional Institution in 2007 to re-question
2 me about the murder after they lost preliminary hearing on
3 Joseph Hankerson. After they questioned me about the
4 murder I told them exactly what I knew of the murder that
5 took place that night before I got home, what was told to
6 me. They said, Well, Mr. Morrison, would you be willing
7 to take a lie detector test? I said, Yes, I will. That
8 Monday morning or that Tuesday morning -- I can't remember
9 which it was -- they had me in the law enforcement center
10 in Columbia taking a lie detector test.

11 A week after that they had me in the courthouse
12 saying -- I asked him, What am I supposed to testify to?
13 He said, To the gun. I said, If I am not able to testify
14 to everything, I prefer not to testify.

15 THE COURT: Well, you told me that. Why do you want
16 this lady to testify? Tell me what you think.

17 THE APPLICANT: Because she's a witness in the court,
18 Your Honor. She was supposed to testify for me years ago,
19 okay? She knowed that the man killed the guy in the
20 graveyard. She knows because she gave him the gun out the
21 house.

22 THE COURT: Well, here is what I can do. I'll hold
23 it open and let them take a deposition of that lady and
24 they can submit it to me along with everything else. Is
25 that fair?

1 THE APPLICANT: Yes, sir, Your Honor. It should have
2 been in the transcript.

3 THE COURT: I am asking you is that fair.

4 THE APPLICANT: Yes, Your Honor. I would much prefer
5 for her to be in the courtroom and testify. My lawyer
6 sent her home in any trial and then the state turned
7 around and used her.

8 THE COURT: Well, you know, we have to be cognizant
9 of what these things cost.

10 THE APPLICANT: I know, Your Honor, but they gave
11 Tracy Fuller immunity. They gave Deidre Lloyd immunity.
12 They hadn't even looked for Otheia Henderson which was my
13 cousin's girlfriend that claimed he was in her the whole
14 night when he was out murdering the guy. You have five or
15 six other witnesses, Your Honor, to testify to him asking
16 to borrow their car, to them testifying to seeing him walk
17 towards the graveyard with the boy that night, and what
18 happened, Your Honor, is it's almost -- it's plain enough
19 in plain sight for me to see in the paperwork that the
20 girl sent the boy on his death path so her boyfriend know
21 which way to go behind him.

22 It's all in the paperwork they give me and it's not
23 even being used in my defense. I don't understand this.
24 It is like everything is being covered up right in front
25 of my eyes and I can't do anything about it. It's like

1 they got me in prison for life for a murder I didn't
2 commit and instead of reinvestigating the case and doing
3 it right they want to just keep me in prison for something
4 that I didn't even do, Your Honor..

5 I mean, they messed with the shoe print evidence that
6 was following beside the guy in the graveyard. They came
7 to my house, raided my house, took my shoes out of the
8 house. They said, Oh, these don't match your shoes; so
9 we're not going to allow this into evidence in the
10 courtroom. Oh, this don't mean nothing, but in the
11 transcript it says it's only physical evidence in the
12 case. You understand?

13 Dr. Joel Sexton testified to the guy where he was
14 shot he fell right there; so those were the same foot
15 tracks that was followed into the graveyard beside the
16 man's house. It is the shoe print of the killer. They
17 are just going all around just bonafide evidence just to
18 keep me here, Your Honor.

19 They're not looking into nothing. Then when I pass a
20 lie detector test, oh, that ain't nothing. They said they
21 had newly-discovered evidence to prove I wasn't the
22 shooter but there's a reason why they wasn't giving it to
23 me. And then when they bring the newly-discovered
24 evidence into the court to testify against Joseph
25 Hankerson they don't bring it in to testify for me. I

1 don't understand this. If she was good enough to use to
2 testify for the state why wasn't she good enough to
3 testify for me?

4 THE COURT: We talked about the shoe evidence at the
5 last hearing. We got all that into testimony.

6 THE APPLICANT: Yes, sir.

7 THE COURT: All right. Why don't y'all, Mr. Chesser,
8 locate this girl and take her deposition so it can be
9 part of the transcript.

10 MR. CHESSER: Yes, sir.

11 THE COURT: And let's do it quickly because we need
12 to get this thing moving down the road.

13 MR. CHESSER: We thank you, Your Honor.

14 THE COURT: All right. I am going to hold the record
15 open to get the testimony of that lady.

16 Mr. Chesser, if you have the transcript of the
17 Hankerson trial, please send your client a copy.

18 MR. CHESSER: Yes, sir.

19 (End of Transcript of Record.)
20
21
22
23
24
25

CERTIFICATE OF REPORTER

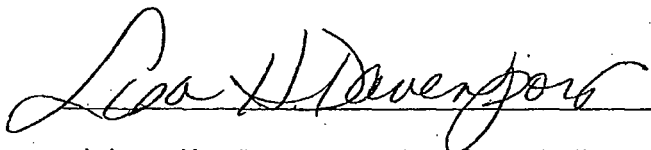
State of South Carolina)

County of Aiken)

I, Lisa H. Davenport, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Aiken County, South Carolina, on the 16th day of March, 2010.

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

February 15, 2012



Lisa H. Davenport, Court Reporter

State of South Carolina)

County of Aiken)

Court of Common Pleas
2006-CP-02-00858

Joseph Morrison, III)

Applicant)

vs.)

Transcript of Record

State of South Carolina)

Defendant)

June 21, 2011
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

Michael W. Chessser, Esq.
Attorney for the Plaintiff

Mary S. Williams, Esq.
Attorney for the Defendant

Lisa H. Davenport, RPR
Official Court Reporter

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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1 (Whereupon, on June 21, 2011 the following
2 proceedings were held:)

3 MS. WILLIAMS: Your Honor, if you're ready for
4 Mr. Morrison's case ---

5 THE COURT: Mr. Morrison, how are you doing?

6 THE APPLICANT: How are you doing, Judge Early?

7 THE COURT: I am doing well. What have we got here?

8 MS. WILLIAMS: I thought I would just kind of refresh
9 you on where we're at. This case has been going on ---

10 THE COURT: Hold on one second.

11 (Whereupon, the Judge spoke with someone in the
12 audience off the record.)

13 THE COURT: Tell me where we are.

14 MS. WILLIAMS: Your Honor, this case has been going
15 on for a little while. We've had several hearings on this
16 case in front of you. Mr. Morrison was originally
17 sentenced in October of 2003 on a murder case and we've
18 had a hearing in front of you. I believe that we had a
19 hearing in Bamberg the first time and at the end of that
20 hearing Mr. Morrison expressed some interest in some
21 additional evidence and you allowed him to pursue that and
22 we reconvened, I believe, in March of 2010 and fleshed
23 those matters out at that time.

24 Again at the end of that hearing Mr. Morrison
25 expressed to the court some further interest in some

1 further evidence and you allowed him some time again to
2 amend his application for that matter; so we're here today
3 hopefully to take the testimony as it regards to he has an
4 allegation of new evidence regarding a witness named
5 Deidra Balde and if you'll just let us note the objections
6 to the continued amendment to the record. I understand
7 that you've already directed us to hold this hearing; so
8 we're prepared to do that today. I think Mr. Chesser can
9 take it from there.

10 MR. CHESSER: Your Honor, may it please the court.
11 This is 06-CP-02-858, Joseph Morrison versus the State.
12 Although the court was kind enough to ask us to develop
13 this additional testimony, I filed on June 16 a formal
14 motion to amend the petition to include a ground of
15 after-discovered evidence with respect to the testimony of
16 Deidra Balde and I have handed up a copy of that amendment
17 really or proposed amendment and until such time that the
18 court would approve it I would ask the court to accept
19 that amendment.

20 I sent the transcript of Mrs. Balde's testimony to
21 the state in October -- ten months ago or eight months
22 ago -- and, again, this is something that's been ordered
23 to be done. I don't think there is any surprise and I
24 would ask the court to approve this amendment to the
25 petition.

1 THE COURT: Will do.

2 MR. CHESSER: Your Honor, at this time we would call
3 Chief Deputy Dwayne Courtney to the stand.

4 DEWAYNE COURTNEY, after being duly sworn,
5 testified as follows:

6 THE CLERK: Please take a seat in the witness box and
7 state your full name for the court.

8 THE WITNESS: I'm Dewayne Courtney.

9 DIRECT EXAMINATION

10 BY MR. CHESSER:

11 Q Mr. Courtney, you're the chief deputy of the Aiken
12 Sheriff's Office; is that correct?

13 A That is.

14 Q How long have you held the position of chief deputy?

15 A Since May of 2003.

16 Q Now we're here on the case, of course, of Joseph
17 Morrison versus the State. He was convicted of the murder
18 of Chris Pollan and you're familiar with the investigation
19 and the trial of Joseph Morrison; correct?

20 A I am.

21 Q Okay. Now the actual murder happened in 1994; right?

22 A Correct.

23 Q What was your position at that time?

24 A I was an investigator with the Aiken Department of
25 Public Safety.

1 Q Okay. Now the actual trial was held -- was it in
2 2001?

3 A Somewhere thereabouts. I don't remember the exact
4 date.

5 Q Thereabouts. Now in connection with the trial of
6 Joseph Morrison you were still handling the investigation;
7 is that correct?

8 A I would have been the captain over the investigative
9 division for Aiken Public Safety at that time.

10 Q Did you actually make efforts to actually investigate
11 in connection with the trial of Joseph Morrison?

12 A I did.

13 Q Okay.

14 A Yes.

15 Q And you're familiar with the name of Deidra Balde.
16 That's D-E-I-R-D-R-E B-A-L-D-E. Are you familiar with
17 that name?

18 A I am not. I am familiar with Deidra Lloyd whom I
19 believe to be one in the same.

20 Q Now, in October of 1994 you attempted to -- Well, you
21 did, in fact, approach Deidra -- I'll say Lloyd, now
22 Balde. You approached her at that time; correct?

23 A I did.

24 Q Just to move us along a little bit, she was, in fact,
25 sharing a house with Joseph Morrison. Was that your

1 understanding?

2 A That's correct.

3 Q Okay. And you approached her for what reason?

4 A As part of the investigation into the murder.

5 Q In other words, you assumed that the roommate of
6 Joseph Morrison would have some knowledge of his
7 whereabouts on the night in question?

8 A Certainly worth an inquiry.

9 Q And did you ask her about the pistol, the murder
10 weapon? Did you ask her about that, also?

11 A I don't know that I asked her anything about a murder
12 weapon at that time. Ms. Lloyd was an uncooperative
13 witness.

14 Q Okay. So you approached her in October of '94 and
15 asked for her cooperation and what was her response?

16 A She didn't know anything.

17 Q Okay. Now, when the actual -- Well, let me -- What
18 was the reason for the delay between the event in '94 and
19 the trial in 2001 or thereabouts? What was the reason for
20 that delay?

21 A There was an open investigation. Mr. Morrison and
22 his cousin Mr. Hankerson who has also been convicted in
23 this murder were suspects early on and remained that way
24 but both left town.

25 Q Okay. So when Mr. Morrison's trial rolled around in

1 2001 you ---

2 THE COURT: 2003, isn't it?

3 Q 2003. I'm sorry. Did you approach Ms. Lloyd or
4 Mrs. Balde at that time?

5 A I did not. One of my investigators -- Keith Glover
6 who was an investigator at Aiken Public Safety -- had some
7 conversation with Ms. Lloyd.

8 Q Okay. Did she cooperate in 2003?

9 A I honestly do not know. To my understanding she gave
10 someone a statement. I don't know to the extent of her
11 cooperation at that time.

12 Q Okay. Let me show you a document and ask you to
13 identify it.

14 A This is a single page from some case notes that I had
15 written on this case --

16 Q Okay.

17 A -- many years ago.

18 Q Were these notes written back in '94, thereabouts?
19 '94, '95?

20 A That's correct. They would have been written back
21 then.

22 Q Okay. So that just confirms her lack of cooperation
23 at that time?

24 A That's correct.

25 Q Were you involved -- Did you help the state prepare

1 the actual trial and prosecution of Joseph Morrison?

2 A I was involved in that preparation and trial, yes.

3 Q Okay. And no information was used from Deidra Balde
4 in connection with the trial of Joseph Morrison; correct?

5 A Not that I recall.

6 Q Okay. But your testimony here is today is that you
7 don't know if she cooperated or not prior to the trial of
8 Joseph Morrison?

9 A Of Joseph Morrison?

10 Q Yes.

11 A To my knowledge she did not cooperate prior to the
12 trial of Joseph Morrison.

13 Q Thank you.

14 A In regards to Mr. Morrison.

15 Q Thank you. That's all the questions I have.

16 THE COURT: Ma'am, any questions?

17 CROSS-EXAMINATION

18 BY MS. WILLIAMS:

19 Q You were later made aware of a statement she gave
20 later on in connection with Mr. Hankerson's case. Would
21 that be your recollection?

22 A That's correct.

23 Q And that statement involved two individuals coming to
24 her house -- one being Mr. Hankerson and the other being
25 unidentified?

1 A That's correct.

2 Q Was there any inquiry further as to who the
3 unidentified individual was?

4 A I was not involved in that statement. I have read
5 that statement. In particular of note to myself when I
6 read it was her mention that the other party was wearing a
7 hoodie and I believe she indicated that she didn't know
8 who that party was, but I would submit that Mr. Pollan,
9 the deceased, was wearing a hoodie on the night that he
10 was murdered.

11 Q And you were called as a witness during the trial of
12 Mr. Morrison; is that correct?

13 A Yes, I was.

14 Q By the defense as well as the prosecution?

15 A That's correct.

16 Q Thank you.

17 REDIRECT EXAMINATION

18 Q Let me show you this document. Is this a statement
19 that Ms. Williams asked you about that Mrs. Balde made in
20 2007?

21 A I would assume it is. It is a statement from
22 Mrs. Balde.

23 Q And that's the statement -- I mean, you were
24 discussing this statement with Ms. Williams. That's the
25 statement you were discussing; correct?

1 A I was discussing the -- She asked me about a
2 statement. My recollection was this statement and the
3 trial transcript of Mrs. Balde that you provided for me.

4 Q Oh, I see. In other words you were referencing the
5 transcript?

6 A Well, in one of these she referred to the other
7 person other than Mr -- not Morrison, the other -- Joseph
8 Hankerson -- the third person that came to the home as
9 having on a hoodie.

10 Q And the significance of that ---

11 A I don't know if it's in the statement or in the
12 transcript that you gave me.

13 Q The significance of the hoodie is that the deceased
14 was wearing a hoodie?

15 A That's correct.

16 Q Chris Pollan; correct?

17 A That's correct.

18 Q Thank you.

19 Nothing further, Your Honor.

20 THE COURT: You may step down. May he be excused?

21 MR. CHESSER: Yes, Your Honor.

22 THE COURT: Thank you for coming.

23 MR. CHESSER: I'd call Deidre Balde.

24 DEIDRE BALDE, after being duly sworn, testified
25 as follows:

1 THE CLERK: Please take a seat in the witness box and
2 state your full name for the court.

3 DIRECT EXAMINATION

4 BY MR. CHÉSSER:

5 Q You are Mrs. Deidra Balde; B-A-L-D-E; is that
6 correct?

7 A Yes, sir.

8 Q Mrs. Balde, I'm sorry to have you come off your job
9 today. We don't like to inconvenience people, but we have
10 a job to do. You're here pursuant to a subpoena; correct?

11 A Yes, sir.

12 Q Of course, we're in 2011 now and the actual events
13 that we're here happened back in 1994. That's 17 years.
14 That's a long time, isn't it?

15 A Yes, sir.

16 Q Okay. Now, back in October of 1994 you were living
17 with Joseph Morrison; is that correct?

18 A No, sir.

19 Q Okay. What was your living situation?

20 A I was staying in Hahn Village and he spent the night
21 sometimes.

22 Q He would sometimes come over?

23 A Yes.

24 Q Would it be fair to say he was your boyfriend or
25 something ---

1 A Yes, he was my boyfriend.

2 Q Okay. I am going to ask you, Mrs. Balde, how old
3 were you at that time?

4 A Probably 21.

5 Q Twenty-one. And Mr. Morrison -- do you recall how
6 old he was back in October of '94?

7 A No, I don't.

8 Q Let me ask you something else. Do you have a child
9 with Mr. Morrison?

10 A Yes, I do.

11 Q Okay. How old is that child now?

12 A Seventeen.

13 Q Okay. But since then you're remarried?

14 A Yes.

15 Q Or you're married and you have additional children;
16 is that right?

17 A Yes, sir.

18 Q You've got a whole new life; right?

19 A Yes, sir.

20 Q Okay. And you work over at a medical facility in
21 Georgia; is that correct?

22 A No, sir. I work at CMI Podiatry in Aiken.

23 Q In Aiken. All right. Now, you were approached by
24 law enforcement in October of '94 or thereabouts in
25 connection with the death of Chris Pollan; correct?

1 A Yes, sir.

2 Q Did you cooperate and tell law enforcement anything
3 that you knew?

4 A No, sir.

5 Q Okay. You refused to cooperate; correct?

6 A Yes, sir.

7 Q Okay. Let me just remind you just say yes or no just
8 so she can write it down. Now, Mr. Morrison was tried in
9 2003. Do you recall that?

10 A Say that again.

11 Q Mr. Morrison was tried in 2003. Do you recall that?

12 A I know he was tried, but I don't know what year it
13 was.

14 Q Right. Now, in connection with his trial let me ask
15 you this. What was your relationship with Joseph Morrison
16 at or near the time of his trial?

17 A I'm not for sure.

18 Q Okay. Do you recall being approached by law
19 enforcement, by investigators in connection with his
20 trial?

21 A Yes, sir.

22 Q Okay. Did you cooperate with law enforcement at that
23 time?

24 A Honestly, I can't remember.

25 Q Okay. Do you recall telling them anything about the

1 gun or a gun?

2 A No, sir.

3 Q Okay. Now, you were approached in connection with
4 the trial of Joseph Hankerson again by law enforcement;
5 correct?

6 A Yes, sir.

7 Q Now, at that time you gave a statement to law
8 enforcement in November of 2007 about the gun that was
9 used to kill Chris Pollan; right?

10 A Yes, sir.

11 Q Now, had you told law enforcement about this gun
12 prior to November of 2007?

13 A No, sir.

14 Q Okay. But you -- Had you known about it since
15 October of 1994? I mean, obviously, you knew it, right,
16 since October of '94; right?

17 A Yes, sir.

18 Q Okay. And you had been approached several times by
19 law enforcement asking you if you knew anything about the
20 case; right?

21 A Yes, sir.

22 Q And, again, you had never mentioned to them about
23 this gun; right?

24 A No, sir.

25 Q Okay. Other than law enforcement had anybody else

1 approached you?

2 THE COURT: About the gun?

3 MR. CHESSER: Yes.

4 THE WITNESS: No, sir.

5 Q No? Why was it that you -- excuse me?

6 A When you say when someone approached me...

7 Q What I mean is like to investigate to ask you
8 questions.

9 A No.

10 THE COURT: Anybody ever talk to you about the gun
11 prior to that?

12 THE WITNESS: No. It was just the officers.

13 Q Okay. Why is it that you didn't tell the officers
14 about this gun?

15 A Because I never been in trouble before and I was
16 scared at the time -- young and scared -- and from what I
17 was told is that if I had the gun and gave it to Hankerson
18 then I would -- I would get in trouble instead of him.

19 Q Okay. Let's talk about what happened on that night
20 in October of '94. Now, you've had a chance to review
21 your testimony in the trial of Joseph Hankerson; correct?

22 A Yes.

23 Q Okay. Did that refresh your memory about what
24 happened on that night in October of '94?

25 A Yes.

1 Q Okay. Now, the night that Chris Pollan was killed
2 you found out the next day he was killed; right?

3 A Yes.

4 Q Okay. So that night -- can you tell the court --
5 Well, before we do that let me ask you this. You've read
6 over this transcript. Is it correct?

7 A I read over some of it.

8 Q Okay.

9 A But I didn't read all of it.

10 Q All right.

11 THE COURT: Well, the part that you read, was it
12 correct?

13 THE WITNESS: Yes.

14 Q You testified under oath in Joseph Hankerson's trial;
15 right?

16 A Yes.

17 Q Okay. And did you testify truthfully?

18 A Yes.

19 MR. CHESSER: Your Honor, in the interest of time I
20 would ask that we admit the transcript of her testimony
21 from the trial of Joseph Hankerson.

22 THE COURT: Any objections?

23 MS. WILLIAMS: I think that she's here to testify.
24 We need to take her testimony regarding ---

25 THE COURT: I want to hear what she's going to say.

1 We'll admit the testimony. Tell me about the gun on the
2 night in question.

3 (WHEREUPON, Plaintiff's Exhibit No. 1 was marked for
4 identification and received into evidence.)

5 Q If you would go ahead.

6 A Okay. The night -- it was late at night and -- it
7 was late at night and Joseph Hankerson and another male
8 knocked on my door and when I went to the door it was
9 Joseph Hankerson and he was asking me ---

10 THE COURT: He was what?

11 THE WITNESS: Joseph Morrison -- Excuse me; not
12 Joseph Morrison. Joseph Hankerson knocked on my door with
13 another male and I couldn't see who that was because it
14 was dark and he had on a hoodie; so I don't know who that
15 was. He asked was Joseph Morrison there. I told him no.
16 So, I can't remember if he came back the second time and
17 asked for Joseph Morrison or not, but I know when -- if he
18 did come back or -- I can't remember if he did come back
19 or not, but when he did come back he asked me for Joseph
20 Morrison's gun and I told him no, you know, because that
21 was his and then he said that he needed the gun.

22 THE COURT: Who is they?

23 THE WITNESS: Joseph Hankerson said he needed the gun
24 and I went and got the gun and gave it to him and then I
25 don't know how long it was -- it was hours later Joseph

1 Hankerson came back by himself and said that he didn't
2 need it and I just got it and put it back in my drawer and
3 then later on that morning but it was still dark Joseph
4 Morrison knocked on my window and I had let him in and I
5 know that me and him was arguing because at the time he
6 was out and about and he should have been there with me.
7 So he was out and about and he told me that he was out
8 with his other girlfriend -- another female -- and I told
9 him that Joseph Hankerson had came to my home and he asked
10 me for what and I said, well, he asked was you here and I
11 told him no and then he wanted your gun and then he said
12 what did he want my gun for or whatever. I can't remember
13 if he did say that or not, but me and him was arguing
14 because he told me I shouldn't have gave Joseph Hankerson
15 the gun and, you know, I told him I said, well, y'all do
16 everything together; so that's the reason why I gave it to
17 him and so he left and when he came back later on that
18 day.

19 THE COURT: This is Joseph Morrison?

20 THE WITNESS: Joseph Morrison. Joseph Morrison came
21 back to my home. He left after we argued and everything
22 and then he came back -- I can't remember if it is that
23 morning or afternoon -- and he told me that his cousin
24 Joseph Hankerson killed Chris Pollan and I was scared
25 because, you know, I gave him the gun and I wasn't

1 supposed to. So, and later on he told me ---

2 THE COURT: He being who?

3 THE WITNESS: I'm sorry. Joseph Morrison had told me
4 that when him and Joseph Hankerson was talking that Joseph
5 Hankerson killed Chris over \$20 and he said he had told
6 Joseph Hankerson that we don't do that here like y'all do
7 in New York.

8 THE COURT: What happened to the gun?

9 THE WITNESS: Joseph took it out ---

10 THE COURT: Joseph who?

11 THE WITNESS: Joseph Morrison took it out of my
12 apartment.

13 THE COURT: You never seen it since?

14 THE WITNESS: No, sir.

15 THE COURT: How long did Joseph Morrison stick around
16 after all of this happened? Didn't he go -- didn't he
17 leave, go somewhere?

18 THE WITNESS: He left. When you say all of this
19 happened...

20 THE COURT: This was in October of what year?
21 Mr. Chesser?

22 MR. CHESSER: October 1994, Your Honor.

23 THE COURT: Did he leave after that? Joseph
24 Morrison.

25 THE WITNESS: Leave where?

1 THE COURT: South Carolina.

2 THE WITNESS: That I'm not for sure. I don't think
3 so, but I am not for sure about that. No, I don't think
4 so.

5 Q Mrs. Balde, to touch on a couple of points, Joseph
6 Hankerson came to your house twice that night; correct?

7 A Yes.

8 Q Okay. And do you recall how much time there was
9 between the first time he came and the second time?

10 A I cannot recall because I was -- I think I was
11 asleep because it was late, but it wasn't -- it wasn't
12 long.

13 Q Do you recall testifying in 2007 that it was hours
14 later before Joseph Hankerson came back?

15 A Yes.

16 Q Okay. Is that correct or not?

17 A That is correct.

18 Q Okay. And at the time he came with the man in the
19 hoodie, was that the first time that Joseph Hankerson came
20 or the second time?

21 A That's the first time.

22 Q Okay. And was that when you gave him the gun?

23 A The first time?

24 Q Yes.

25 A Yes.

1 Q And the second time he brought the gun back; right?

2 A Yes.

3 Q Okay. Now, and then sometime before morning Joseph
4 Morrison knocked on your window; right?

5 A Yes.

6 Q Okay. Let me ask you this question. Do you recall
7 or can you give the court an idea of what time it was that
8 Joseph Hankerson came to your house and returned the
9 gun -- that is, the second time that Joseph Hankerson came
10 to your house?

11 A That I cannot recall it's been so long ago, but I
12 know it was way before Joe Morrison knocked on my window.

13 Q Okay. So it was a period of time. A good period of
14 time elapsed?

15 A Right.

16 Q Okay. And when Joseph Morrison knocked on your
17 window, was it -- it was shortly before dawn; is that
18 right?

19 A Correct.

20 Q Okay. Now, the reason the state wanted your
21 testimony at the trial of Joseph Hankerson was to put the
22 gun in Hankerson's hand; right?

23 MS. WILLIAMS: Your Honor, I object.

24 THE COURT: Sustained. You can't answer that. You
25 don't know.

1 MR. CHESSER: I don't have any further questions,
2 Your Honor. Thank you.

3 THE COURT: Why was the trial delayed until 2003?

4 MS. WILLIAMS: He was -- My understanding is he was
5 not arrested for some years afterward. There was a person
6 who came forward many years after this murder with
7 information who claimed to have been in the graveyard that
8 night with Mr. Hankerson and Mr. Morrison. After that
9 witness came forward I believe is when this ball started
10 rolling.

11 THE COURT: What did that witness say?

12 MS. WILLIAMS: Tracy Fuller. I'll paraphrase and you
13 can correct anything you'd like to, but Mr. Fuller claimed
14 that he had been with the victim, Hankerson, and Morrison
15 that night and they had gone around various areas making
16 drug transactions and that Hankerson, Morrison, and the
17 victim at some point left him in a car and went down to
18 the graveyard and that Mr. Fuller got a little, I guess,
19 nervous being in the car by himself and wandered down
20 there and he came upon the argument going on and that
21 Mr. Hankerson had kind of told him to back off and that he
22 saw Mr. Morrison shoot the victim. That was his story and
23 then after that was, I guess, when the arrest and the
24 trials spun out from there.

25 THE COURT: Okay.

CROSS-EXAMINATION

1
2 BY MS. WILLIAMS:

3 Q Just briefly, Mrs. Balde. You spoke with
4 Mr. Morrison just prior to coming forward with this
5 statement; is that correct? Some months prior?

6 A You talking about from now?

7 Q When you -- Before you talked to Mr. Glover and gave
8 the statement, did you -- had you talked to Mr. Morrison
9 around that time as well?

10 A I cannot remember that.

11 Q Okay. And at trial you testified that it was maybe
12 about two months before this statement or after? Would
13 that sound about right?

14 A Yes, ma'am.

15 Q Okay. And you also commented at trial that you hoped
16 that Mr. Morrison would be released from prison; is that
17 correct?

18 A Yes, ma'am.

19 Q Had y'all stayed in touch over the years or?

20 A Like from right now?

21 Q From 1996 up through 2003 at all?

22 A I cannot remember that.

23 Q Okay. But you didn't see Mr. Morrison that night
24 until he knocked at your window --

25 A Right.

1 Q -- sometime in the morning. And you actually had a
2 discussion with Mr. Morrison, told him everything -- the
3 conversations that you had with Mr. Hankerson?

4 A Yes.

5 Q So he knew about this before you told Mr. Glover
6 about this. Would that be accurate?

7 A He knew -- Repeat that.

8 Q You and Mr. Morrison had an argument about your
9 conversations with Mr. Hankerson?

10 A Right. Right. You say argument?

11 Q That night?

12 A Yes. Yes. We had an argument about me giving him
13 the gun.

14 Q Okay. So he knew about this that day?

15 A Yes.

16 Q That's all I have. Thank you.

17 A Excuse me. When you say he knew about this, what do
18 you mean?

19 Q Mr. Morrison knew that Mr. Hankerson had knocked on
20 the door and asked for the gun?

21 A Oh, okay. Yes.

22 Q That's all. Thank you.

23 REDIRECT EXAMINATION:

24 BY MR. CHESSE:

25 Q Mrs. Balde -- If it please the court. I want to ask

1 you to clarify a detail.

2 A Okay.

3 Q Did Hankerson come to your house the first time and
4 simply ask for Joe Morrison?

5 A Yes.

6 Q Okay. And when he came back with the guy in the
7 hoodie that was him back the second time?

8 A Yes.

9 Q And that's when you gave him the gun?

10 A Yes.

11 Q So the third time is when he brought the gun back?

12 A Yes.

13 Q All right. Thank you.

14 THE COURT: All right. You may step down. Any
15 additional witnesses?

16 MR. CHESSER: That's all we have, Your Honor.

17 THE COURT: All right. Anything by the state?

18 MS. WILLIAMS: Nothing in terms of witnesses, Your
19 Honor.

20 THE COURT: All right. Does that conclude all of the
21 testimony?

22 MR. CHESSER: Yes, Your Honor.

23 THE COURT: All right. Y'all want to send me some
24 proposed orders?

25 MS. WILLIAMS: I think so and if we could make some

1 arrangements for scheduling of that I could probably get
2 it to you -- I anticipate that I would have some time to
3 work and I can provide those orders. I probably need to
4 write it since I've been ---

5 THE COURT: Your situation is you're going for how
6 long?

7 MS. WILLIAMS: I'll be gone until November, but I
8 believe that after July 15 I'll be in a situation where I
9 can do some work on this case, bring these things with me.

10 THE COURT: Tell me what would you need. By
11 August 1?

12 MS. WILLIAMS: I think that would be adequate and if
13 there is a problem I'll let you know.

14 THE COURT: Mr. Chesser, is that fair?

15 MR. CHESSER: Yes, sir. That will be fine.

16 THE COURT: By August 1. Thank y'all very much.

17 Mr. Morrison, everything going well?

18 MALE SPEAKER: Yes, sir. I have been waiting on you
19 I have been waiting on you, Judge.

20 THE COURT: Well, we have a time getting things
21 scheduled. We do the best we can.

22 (End of Transcript of Record.)

23

24

25

CERTIFICATE OF REPORTER

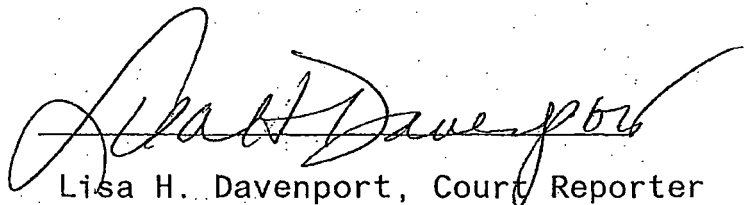
State of South Carolina)

County of Aiken)

I, Lisa H. Davenport, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Aiken County, South Carolina, on the 21st day of June, 2011.

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

February 16, 2012



Lisa H. Davenport, Court Reporter

State of South Carolina

County of Aiken

} Court of General Sessions
07-GS-02-1344

The State of South Carolina
Plaintiff
vs.

Joseph Hankerson
Defendant

} Transcript of Record

January 15, 2008
Aiken, South Carolina

B E F O R E:

The Honorable Clifton Newman, Judge, and a jury.

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

De Grant Gibbons, Assistant Solicitor
Attorney for the Plaintiff

Kelley P. Brown, Esq.
Attorney for the Defendant

Lisa H. Davenport
Official Court Reporter

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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(None offered during this portion)

1 (Whereupon, on January 15, 2008 the following
2 proceedings were held:)

3 DEIDRE BALDE, after being duly sworn, testified
4 as follows:

5 THE CLERK: Have a seat in the witness box. State
6 your full name for the court spelling your last.

7 DIRECT EXAMINATION

8 BY MR. GIBBONS:

9 Q Spell your last name, please.

10 A B-A-L-D-E.

11 Q Is that your married name or maiden name?

12 A Married.

13 Q What is your maiden name?

14 A Lloyd.

15 Q Deidre Lloyd?

16 A Uh-huh.

17 Q Where do you live now?

18 A North Augusta.

19 Q And how long have you lived in North Augusta?

20 A About three or four years.

21 THE COURT: Ms. Lloyd, the mic is in front of you.

22 Q Scoot up by that microphone, please, if you would and
23 speak up loud so I can hear you.

24 A Can you hear me now?

25 Q A little bit. Holler at me.

- 1 A You hear me?
- 2 Q That's good.
- 3 A Okay.
- 4 Q Keep it like that and we'll all be fine.
- 5 A Okay.
- 6 Q You live in North Augusta?
- 7 A Yes.
- 8 Q And how long have you been in North Augusta?
- 9 A About three or four years.
- 10 Q And are you working at this time?
- 11 A Yes.
- 12 Q What do you do for a living?
- 13 A I am a certified podiatrist's assistant.
- 14 Q How long have you been doing that?
- 15 A For about five years.
- 16 Q Where are you originally from?
- 17 A Aiken.
- 18 Q And what -- Where did you live when you lived in
- 19 Aiken?
- 20 A Like when I grew up or --
- 21 Q Let's say 1994. Where were you living then?
- 22 A Ninety-four? I think it was Hahn's Village.
- 23 Q And that's here in Aiken?
- 24 A Yes.
- 25 Q And what was going on in your life at that time?

1 A At that time I used to live in Hahn Village and
2 working. I had a daughter. I used to date a guy named
3 Joseph Morrison.

4 Q You were dating Joseph Morrison in 1994?

5 A Yes.

6 Q In October of that year you were still dating him?

7 A Yes.

8 Q And were y'all living together at that time?

9 A No.

10 Q Where did he live?

11 A I think it was like -- I don't know if it was
12 Greenville Street or I can't remember off hand, but I know
13 he used to spend the night sometimes when he didn't live
14 with me --

15 Q He would spend --

16 A -- and then he had another -- he had another
17 girlfriend, also.

18 Q So he spent how many nights would you say? A couple
19 of nights a week, half the time at your house or what?

20 A A couple of nights.

21 Q And did he keep clothing at your house?

22 A Sometimes. Not really, though.

23 Q What about personal belongings? Did he have personal
24 belongings at your house?

25 A Yes.

1 Q Like what?

2 A Like shoes or some shirts or something like that,
3 but...

4 Q What about the Defendant in this case Joseph
5 Hankerson? Do you know him?

6 A I know of him, yes.

7 Q How long have you known of him?

8 A I known him ever since when I first -- when he first
9 came down to see Joseph Morrison because that was his
10 cousin.

11 Q When was that approximately?

12 A I don't know. Ninety-four? I don't know.

13 Q October 6 of 1994 are you aware that someone was
14 killed in the cemetery?

15 A Yes.

16 Q How long had you known Mr. Hankerson at that point in
17 time?

18 A Repeat that again.

19 Q How long when that happened had you been knowing
20 Mr. Hankerson?

21 A When that happened?

22 Q Yes, ma'am.

23 A How long?

24 Q How long had you already known him when that
25 happened?

1 A Oh, it wasn't long. It was less than a year. It
2 wasn't long at all.

3 Q But more than a week or two?

4 A Yes.

5 Q And who did you mostly associate him with? Did you
6 see him by yourself?

7 A No. I mean, it was, you know, other people, you
8 know, like Joseph or he used to come to the house with
9 Joseph or something like that.

10 Q As far as you knowing him personally one-on-one did
11 that happen or was it always with Joseph Morrison?

12 A It was majority with Joseph. He never came to my
13 house just to conversate or anything like that.

14 Q Back when this event happened at the cemetery when
15 did you find out that something had happened?

16 A I found out when Joe came to the house -- came to the
17 apartment. It was morning, but it was still dark.

18 Q That morning?

19 A Yea.

20 Q All right. Let's come back to that in a few minutes.
21 You had information soon after this happened?

22 A Yes.

23 Q And what did you do with that information?

24 A As in? What did I do with it?

25 Q Yes, ma'am.

1 A I kept it inside.

2 Q Inside of what?

3 A Me.

4 Q Did you have a policeman come try and talk to you
5 about the situation?

6 A Yes.

7 Q Who came to see you back then?

8 A I can't -- I can't remember. Probably Keith Glover.
9 I had to go to the Public Safety.

10 Q You went down there and talked to them?

11 A Yes.

12 Q Did you give them a statement?

13 A Yes.

14 Q And did you -- Do you know if it was taped or you
15 just gave them a statement?

16 A The first time I think it was, you know, just talk.
17 It wasn't a written statement or taped.

18 Q And did you tell them what you knew about this case?

19 A No. I just told them I didn't know anything.

20 Q And they talked to you again later on?

21 A Yes.

22 Q And at that point in time did you tell them what you
23 knew about this case?

24 A No.

25 Q When was the first time you came forward with the

1 information in this case?

2 A The first time when -- the last time when I spoke
3 with Keith Glover -- Detective Glover -- he had me to go
4 to Public Safety to talk with him and I can't remember if
5 it was an attorney or someone. He said he had a note from
6 Joseph Morrison -- a full statement that he had wrote to
7 Mrs. Pollin.

8 Q All right. Now, Mr. Morrison isn't in your life
9 anymore, is he?

10 A No.

11 Q Do you still have contact with him?

12 A No. The last time I talked to him -- that was about
13 two months ago.

14 Q What about prior to that?

15 A No. Ever since he's been locked up I probably have
16 talked to him no more than six or seven times since he's
17 been locked up.

18 Q So you wouldn't say you guys are maintaining any kind
19 of relationship?

20 A No.

21 Q Do you have a relationship in your life now?

22 A I'm married.

23 Q Do you have children?

24 A Yes, I have three.

25 Q And are any of those associated with Mr. Morrison?

1 A One; my 14-year-old.

2 Q And the contact you have, was that social contact or
3 dealing with your child?

4 A Really, both. He wanted to -- He was, you know,
5 talking to me to go and tell the truth and everything and
6 about the child.

7 Q Now, you did eventually come forward and give another
8 statement; correct?

9 A Yes.

10 Q And prior to doing that did you meet with a lawyer?

11 A Yes, I did.

12 Q And did you make any kind of agreement at that time?

13 A Yes, I did.

14 Q What is the nature of that agreement?

15 A After I left Detective Glover I know they was saying
16 that they -- I don't know what kind of like a, quote, a
17 suspect or something like that. So I got scared because I
18 have never been in any trouble. So what I did is I got me
19 an attorney before I say anything. I got me an attorney.

20 Q And what were you getting an attorney for? What were
21 you worried about might happen?

22 A For me being in trouble for not telling the truth.

23 Q And was an agreement reached --

24 A Yes.

25 Q -- that you were comfortable telling the truth on?

1 A Yes.

2 Q And what does that agreement say? Do you know?

3 Summarize it.

4 A It is just, basically, saying that I can tell the
5 truth without getting into any trouble.

6 Q In other words, you won't get any charges out of what
7 you say?

8 A Right.

9 Q And based on that did you go ahead and give a
10 statement?

11 A Yes.

12 Q Now, you were dating Joe Morrison at the time?

13 A Yes.

14 Q But he wasn't staying at your house all the time?

15 A No.

16 Q Do you remember what went on the night of October 5
17 and the morning of October 6 of 1994?

18 A The only thing that I remember is that night when
19 Joseph Morrison knocked on my window when I was living in
20 Hahn Village and, like I said, it was dark, but it was
21 morning, but I don't know what time it was.

22 Q All right. Let me stop you right there. You were at
23 home?

24 A Yes.

25 Q Who lived with you at that time?

1 A Me and my daughter.

2 Q And was it late at night?

3 A Yes.

4 Q What were you doing prior to them knocking?

5 A I was asleep.

6 Q You were asleep?

7 A Uh-huh.

8 Q And your child was asleep?

9 A Uh-huh.

10 Q And who did you say was at the window?

11 A Joseph Morrison.

12 Q Joseph Morrison?

13 A Uh-huh.

14 Q Okay. What happened?

15 A Wait a minute. I got to back up. I need to back up.

16 Did you ask me about Joseph -- what happened that night?

17 Q Yes, ma'am.

18 A Wait a minute. Okay. Wait a minute. Okay. That

19 night I was -- Me and my daughter was sleep and I heard a

20 knock to my door and it was Joseph Hankerson.

21 Q All right. When you say Joseph Hankerson, is that
22 the individual in the courtroom today?

23 A Yes.

24 Q Could you tell us what he is wearing?

25 A White shirt and gray.

1 Q Sitting at the table with defense counsel? Is that
2 him?

3 A It looks like him. He looks different.

4 Q All right. I am going to show you State's Exhibit
5 No. 3 and ask you if you recognize that picture.

6 A Uh-huh.

7 Q Who is that?

8 A That's Joseph Hankerson.

9 Q Is that the person that you're talking about?

10 A Yes.

11 Q All right. You were asleep. You heard somebody
12 banging on the door. What happened next?

13 A He -- I opened the door and he asked was Joseph there
14 and I told him no.

15 Q All right. What happened after that?

16 A And -- I don't know if -- I think he came back and
17 asked was Joseph there again and he had someone with him.

18 Q Did you see who that was?

19 A No. I mean, he had on a hoodie so I can't really
20 picture who it was and I didn't have on a porch light.

21 Q So the guy with the Defendant came to your house
22 once, correct, and asked for Joe? Is that what you're
23 telling us a minute ago?

24 A Yea, he came and asked for Joe and I told him he
25 wasn't there and I think he came back and asked -- I think

1 it was he came back and asked was he there again and I
2 told him no and he was with someone then.

3 Q All right. What happened when he came back the
4 second time?

5 A He had asked me to let him -- to give him Joe's gun.

6 Q All right. What was he talking about Joe's gun?

7 A Joe had a gun.

8 Q You better use last names because we got two Joes.

9 A Okay. Joseph Morrison had a gun to my house.

10 Q Do you know what kind of gun?

11 A No. It was a handgun, but it wasn't no big zoo-zoo
12 (phonetic) or whatever, but it was a little handgun.

13 Q But he had it at your house?

14 A Yes.

15 Q How long had it been at your house?

16 A That I don't know because at that time I didn't know
17 that he had the gun to my house. That's what me and
18 Joseph Morrison was arguing about that day before, I think
19 it was, about the gun being at my house.

20 Q All right. When he asked you for the gun you knew
21 what he was talking about?

22 A Yes.

23 Q And you knew where it was?

24 A Yes.

25 Q So what did you do?

1 A I gave him the gun.

2 Q Where did you go have to get it from? Was it right
3 by the door?

4 A No. It was in my drawer in my room.

5 Q And what time was this about? I know you said you
6 woke up when you heard the banging. Do you know what time
7 it was?

8 A No. Well, that -- I don't know what time it was. I
9 don't know if it was -- I know it was at night. It wasn't
10 morning. I really don't -- to tell you the truth, I don't
11 know what time it was because I was asleep. I mean, I
12 don't just wake up and look at the clock, you know, but I
13 know it was dark and late.

14 Q So you got that gun?

15 A Yes.

16 Q And you gave it to who?

17 A Joseph Hankerson.

18 Q What did he do after you gave that to him?

19 A He left.

20 Q What did you do?

21 A Nothing. I didn't think nothing of it because Joseph
22 Hankerson and Joseph Morrison -- they always did
23 everything together. So, I don't question -- I never did
24 question about anything they did.

25 Q They were pretty close?

1 A Yes.

2 Q So did you go back to bed?

3 A Yes.

4 Q And what's the next thing you remember happening that
5 night?

6 A Joseph Hankerson came back hours later. I don't know
7 what time it was.

8 Q Were you asleep again?

9 A I think so, but I am not for sure. I'm thinking that
10 I probably did, I mean, because it was late. I am not for
11 sure.

12 Q You said he came back again?

13 A Yea.

14 Q How did that happen?

15 A He came back again and just told me to put the gun
16 back because he didn't need it.

17 Q And so what did you do?

18 A I just put it back.

19 Q And did you think anything about that?

20 A Huh-uh.

21 Q Do you know what time it was --

22 THE COURT: Answer, ma'am.

23 THE WITNESS: Oh, no. No.

24 Q Do you know what time that was?

25 A No, sir.

1 Q Did you ever get that gun back out again during that
2 time?

3 A No.

4 Q What about later on that morning?

5 A Joseph Morrison knocked on my door -- I mean, my
6 window. Like I said, it was morning. It was morning
7 before light and knocked on my window and I let him in and
8 I told him Joseph Hankerson was looking for him.

9 Q Did you tell him about handing him the gun?

10 A Yea, I told him -- He asked what did he want. I said
11 he wanted your gun.

12 Q What happened when you told him that?

13 A He got real mad, you know, cussing at me and
14 everything saying I shouldn't have did that.

15 MRS. BROWN: Objection, Your Honor, to anything that
16 he told her.

17 Q You can't tell us what someone else said; just what
18 you did and what you saw and maybe what you said.

19 A Huh?

20 Q You can't say what Joe said. You have to tell me
21 what you said and what you did.

22 A Oh, okay.

23 Q Okay? Is that the last time you saw the gun?

24 A No.

25 Q When was the last time you saw the gun?

1 A The last time I saw the gun is when I told him that,
2 you know, that I gave him the gun, he left and came back
3 and that's when he said that Joseph Hankerson --

4 Q You can't say what he told you. What was the last
5 thing you saw that happened to the gun?

6 A Joseph Morrison threw it away.

7 Q He took it out of your house?

8 A Yes.

9 Q Do you know where it ended up?

10 A No.

11 Q Did you ever say anything about this again to anyone
12 prior to coming forward?

13 A I just told my family because I couldn't have it
14 balled up inside of me. I did tell my family and my
15 ex-husband. Well, he was my husband at the time.

16 Q Now, did you ever see Mr. Hankerson again after that
17 night?

18 A Not to my knowledge. I don't think so. I don't
19 know.

20 Q Later on that morning you found out that there had
21 been something happened at the cemetery; correct?

22 A Yes.

23 Q And did you -- Were you afraid to come forward at
24 that point?

25 A Yes.

1 Q What was your biggest fear?

2 A Because what I was told is that I can be convicted of
3 giving him the gun and by me not being in any trouble and
4 someone telling me that I can get in a lot of trouble and
5 years in jail and they done had so much experience, you
6 know, by being in trouble and being in jail, I just went
7 by what, you know, the person told me.

8 Q So, like street talk you thought you would get in
9 trouble?

10 A Yes.

11 Q Is that why you never came forward?

12 A Right.

13 MR. GIBBONS: Please answer any questions Mrs. Brown
14 might have.

15 CROSS-EXAMINATION

16 BY MRS. BROWN:

17 Q Did you think to talk to a lawyer back in 1994?

18 A No. I thought about it sometimes, but I didn't have
19 the funds to do it.

20 Q Excuse me?

21 A I thought about it sometime, but I didn't have the
22 funds to do it then.

23 Q Didn't have the funds. So, instead you lied to the
24 police?

25 A Yes, I did.

1 Q On several occasions?

2 A Yes, I did.

3 Q And you still didn't come forward with this
4 information when Joseph Morrison went to trial himself,
5 did you?

6 A I sure didn't.

7 Q You sure didn't. And so the father of your child got
8 convicted and went to prison; isn't that right?

9 A Yes.

10 Q And you think that he is there wrongly, don't you?

11 A Yes.

12 Q And you hope he is released one day, don't you?

13 A Yes.

14 Q You hope that he is exonerated and found to be
15 innocent of this crime, don't you?

16 A Yes.

17 Q So you talked about this agreement that you had with
18 the state. So they're agreeing not to press any charges
19 against you for lying to the police for those times that
20 you lied to them; isn't that right?

21 A Correct.

22 Q Because that's as much of a fear as you being in
23 trouble for handing over the gun; right?

24 A That's what I was told.

25 Q That's what you were told. Were you told that you

1 could get in trouble for lying to the police?

2 A Yes.

3 Q When were you told that?

4 A Common sense will tell me that I'll get in trouble if
5 I lie to the police. That's, you know, false information.

6 Q Common sense will tell you that?

7 A Uh-huh.

8 Q Just like common sense will tell you that you'll --
9 common sense will tell you that you'll get in trouble for
10 not having anything to do with a murder?

11 A No. I don't have anything to do with murder.

12 Q But you were still afraid that if you came forward
13 with this information that you'd get in trouble?

14 A Yes.

15 Q Did you ever have any statement to give that
16 Mr. Hankerson told you why he wanted the gun?

17 A Any statements?

18 Q Were you afraid that you would have to let them know
19 why he wanted the gun? I mean, your testimony today does
20 not include any statements by Mr. Hankerson as to why he
21 wanted the gun; isn't that right?

22 A No. I mean, right.

23 Q Right.

24 A I don't know the reason why he wanted the gun.

25 Q So you didn't know why he wanted the gun?

1 A Exactly.

2 Q So, but you were afraid because street talk might
3 involve you for handing over the gun; right?

4 A Exactly.

5 Q Weren't you also afraid because street talk was
6 involving you with riding around with him that night?

7 A I wasn't riding around with him.

8 Q I didn't ask if you were riding around with him.
9 Were you afraid because street talk -- word on the street
10 was that you were riding around with him that night,
11 wasn't it?

12 A I didn't know anything about that until Joseph
13 Morrison had said that's the word on the street. That's
14 when I, you know -- other than that, I don't know anything
15 about the word on the street.

16 Q But you knew that was the word on the street back in
17 1994?

18 A Yes.

19 Q You knew that was the word on the street the first
20 time you lied to police about not having any information
21 about this, didn't you?

22 A Right.

23 Q And you knew the word on the street back the second
24 time that you lied about not having any information?

25 A Right.

1 Q And you knew the word on the street when you sat back
2 and didn't say anything when Mr. Morrison went to trial?

3 A Right.

4 Q And you say you had a conversation with Mr. Morrison
5 about two months ago?

6 A Uh-huh. Yes.

7 Q And he called you on the phone?

8 A Yes.

9 Q And it was sometime after that that you decided to
10 come forward with this information?

11 A No.

12 Q It was not sometime after that that you decided to
13 come forward?

14 A No.

15 Q When did you come forward with this information?

16 A When Keith Glover -- Detective Glover called me to
17 Public Safety and Joseph Morrison had written a statement.

18 Q When did you go to Public Safety?

19 A That I don't know.

20 Q Do you remember writing a statement about this
21 information?

22 A Yes.

23 Q Was that before or after you spoke with Keith Glover?

24 A That's after. That's when I got me an attorney.

25 Q How many days after your conversation with Keith

1 Glover was that?

2 A Probably less than a month.

3 Q Less than a month?

4 A Probably so. I am not for sure.

5 Q What was going on when you last talked to Joe
6 Morrison? There was something going on with your
7 daughter, wasn't there?

8 A Yes. She was in the hospital.

9 Q How long was she in the hospital?

10 A For about four or five days.

11 Q When was that?

12 A Probably about two months ago.

13 Q Do you remember the dates on that?

14 A No, I don't.

15 Q Was that around Halloween?

16 A That I don't know. She has been hospitalized a lot.
17 So, I don't know.

18 Q You don't know. She's been hospitalized a lot?

19 A Yes. She has diabetes.

20 Q But you say it was about two months ago?

21 A Yes.

22 Q Did he call you before or after you initially spoke
23 with Keith Glover?

24 A After. I think it was after. I am not for sure. I
25 think it was after. I knew court -- y'all had court

1 because he called me after court.

2 Q He called you after he came to court?

3 A Yes.

4 Q And that was -- Do you remember when that was?

5 A No.

6 Q Do you remember if that was before or after you made
7 your statements to law enforcement?

8 A Whenever I told you that it was.

9 Q How many times did you speak with Joe Morrison of
10 late?

11 A How many times?

12 Q How many times?

13 A Probably about six -- no more than eight.

14 Q No more than eight times?

15 A Correct. And that's ever since he's been in jail.

16 MRS. BROWN: I beg the court's indulgence one moment.

17 Now, let's talk about this gun. Did you retrieve the
18 gun for Mr. Hankerson or did he go get it on his own?

19 THE WITNESS: No. I gave it to him.

20 Q Where did you know how to find it?

21 A Because it was in my drawer.

22 Q Which drawer was it in?

23 A In my room drawer, my dresser drawer.

24 Q What drawer in your room?

25 A It was a dresser drawer. That's all I can tell you.

1 Q What else do you keep in that dresser drawer?

2 A Clothes.

3 Q Just any kind of clothes or any kind of special
4 clothes?

5 A Any kind of clothes.

6 Q Just all sorts of clothes. Is that a drawer you go
7 in everyday?

8 A No.

9 Q No? How long had that gun been there?

10 A I don't know. Probably -- When Joseph Hankerson
11 asked me for the gun I think I probably known it the day
12 before or something like that. I am not for sure.

13 Q Just the day before?

14 A Yes.

15 Q And when had you argued with Joseph Morrison about
16 that gun?

17 A When I found out that it was in my house.

18 Q How did you find out it was in your house?

19 A Because that's when I went through my drawer.

20 Q You went through your drawer and you just found it
21 there?

22 A Yes.

23 Q And so you argued with him about the gun being there?

24 A Yes.

25 Q So that's how you knew where it was when all of a

1 sudden Mr. Hankerson showed up at your house asking for
2 it?

3 A That's the day after.

4 Q That was the day after y'all argued about the gun?

5 A No. That was the day after he asked for the gun. He
6 asked -- Joseph Morrison -- We got in an argument that
7 day. The next day Joseph Hankerson asked for the gun.

8 Q So you and Joe Morrison argued about the gun on the
9 4th if Hankerson came to get the gun on the 5th?

10 A I am not telling you what date. I am just telling
11 you what I know.

12 Q I am not asking you what date. I am saying, for
13 example, if it was October 5 when Joseph Hankerson came
14 and asked for the gun --

15 A That would be the day after.

16 Q So on the 6th?

17 A Yea. That's the day after.

18 Q And that's when you found out where the gun was. Did
19 you argue with him about you finding the gun or did you
20 argue with him about Joseph Hankerson having the gun?

21 A Both.

22 Q Both. So you argued on two different occasions about
23 the gun?

24 A Correct.

25 Q First when you found the gun?

1 A Uh-huh.

2 Q And then second there was an argument over you
3 letting Mr. Hankerson have the gun?

4 A Correct.

5 Q And then Mr. Morrison took the gun at that point and
6 you never saw it again?

7 A Correct. He said he was going to get rid of it.

8 Q He said he was going to get rid of it? What did the
9 gun look like?

10 A I don't know. A small gun.

11 MRS. BROWN: I don't have any further questions, Your
12 Honor.

13 MR. GIBBONS: Nothing further for this witness, Your
14 Honor. May she be released, Your Honor?

15 THE COURT: Any objection?

16 MRS. BROWN: No, Your Honor.

17 THE COURT: You're excused.

18 (End of requested portion of transcript.)
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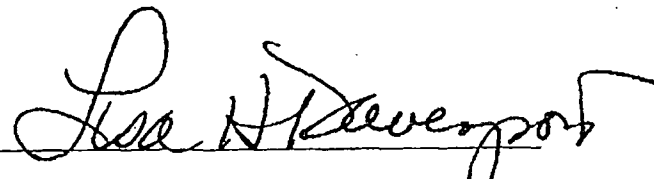
CERTIFICATE OF REPORTER

State of South Carolina)
County of Aiken)

I, Lisa H. Davenport, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and partial Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Aiken County, South Carolina, on the 15th day of January, 2008.

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

July 6, 2010



Lisa H. Davenport, Court Reporter

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN) FOR THE SECOND JUDICIAL CIRCUIT
Case No.: 2006-CP-02-0858

Joseph Morrison, III, #208001,

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

FILED 9-23-2009

L. H. Haddad
J.C.C.P. & C.S.

Anita Knoepfer
Deputy Clerk

This matter comes before the Court by way of an Application for Post-Conviction Relief filed June 12, 2006. Evidentiary hearings were conducted on December 3, 2009; February 23, 2010; March 16, 2010; and June 21, 2011. Michael Chesser, Esquire, represented the Applicant; Mary S. Williams, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearings, several witnesses were presented: Sheriff Michael Hunt, Regina Poteat Crozier ("Counsel"), Investigator Robert Anderson, Officer Keith Glover, former assistant solicitor DeGrant Gibbons, Deputy Dewayne Courtney, and the Applicant's former girlfriend Diedre Balde. The Applicant testified on his own behalf. This Court also had before it a copy of the trial transcript, the records of the Aiken County Clerk of Court, the appellate records, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. Applicant was indicted at the May 12, 2003, term of the Aiken County Grand Jury for Murder (2003-GS-02-871). Regina Poteat, Esquire,

T. H. Haddad
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represented him. Following a jury trial conducted on October 21-23, 2003, Applicant was found guilty as indicted. The Honorable James R. Barber, III, sentenced him to life imprisonment.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. After a review pursuant to Anders v. California, 386 US 738 (1967), The South Carolina Court of Appeals dismissed the appeal. State v. Morrison; 2005-UP-429, filed July 13, 2005. The Remittitur was sent on July 29, 2005.

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

1. Ineffective assistance of counsel; and
2. Denial of due process.

At PCR hearings, Applicant raised additional issues as follows:

1. Ineffective assistance of counsel.
 - a. Cross-examination of key witnesses such as Tracy Fuller.
 - b. Failure to investigate.
 - c. Presentation of inconsistencies and conflicts in physical evidence.
2. Newly discovered evidence of testimony of Deidre Balde.

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 fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80.

Summary of Facts Adduced at Trial

Victim Christopher Pollin ("Pollin") was discovered in the Sons of Israel section of the Bethany Cemetery on October 6, 1994. When found by a cemetery worker at 1:00 pm, Pollin was

still alive in spite of two gunshot wounds, one to the neck and one to the head. Rescue personnel responded, but Pollin died of his injuries. The wounds were inflicted by a .25 caliber weapon at close range. Pollin's "hoodie" sweatshirt was damaged by the bullets. Pollin's footprints were identifiable. The area was fairly well travelled. No other footprints were identified. Investigators interviewed numerous individuals, but the case was cold for many years.

Tracy Fuller ("Fuller") came forward years later with information that led to Applicant's arrest.¹ Fuller claimed that he was with Pollin, Applicant, and Applicant's cousin, Joseph "Tree" Hankerson ("Hankerson") on the night of the murder.² Fuller stated that he and Pollin sold drugs for Applicant at the time. On the night in question, the four were driving around and making drug deals. Fuller testified that the four parked in a parking lot near the cemetery. Applicant, Hankerson, and Pollin exited the vehicle and proceeded to the cemetery on foot, leaving Fuller behind. Fuller began to worry that police may come by the parking lot and decided to proceed to the cemetery as well. Fuller heard an argument as he made his way down. Fuller heard Applicant arguing with Pollin about money Pollin owed him. According to Fuller, Hankerson stopped him at the gate to the Sons of Israel portion of the cemetery. Fuller then saw Applicant holding Pollin by his shirt before drawing a weapon and firing. Fuller ran after the first shot was fired. Fuller stayed in the car, and Applicant and Hankerson returned a few minutes later.

Other witnesses included Felicia Byrd ("Byrd"). Byrd claimed that she overheard a conversation between her late common-law husband and Applicant about Pollin's murder. Another witness, Leroy Bush ("Bush") testified that Applicant had tried to sell him a gun around the time of

¹ Fuller was incarcerated on unrelated charges when he came forward with the information. According to trial testimony, while Fuller had wanted assistance with his sentence when he came forward, his sentence was not reduced as a result of his cooperation in Applicant's case. (Tr. p. 138; pp. 141-150; pp. 185-187.)

² Hankerson had not been apprehended at the time of Applicant's trial.

Pollin's death. Bush stated that he had asked Applicant about his "beef" with Pollin and that Applicant had responded that Pollin would not be disrespecting Applicant anymore.

Applicant presented an alibi defense through testimony of a girlfriend, Tantalea Bartley ("Bartley"). According to Bartley, Applicant had been with her from 10:15 or 10:30 pm until 4:30 or 5:00 am on the night Pollin was killed. Bartley was unable to recall the date but was certain Applicant was with her. Counsel testified that the primary defense goal was to discredit Tracy Fuller because Applicant's alibi was not ironclad.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). 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, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 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, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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

Cross-Examination

Applicant asserts that Counsel inadequately cross-examined witnesses. Applicant specifically points to cross-examination of Tracy Fuller ("Fuller"). Counsel noted that she cross-examined Fuller regarding numerous inconsistencies in his prior statements (e.g. time of day, that the murder weapon had been disposed of). This court further notes that in her lengthy cross-examination Counsel thoroughly cross-examined Fuller on his motivations for testifying (seeking reduction in sentence) and his criminal record. (Tr. pp. 139-186.) Counsel further argued these important points in her closing. Counsel also thoroughly cross-examined and attacked the credibility of other witnesses. For example, Counsel inquired of Bush's approaching law enforcement after Applicant's arrest, expressing interest in what they could do to help reduce his own prison sentence. Based on the testimony and trial record, I find that Counsel performed well within reasonable professional norms in this regard. Applicant has also failed to show what benefit additional cross-examination would have yielded.

Footprint

Applicant asserts that Counsel was ineffective in handling a plaster cast taken of a shoe print

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at the crime scene. At trial, witnesses testified that the victim's footprints were readily identifiable at the crime scene. The area was well-travelled, and other footprints were at the scene. Investigators created a plaster cast of one footprint. Counsel was able to elicit that the shoe casting was never matched to anyone. (Tr. p. 415, lines 8-12; p. 419, lines 11-13.) Applicant states that Counsel failed to properly pursue the footprint evidence at trial, asserting that Counsel should have sought testing against his shoes to prove the footprint was not his.

I find Counsel's presentation of evidence through Officer Courtney at trial that the plaster cast was not matched to anyone, including the defendant, was reasonable under professional norms. No additional evidence specifically excluding Applicant was presented at PCR hearing. Even if additional testing had been done, there would be no effect on the outcome of trial. Additional evidence that the footprint could not be connected to the Applicant would be cumulative to Courtney's testimony.

Newly-Discovered Evidence

Applicant asserts that the testimony of Deidre Balde ("Balde") constitutes newly-discovered evidence entitling him to a new trial.

A party requesting a new trial based on after-discovered evidence must show that the evidence:

- (1) Is such as would probably change the result if a new trial was had;
- (2) Has been discovered since the trial;
- (3) Could not by the exercise of due diligence have been discovered before the trial;
- (4) Is material to the issue of guilt or innocence; and,
- (5) Is not merely cumulative or impeaching.

Hayden v. State, 278 S.C. 610, 611, 299 S.E.2d 854, 855 (1983).

At PCR hearing, Balde testified that she and Applicant had been in a relationship at the time of Pollin's murder, and the two have a child together. Balde stated that on the night of the shooting,

Hankerson had come to her apartment with another male in a hoodie who she did not know. Hankerson asked for Applicant's gun, and Balde said she complied. Balde stated that Hankerson later returned the gun in the early morning hours while it was still dark. According to Balde, Applicant came to her home later. She and Applicant argued about his being out and about her giving Hankerson the gun. Balde stated that Applicant told her later that day that Hankerson killed Pollin. Balde stated that she had not initially informed police of the night's events because she feared criminal prosecution herself.

I find that Balde's testimony does not constitute newly discovered evidence meriting a new trial. As a preliminary matter, Applicant was aware of the information provided by Balde at PCR hearing long before his trial; according to Applicant he did in fact argue with Balde and therefore knew about the story that was related at PCR hearing. That Balde only later came forward with this information does not make it "newly-discovered." See for example U.S. v. Dale, 991 F.2d 819 (C.A.D.C. 1993) (noting majority rule that coconspirator's later testimony after refusing to testify at trial does not constitute newly discovered evidence); U.S. v. Matos, 781 F.Supp. 273, 279 (S.D.N.Y. 1991) ("newly available" testimony not "newly discovered" where defendant knew what coconspirators' testimony could be). There is no evidence that Applicant divulged this information to investigators or Counsel or that Balde's testimony was pursued at the time of Applicant's trial in spite of his knowledge. Further, Balde's testimony would not change the outcome of trial. Balde's testimony at best raises a suspicion regarding Hankerson's involvement; Hankerson was alleged by the prosecution to have been involved in the crime. The prosecution pursued the cases under the theory of "hand of one, hand of all." Balde's testimony fails to set forth any alibi or impossibility that Applicant participated in the crime. See for example Glover v. State, 318 S.C. 496, 458 S.E.2d 538

Handwritten signature and initials, possibly "MBC" and "H7", in dark ink.

(1995) (purported alibi which fails to establish physical impossibility is no alibi at all). Further, credibility would be in issue. Balde conceded that she hoped to see Applicant released from prison and had a personal relationship with the Applicant.

Applicant also presented results of his polygraph examination as new evidence. This evidence was also known to Applicant at the time of trial. Applicant chose not to testify at trial. Moreover, results of polygraph examinations are generally not admissible. See for example Lorenzen v. State, 376 S.C. 521 at 533, 657 S.E.2d 771 at 778 (2008). Interestingly, though his story contrasts with Morrison's, Fuller also passed a polygraph. Based on the foregoing, the results of the polygraph examination do not merit a new trial.

Other Allegations

No evidence in support of other allegations was presented at the PCR hearing. Therefore, such allegations are deemed waived.

CONCLUSION

Based on 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 advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to rule

243, SCACR, 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 21 day of Sept, 20 11.

Brent G. Early
South Carolina

Doyet A. Early, II
Presiding Circuit Court Judge

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2006CP0200858

731

Joseph Morrison III vs. S.C., STATE OF

CHECK ONE:

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court;

Dated at Aiken, South Carolina, this 23rd day of September, 2011.

Court Reporter: _____

PRESIDING JUDGE - _____

This judgment was entered on the 23rd day of September, 2011, and a copy mailed first class this 23rd day of September, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Michael W. Chesser Attorney at Law P.O. Box 1018
Aiken, SC 29802-1018

ATTORNEY(S) FOR THE PLAINTIFF(S)

Attorney General

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Clerk of Court

Liz Godard - Clerk of Court

WITNESSES

Anthony K. Glover, A.D.P.S.

FILED May 8 2003

Jay Godard

CCCR&G.S.

Sherry Langley 28
Deputy Clerk

ARREST WARRANT NUMBER

1-085180

1021 ACTION OF GRAND JURY

TRUE BILL



Foreperson of Grand Jury
Date: May 8, 2003

VERDICT

guilty

Judy Thompson

Foreperson of Petit Jury
Date: 10/23/03

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

May 12, Term 2003

THE STATE

vs.

JOSEPH MORRISON, III

Indictment for

MURDER

SC Code 16-3-10

CDR Code 116

Class FEL-EXM

520

STATE OF SOUTH CAROLINA)

INDICTMENT

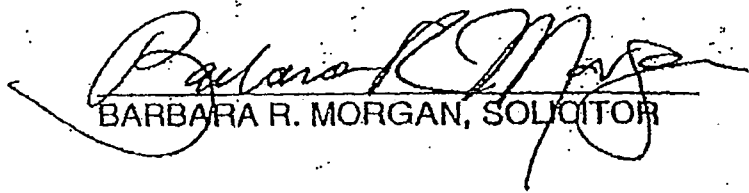
COUNTY OF AIKEN)

At a Court of General Sessions, convened on May 12, 2003, the Grand Jurors of Aiken County present upon their oath:

MURDER

That JOSEPH MORRISON, III did in Aiken County on or about October 6, 1994, with malice aforethought, kill one Christopher A. Pollin by means of shooting Christopher A. Pollin in the head with a handgun and said victim died as a proximate result thereof. All in violation of Section 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.



BARBARA R. MORGAN, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ALLEN
 STATE VS.
 AKA: MARRISON III
 Race: W Sex: M Age: 21
 DOB: 11-11-81 SS#: 1111111111
 Address: 1111111111
 City, State, Zip: 1111111111
 DL# 1111111111 SID# 5111111111

INDICTMENT/CASE#:

2003 -GS- 02 871
 AWW#: T-085180
 Date of Offense: 10-6-94
 S.C. Code §: 16-13-10
 CDR Code #: 1111111111
☐ CASE RESTORED
 SENTENCE
☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
 TO: 1111111111

in violation of § 16-13-10 of the S.C. Code of Laws, bearing CDR Code # 1111111111
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

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

1111111111 Solicitor 1111111111 Defendant 1111111111 Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 1111111111 days/months/years or ☐ under the Youthful Offender Act not to exceed 1111111111 years
 and/or to pay a fine of \$ 1111111111; provided that upon the service of 1111111111 days/months/years and/or payment
 of \$ 1111111111; plus costs and assessments as applicable*; the balance is suspended with probation for 1111111111
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions
 of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 1111111111
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
 Total: \$ 1111111111 plus 20% fee: \$ 1111111111
 Payment Terms:
☐ set by SCDPPPS 1111111111

Recipient: 1111111111
 *Fine: \$ 1111111111

§14-1-206 (Assessments 107.5%) \$ 1111111111
 §14-1-211(A)(1) (Conv. Sur.) \$100 \$ 100.00
 §14-1-211(A)(2) (DUI Sur.) \$100 \$ 100.00
 §56-5-2995 (DUI Assessment) \$12 \$ 12.00
 § 35.13 (Public Def/Prob) \$500 \$ 500.00
 §73.3, 1B TP (Law Enforce.) \$25 \$ 25.00
 §33.7, 1B TP (Drug Ct. Sur.) \$100 \$ 100.00
 §50-21-114(BUI Breath Test Fee) \$50 \$ 50.00
 §56-5-2942(J) (Veh. Assmt) \$40/ea \$ 40.00
 3% to County (if pd. in instl.) \$ 3.75
 TOTAL \$ 1128.75

1111111111 Clerk of Court/ Deputy Clerk
 Court Reporter: Brenda Sigwald

SPECIAL CONDITIONS:

PTUP 1111111111 days/hours Public Service/ Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning
 Substance Abuse Counseling
 Random Drug/Alcohol
 Testing
 Fine may be pd. in equal, consecutive weekly
 pmts. of \$ 1111111111 beginning
 \$ 1111111111 paid to Public Defender Fund
 Other: 1111111111

☐ Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE 1111111111
 Judge Code: 1111111111
 Sentence Date: 10/23/03