

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

J. Mark Hayes, II, Circuit Court Judge

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S.C. Supreme Court

HAROLD LEE GREER, JR.,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-207807

APPENDIX

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1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

COURT OF GENERAL SESSIONS

4 STATE OF SOUTH CAROLINA,
5 PLAINTIFF,
6 vs.
7 HAROLD GREER, JR.,
8 DEFENDANT.

TRANSCRIPT
OF
RECORD

04-GS-42-2191

10 May 16th, 2006
11 Spartanburg, South Carolina

13 B E F O R E:

14 THE HONORABLE ROGER L. COUCH, JUDGE, and a jury.

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

16 DONNIE WILLINGHAM and JESSICA THILL
17 ASSISTANT SOLICITORS
18 Attorneys for the State

19 KAREN QUIMBY
20 ASSISTANT PUBLIC DEFENDER
21 Attorney for the Defendant

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23
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Seventh Judicial Circuit

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P R O C E E D I N G S

THE COURT: All right. Mr. Willingham.

SOLICITOR WILLINGHAM: If it please the Court.

We call the case of The State versus Harold Greer, Junior. Indictment 2004-GS-42-2191, an indictment for murder. It has been true billed.

THE COURT: All right. I have before me an indictment in Case Number 04-GS-42-2191. It is The State versus Harold Greer, Junior. It is for murder.

Ms. Quimby, has your client been arraigned on these charges?

MS. QUIMBY: Your Honor, he was arraigned when he was arrested on the warrant.

THE COURT: Okay. So, is there any need to arraign him at this point in time?

MS. QUIMBY: Actually, he did not have a bond hearing.

SOLICITOR WILLINGHAM: No, but he was arraigned.

THE COURT: Okay. I just want to be sure that an arraignment has taken place on this charge.

MS. QUIMBY: Yes, sir.

THE COURT: Does he continue to plead not guilty?

MS. QUIMBY: Yes, sir, he does.

THE COURT: And is he demanding a jury trial on this issue?

Ellenor Nichita - Direct examination
By Solicitor Willingham

1 MS. QUIMBY: Yes, he is.

2 THE COURT: All right. I understand that there may be
3 some pretrial motions or matters before the Court.

4 SOLICITOR WILLINGHAM: Yes, sir, Your Honor. He was
5 ordered by this Court on December 31st, 2004, to submit to
6 an evaluation to determine competency, competency pursuant
7 to State versus Blair and also subject to M Naghten. That,
8 Your Honor, was carried out at William S. Hall Psychiatric
9 Institute. That was actually conducted on December 14th,
10 2005, and February 28th, 2006, by Doctor Nichita and
11 Doctor Richard Frierson.

12 Doctor Nichita is present in the courtroom today and
13 has had an opportunity to evaluate him further again this
14 morning. She's present in the courtroom prepared to testify
15 and we'd like to call her at this time.

16 THE COURT: All right. Come forward, doctor, and be
17 sworn.

18 ELLENOR NICHITA, being first duly
19 sworn, testified as follows:

20 THE COURT: Mr. Willingham, your witness?

21 SOLICITOR WILLINGHAM: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY SOLICITOR WILLINGHAM:

24 Q Please tell the Court who you are.

25 A My name is Ellenor Carman Nachita, N-I-C-H-I-T-A, and I

Ellenor Nichita - Direct examination
By Solicitor Willingham

1 am on a forensic psychiatry fellow.

2 Q Okay. Are you're a forensic psychiatry fellow.

3 Where do you work?

4 A I'm employed with Palmetto Health Alliance and the
5 University of South Carolina School of Medicine. And as
6 part of the contract that the University has with the
7 Department of Mental Health, I provide work for Department
8 of Mental Health.

9 Q Okay. What type of education do you have to allow you
10 to do your job?

11 A I received my medical doctor degree in 1998 from Carol
12 Davela University of Medicine of Pharmacy in Bucharest,
13 Romania. Then I completed four years of general psychiatry
14 residence training in 2005. But Mental Health Medical
15 Center, the hospital affiliated with Case Western Reserve
16 University at Cleveland, Ohio and Medical College of Georgia
17 in Augusta, Georgia, and I'm currently enrolled in the
18 forensic psychiatry fellowship program at the University of
19 South Carolina in Columbia, South Carolina.

20 Q And how long have you been working in the area of
21 forensic psychiatry?

22 A I started July 1st, 2005.

23 Q 2005.

24 How many individuals have you evaluated to determine,
25 to determine competency since that time?

9
Ellenor Nichita - Direct examination
By Solicitor Willingham

1 A By and large, 70 to 75 of our patients.

2 Q And how many times or have you ever been qualified in
3 Court as an expert in forensic psychiatry.

4 A Yes, I've been before.

5 SOLICITOR WILLINGHAM: Okay. Your Honor, at this time
6 I'd offer Doctor Nichita as an expert in the area of
7 forensic psychiatry.

8 THE COURT: Any objection?

9 MS. QUIMBY: No objection, Your Honor.

10 THE COURT: Without objection, she'll be received as an
11 expert in the area of forensic psychiatry, psychology.

12 You may proceed.

13 SOLICITOR WILLINGHAM: Thank you, Your Honor.

14 Q Doctor Nichita, did you receive an Order of this Court
15 to perform an evaluation on Harold Greer?

16 A Yes, I did.

17 Q And did you conduct such an evaluation?

18 A Yes, on two different occasions in the past totaling
19 approximately five hours, and I also spoke with Mr. Greer
20 this morning for approximately 45 minutes.

21 Q Okay. Prior to actually examining Mr. Greer physically
22 or in, or in person, did you have any background
23 information?

24 A Yes, I reviewed a long list of documents. And just to
25 make the list shorter, I reviewed the Court Order requesting

Ellenor Nichita - Direct examination
By Solicitor Willingham

1 this evaluation. I reviewed arrest warrants, the police
2 incident reports, and the statements from the police, the
3 forensic evidence that the police had, and also the
4 defendant's police, police records.

5 I spoke for a limited amount of time with the
6 defendant's uncle, Mr. James Greer, and as I mentioned
7 before, I met with Mr. Greer on three different occasions
8 totaling --

9 Q Okay.

10 A -- five hours and a half.

11 Q During those five hours and a half, what type of things
12 do you do with the defendant?

13 A We try to evaluate -- first of all, we try to evaluate
14 whether the defendant has a mental illness or not, and we do
15 that by asking him about his past, his background, history
16 of hospitalization, history of outpatient treatment,
17 psychiatric treatment. And we don't only rely on the
18 defendant's reports, but we obtain collateral information
19 about the defendant's past.

20 Q Okay. What, if any, mental illness does this defendant
21 have?

22 A The major mental illnesses that I found in this
23 defendant were alcohol abuse and cocaine dependance. I also
24 found some personality traits that he had, but I didn't
25 include them in my report. I just made, made a small

Ellenor Nichita - Direct examination
By Solicitor Willingham

1 section and I can talk to you about them. But they are just
2 personality traits.

3 Q Okay. Does -- do you have an opinion as to whether or
4 not Mr. Greer understands the proceedings against him?

5 A Yes, I do.

6 Q What is that opinion?

7 A He's able to -- he has a factual understanding of the
8 legal system and he has the rational ability to consult with
9 his attorney if he chooses to do so.

10 Q Does he understand what he's charged with?

11 A Yes, he does.

12 Q Does he understand the possible penalties?

13 A Yes, he does. He has some unreasonable expectations
14 such as asking for the death penalty. But when confronted
15 with facts that would require, I mean for the, for the death
16 penalty, he understands that he could, could not qualify for
17 the death penalty.

18 Q Okay. Does he understand the role of the judge?

19 A He understands the roles of the, I mean all of the
20 officers of Court.

21 Q The judge, the jury, the prosecutor, and his defense
22 attorney?

23 A That's right.

24 Q And you said he has the ability to cooperate and to
25 assist his defense counsel?

Ellenor Nichita - Direct examination
By Solicitor Willingham

1 A Yes, he does. He is very elaborated in his speech. He
2 is over inclusive. He has some unreasonable expectations
3 from his lawyer, but that still wouldn't necessarily make
4 him unable to cooperate with his attorney if he chooses to,
5 to follow the prompts of his attorney.

6 Q Okay. Doctor, based upon your entire evaluation, do
7 you believe, within a reasonable, reasonable degree of
8 medical certainty, that this defendant is competent to stand
9 trial?

10 A Yes, I do.

11 Q Okay. You also went on to evaluate him and render an
12 opinion as to his criminal responsibility/capacity to
13 conform, is that correct?

14 A Yes, I evaluated him for that.

15 Q Is he criminally responsible for his actions?

16 A Yes.

17 Q Could he -- did he have the capacity to conform his
18 conduct to the requirements of law?

19 A Yes, although he mentioned that he consumed a few beers
20 that evening, he didn't not have a delusion or an
21 irresistible impulse or other symptom of a mental illness
22 that would have impaired his capacity to conform his conduct
23 to the requirements of the law.

24 Q Okay. Doctor, I believe you prepared a report in this
25 case?

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 A Yes.

2 Q Show this to you and ask if you recognize that.

3 A Yes, it is my report and Doctor Frierson's.

4 SOLICITOR WILLINGHAM: Okay. Your Honor, at this time

5 I'd move this as a Court's Exhibit.

6 THE COURT: Any objection, Ms. Quimby?

7 MS. QUIMBY: No, Your Honor.

8 THE COURT: It will be marked as a Court's Exhibit.

9 (Whereupon, the report was marked as Court's Exhibit

10 No. 1 and received into evidence for purposes of this

11 hearing only.)

12 Q Doctor, if you would, answer any questions defense
13 counsel has for you.

14 THE COURT: Ms. Quimby, your witness.

15 MS. QUIMBY: May it please the Court?

16 THE COURT: Yes, ma'am.

17 CROSS-EXAMINATION

18 BY MS. QUIMBY:

19 Q Doctor Nichita, do you recall that I have been present
20 for each of the times that, that you evaluated Mr. Greer?

21 A Yes.

22 Q Correct?

23 And each time his, while he was very cooperative and
24 talkative, would you agree that his level of cooperation was
25 somewhat, the, the degree -- it was difficult in

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 communicating with Mr. Greer?

2 A Well, talkative is an understatement.

3 Q Okay. How long do, on average, the competency and
4 criminal responsibility evaluations take?

5 A Well, it depends on the defendant's past. If they have
6 a rich history of mental illness, it may take longer. On
7 average, somebody would be able to perform this evaluation
8 three hours, four hours. But again, it's just an average.

9 Q And, and I know that you agree that, that it was
10 difficult to, to communicate and, and get things done that,
11 that needed to be covered in that evaluation.

12 Q Did you find that you were continually having to rein
13 him back in or having him refocus?

14 A Yes, Mr. Greer was over inclusive and over detailed in
15 what he tried to explain to us. Sometimes to the point of
16 missing the major, the major point.

17 Q Okay. And would you agree that more times than not he
18 answered maybe not the question that's asked, but whatever
19 question he felt like should of been asked?

20 A Yes, but he was directable. He -- I mean we could
21 finally get to the, the questions that we asked.

22 Q Okay. Was it more often than not that each question
23 had a, had a longer answer period than you would of normally
24 expected?

25 A Yes, it did.

15
Ellenor Nichita - Cross-examination
by Ms. Quimby

1 Q Okay. Were, in, in some of these discussions, during
2 both of the, both evaluations in Columbia and the one today,
3 would you agree that Mr. Greer has exhibited some reluctance
4 to follow boundaries set by his attorney as far as courtroom
5 behavior, demeanor, and participation?

6 A Mr. Greer was able to appreciate the importance of
7 appropriate courtroom behavior and he was able to understand
8 that if he was misbehaving in court he could be held in
9 contempt of court.

10 Q Correct.

11 And, and I think what I'm going more towards is say,
12 for instance, if he were to testify in front of the jury, do
13 you believe that he has been able to rationally discuss that
14 with me to the point where he would respect certain
15 boundaries about appropriate testimony or, or boundaries?

16 A As we mentioned this morning and in the past, he
17 appreciated the importance of consulting with you, with his
18 attorney and being able to eventually hold back from taking
19 the stand at your suggestion.

20 Q Correct.

21 But then if I'm not mistaken, the follow-up question to
22 that this morning was but if, if Ms. Quimby thought that it
23 was not a good idea hypothetically to testify in front of
24 the jury, would you respect that, what, would you pay
25 attention to that, would you give it due consideration, and

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 would you agree that Mr. Greer's response, not if I didn't
2 felt like it, not if I didn't feel like it?

3 A I would say that that would be rather poor judgment
4 than irrational behavior coming from a mental illness.

5 Q I understand that and my question was kind of long
6 winded and I apologize.

7 Do you recall that his answer to you this morning about
8 whether he would respect, whether, whether he would follow
9 the question/answer format of testifying, and his answer,
10 would you, would you, if you recall, was it not, that if he,
11 if he felt like it he would do that, but if he didn't feel
12 like it was helping him, then he would say whatever he
13 needed, whatever he wanted to say?

14 A When I asked him whether it would be a good idea, from
15 his part to testify, to take the stand, he said that he
16 believed that if testifying would help him with his case, he
17 would take the stand. But he was also able to state that he
18 would be able to consult with you and listen to you.

19 MS. QUIMBY: Okay. Beg the Court's indulgence one
20 minute.

21 THE COURT: That's quite all right.

22 (Pause.)

23 Q Doctor Nichita, specifically there's been some
24 discussions in the evaluations about some, some, and I don't
25 want to use the word fixed, but some beliefs he seems to

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 hold fairly tightly that, would you agree, would not seem
2 necessarily rational to an ordinary person to hold certain
3 of those beliefs so tightly?

4 A Well, I could go over some of them or if you want me to
5 I can go over each one of them that we discussed.

6 First of all, Mr. Greer believes in root work, which is
7 not unusual in the southern culture. And then he also
8 believed that his father conspired with his sister to kill
9 their mother, their mother.

10 When I asked about, when I asked Mr. Greer if he was
11 presented with evidence, with the autopsy report of the
12 contrary, like his mother had a heart attack or died of
13 medical or natural causes, if he still believed that, he was
14 able to shake that belief and reach some rational
15 understanding of that.

16 Q Well, I'm not sure about whether he was able to shake
17 that.

18 Specifically, Doctor Nichita, there was, there was some
19 lengthy conversation this morning between you and Mr. Greer,
20 was there not, about that specific belief that he holds and,
21 for a very long period of time, he did not waiver from his
22 belief, and he did not say that he would understand.

23 In fact, he seems to draw, would you say, an irrational
24 distinction between say a heart attack and a massive heart
25 attack?

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 A Yes, he seems to make a distinction between a regular
2 heart attack and a massive heart attack, and I try to
3 explain to him that the difference is in the area of the
4 heart that is affected, and he, at his level, wanted to have
5 more information on how would somebody get a heart attack,
6 like all of the risk factors of a heart attack, and he was
7 even able to mention high cholesterol. I think he
8 understands what a heart attack is, and I think he
9 understands that his mother had a heart attack.

10 Q Well, unless my notes are wrong, Doctor Nichita, there
11 was the discussion about medical, and you were able to
12 explain some medical aspects of heart attack to Mr. Greer.
13 But after all that, I believe that you had asked Mr. Greer,
14 you had said no, it, it can all of a sudden, a heart attack
15 can be all of a sudden, and, and he -- well, I apologize.

16 At the end of that long discussion this morning
17 covering quite, quite a little bit of time, I think, I think
18 that the last question about the heart attack issue, the,
19 the autopsy issue was that Mr. Greer did not let go of that
20 belief.

21 A Last time we spoke in February, he was, I mean he let
22 go of that belief, and even now, in my opinion, he would be
23 willing to try to understand what a heart attack is and how
24 that happens. Of course, there are some defense mechanisms
25 that people use sometimes and Mr. Greer might use for

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 defense mechanism.

2 Q You had previously or you had testified, Doctor
3 Nichita, that Mr. Greer seemed to have an understanding of
4 all of the Court functions, all of the Court personnel, but
5 isn't it also true that, that, when we were in the smaller
6 room, he did not know what the jury's job was?

7 A Let me refresh my memory.

8 (Pause.)

9 A What I have here, he said the jury's job is to listen
10 and then he mentions something about the sentence, and I
11 asked him what comes before the sentence and he said a
12 verdict, guilty or not guilty.

13 Q Actually, the, the guilty and not guilty, that was --
14 wasn't that supplied by you and he agreed with that once you
15 said it?

16 A No, he, he said sentence first and then he said that
17 the jury would give a verdict of guilty or not guilty. I
18 even asked him what kind of verdict and then he said guilty
19 or not guilty.

20 And one more thing, Mr. Greer was perfectly able to
21 define all the roles of the officers of the Court on
22 December. Let me take a look at the date. December 14th,
23 2005. And these are not information that would be lost
24 unless the person develops dementia^{sta} or they have a head
25 injury. So, once they know it, they know it.

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 Q Okay. And my last question -- well, Doctor Nichita,
2 you had asked Mr. Greer if, if he thought it was a good idea
3 for him to testify in his trial, and isn't it true that his
4 answer was nobody can tell me what I can say in court?

5 A I didn't write down what he said. So, I don't recall
6 him saying that. I didn't write down. But of course, I
7 might be missing it.

8 What, what I do remember and what I wrote down is that
9 he said that it would be a good idea to testify if that
10 would help his case, and he would be able to consult with
11 you and listen to your advice.

12 Q Yes, ma'am, and that, and that was the answer to the
13 question that followed that up. ...

14 And very shortly after that I think you were trying to
15 get Mr. Greer to understand that there would be boundaries
16 if he were to testify.

17 And isn't it true that, that he said I don't understand
18 why I have to just answer questions, that ain't helping me?

19 A He said that he doesn't understand why he would have to
20 answer questions only with yes or no answers, and he felt
21 that more elaborate answers would be necessary.

22 Q Under, understanding that we have, that I have been
23 present for all of the evaluations, Doctor Nichita, you know
24 what his more elaborate answers are going to be every time,
25 correct?

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 A Yes, I mean he would talk for a long time. But
2 probably to be the attorney's job and, you know, the Court's
3 job to redirect Mr. Greer.

4 Q Isn't it true that he told you, Doctor Nichita, that he
5 thinks that he should get either five years or the death
6 penalty when you asked him?

7 A Yes, that's right, what would be a reasonable outcome,
8 he said five years or the death penalty.

9 Q And the question that you asked him was what do you
10 think would be a reasonable outcome, right?

11 A In his opinion.

12 Q And you just testified to that.

13 A Yes, I asked him what do you think a reasonable outcome
14 for you would be.

15 Q Correct..

16 A I mean in his opinion---

17 Q And his answer---

18 A ---what he would wish for.

19 Q And he said?

20 A And he said either five years or---

21 Q Or the death penalty?

22 A ---or the death penalty.

23 Q Is that a reasonable rational answer to you, Doctor
24 Nichita?

25 A Well, it is, it is an extreme answer. But it can be

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 understandable. Mr. Greer knows that his charge carries 30
2 years to life. I think he said that he'd rather die than
3 spend the rest of his life in prison, which makes me wonder
4 about depressive symptoms that Mr. Greer might have
5 developed while incarcerated.

6 Q But he also expressed that he doesn't understand why
7 he, why the charge of involuntary manslaughter does not
8 apply to his case, correct?

9 And you, and you confirmed that he has been explained
10 what the elements of that are?

11 A Yes, he has been explained, in my presence, the
12 elements of each one of them, murder, voluntary
13 manslaughter, and involuntary manslaughter. The fact that
14 he doesn't understand -- I mean they are difficult terms,
15 and even for myself, would be difficult sometimes to
16 understand all the legal terms.

17 Q Okay. And, and Mr. Greer also expressed to you, during
18 those conversations about murder, voluntary manslaughter,
19 and involuntary manslaughter, isn't it true that he
20 indicated to you each time that, that he and I had
21 previously talked about those things, he and I have had
22 discussions about those possibilities, and, and whether or
23 not they were viable, whether or not he understood them?

24 A Well, he, he said that yes, you discussed his case, but
25 he said that you don't communicate well because I think he

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 still not understand why they can not get involuntary
2 manslaughter. I mean he couldn't understand that.

3 But that still doesn't make him incompetent to stand
4 trial.

5 Q I'm sorry?

6 A That still wouldn't make him incompetent to stand trial
7 in my opinion.

8 Q Simply because of the legal jargon involved?

9 A Yes, I mean he was perfectly able to understand the
10 murder charge and the elements of the murder charge, and he
11 was able to understand the voluntary manslaughter charge and
12 what it implies. He just didn't want or didn't seem to
13 understand about the involuntary manslaughter, which is not
14 the case for him.

15 Q Correct.

16 But he doesn't seem to understand that, correct?

17 A He says he can not understand why he can not get
18 involuntary manslaughter.

19 Q Okay. And I'm sorry to beat a dead horse on this, but
20 it, it, it just -- it seems that you're indicating that his
21 inability to understand involuntary manslaughter might come
22 from not understanding legal terms or legal definitions or
23 legal explanations, is that correct?

24 A Yes, it might come from that.

25 Q Okay. And in each evaluation, when, when he, when any

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 legal terms have come up, isn't it true that we have given
2 him real life examples, hypotheticals that are fairly simple
3 to understand?

4 A Yes, and he understood perfectly the murder charge and
5 the voluntary manslaughter charge.

6 Q Correct.

7 But he still didn't understand---

8 A He understood those two.

9 Q ---why he is not eligible for involuntary manslaughter
10 or the death penalty?

11 A We didn't, we didn't, we didn't go very detailed about
12 the involuntary manslaughter. But again, I have to repeat
13 myself, the fact that he's not understanding this charge of
14 involuntary manslaughter wouldn't make him incompetent to
15 stand trial, in my opinion. He understands the murder and
16 he understands the voluntary manslaughter.

17 Q But wouldn't you say, doctor, that if he still is, is
18 carrying some belief that either he somehow qualifies for
19 involuntary manslaughter or that it is something that's
20 available to him, that compromises our ability to work with
21 each other to, for, for me to be able to defend him and for
22 him to be able to assist me?

23 And that's just one example about involuntary. That's
24 certainly not the only communication barrier there is.

25 A Well, he shows ability to, to understand some of the

Ellenor Nichita - Cross-examination
by Ms. Quimby

1 charges. So, he has the ability to probably understand that
2 involuntary manslaughter if he chooses to.

3 MS. QUIMBY: That would be all, Your Honor.

4 THE COURT: Redirect?

5 SOLICITOR WILLINGHAM: No, sir, Your Honor. Thank you.

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

7 SOLICITOR WILLINGHAM: We'd ask that she be excused,
8 Your Honor, to go back to Columbia.

9 THE COURT: Any objection?

10 MS. QUIMBY: No, Your Honor.

11 THE COURT: Ma'am, you're free to go. Thank you very
12 much for coming today.

13 SOLICITOR WILLINGHAM: That would be the State's
14 showing, Your Honor.

15 THE COURT: All right. Defense wish to call any
16 witnesses?

17 MS. QUIMBY: One moment, Your Honor.

18 THE COURT: Yes, ma'am.

19 (Pause.)

20 MS. QUIMBY: Beg the Court's indulgence.

21 (Pause.)

22 MS. QUIMBY: I apologize, Your Honor. Nothing from
23 defense as far as witnesses.

24 THE COURT: Do you wish to be heard on the question of
25 competency?

1 SOLICITOR WILLINGHAM: Your Honor, very briefly.

2 I know the Court's aware that the test to determine
3 whether the defendant is competent is whether or not he has
4 the ability to consult with his lawyer, has a rational
5 understanding of the proceedings against him, and a factual
6 understanding of the proceedings against him. I think he
7 exhibited that to the doctors based on her testimony.

8 Your Honor, I also point out the case of State versus
9 Bell from back in 1987, South Carolina case. The test is
10 not whether he was actually cooperating with his lawyer, but
11 whether or not he has the mental capacity to do so. I
12 believe that the testimony from the doctor has been that he
13 does have the capacity to cooperate if he chooses to do so.

14 Your Honor, the fact that he, during his discussion of
15 whether he will answer yes or no when he testifies and
16 whether he'll testify, I think he's got a good grasp. It's
17 his decision. Not his lawyer's. Not anybody else's. He's
18 got to be the one to make a decision if he thinks that's in
19 his best interest.

20 I think Mr. Greer is competent to stand trial, and I'd
21 ask the Court to so find.

22 THE COURT: Be happy to hear from you, Ms. Quimby.

23 MS. QUIMBY: May it please the Court, Your Honor?

24 THE COURT: Yes, ma'am.

25 MS. QUIMBY: The concerns that I've had about Mr. Greer

1 started very early on. They initially came to my attention
2 through James Cheek of our office who had spoken with
3 Mr. Greer first.

4 He asked me if, if I would go and see Mr. Greer to, to
5 get a feel for whether I thought he, we needed to ask for an
6 evaluation. I did so. And after spending probably two
7 hours with him that, that first time, it became clear to me,
8 after about 30 minutes, that, that I did believe that that
9 was appropriate, and we scheduled an evaluation. And due to
10 some of the communication difficulties that, that I have
11 observed, whether it's between Mr. Greer and myself or
12 Mr. Greer and the doctors at D.M.H., the evaluations went
13 way, they took a lot longer than normal as, as Doctor
14 Nichita testified.

15 The normal on average time that I have generally spent
16 in Columbia when my clients have been evaluated is usually
17 about three hours. We spent close to -- I believe that
18 Doctor Nichita testified to somewhere between five and six
19 hours, and, and I think that's probably accurate if not --
20 I, I think that's probably accurate, Your Honor.

21 The -- Doctor Nichita did testify and she agreed that
22 it is very difficult to ask Mr. Greer a question and have
23 him answer that question. Whether it's a yes or no answer
24 or whether it's an elaborate answer, he's going to answer
25 the question he wanted you to ask.

1 It's been my experience with Mr. Greer that he will
2 then follow his train of thought, and it is, it's been very
3 difficult to, to get him back to, to refocus on things, and
4 I feel bad standing here saying this right in front of him.
5 I told him this last night that we were going to be having
6 that issue in front of Your Honor.

7 And he understands and he agrees that we have some
8 communication problems. And he attributes that to me not
9 giving him, in his mind, enough lead way to present the case
10 that he chooses to present to the Court.

11 And so, so, a lot of our difficulties have come from my
12 trying to explain to him that there's a time and a place for
13 everything especially in court. Different hearings have
14 different purposes. And any participation that he may
15 choose to have in those is, as far as testifying, he would
16 have, he would be under rules that would restrain, constrain
17 his freedom to just go into an elaborate narrative about
18 things that may or may not have any legal relevance.

19 And in, in light of that, Your Honor, when we, when we
20 saw that this was coming closer and closer to trial, we
21 began trying to focus on whether, whether it's going to be
22 resolved by plea or trial, and if it were to be resolved by
23 trial, how we would go about doing that. I've, I've tried
24 to get him, I've tried to explain to him that, the different
25 parts of a trial, for instance, pretrial, and, and the

1 different hearings, trying to figure out if they're, if
2 they're any applicable defenses, whether any lesser
3 includeds apply, and I understand Doctor Nichita's
4 testimony. I also understand that she is seen him for about
5 six hours, and I have spent far greater number of hours with
6 Mr. Greer than six hours.

7 And I, I just need for the Court to know that it is
8 been very difficult to prepare for this case because I, I'm
9 not, I haven't been able to get the assistance from him that
10 I, that I, that, that, under most circumstances, would be
11 present.

12 I have three cases, Your Honor, I would like to hand
13 up.

14 THE COURT: Yes, ma'am.

15 MS. QUIMBY: They are State versus Law, which is a
16 South Carolina Supreme Court case from 1978. It is still
17 good law. There is a South Carolina Supreme Court case from
18 2003 and that's State v. W-E-I-K. I'm not sure whether
19 that's Weik or Weik. But those two cases -- that case
20 restates the test in State versus Law that the test---

21 THE COURT: Yes, ma'am, I've read, I've read the Weik
22 case this morning.

23 MS. QUIMBY: Okay. I do not believe at this time, Your
24 Honor, that there is a reasonable degree of rational
25 understanding, and I think the word rational is incredibly

1 important here.

2 And the second prong is that you must have a rational
3 as well as a factual understanding of the proceedings
4 against him.

5 Doctor Nichita has testified, and I don't disagree with
6 her on, to, to most degree, that he has a general factual
7 understanding of the charge against him. But his -- I, I'm
8 having trouble finding rationality in his understanding of
9 the charge, and, and how to go about dealing with that
10 charge.

11 The third case that I have, Your Honor, is State versus
12 Burgess. It's a South Carolina Court of Appeals case from
13 2003 which sets forth some competency factors that goes into
14 that test. And the factors to be considered in determining
15 whether further inquiry into a defendant's fitness to stand
16 trial is warranted include evidence of his or her irrational
17 behavior, his or her demeanor at trial, and any prior
18 medical opinion on his or her competence to stand trial.

19 Those are just -- those don't seem to preclude any
20 other factors that might be present. I understand what
21 Doctor Nichita's medical opinion is, and I also understand
22 that the Court has not had much opportunity, past the last
23 30 minutes or so, to observe Mr. Greer.

24 However, I simply would restate to the Court that I've
25 had enumerable hours of exposure to Mr. Greer, and, and in

1 speaking with him, and would assert to the Court that, that
2 I'm not sure that, that, that his understanding of the case
3 and his ability to assist me is, is rational, Your Honor.

4 I don't know if Your Honor would like me to pass those
5 up.

6 THE COURT: You may pass those up.

7 MS. QUIMBY: Thank you, sir.

8 (Pause.)

9 THE COURT: Mr. Willingham, anything further you'd like
10 to say?

11 SOLICITOR WILLINGHAM: No, sir, thank you.

12 (Pause.)

13 THE COURT: All right. The Court does note that the
14 test for determining whether a criminal defendant is
15 competent to stand trial is whether that defendant has
16 sufficient presentability to consult with his lawyer, and
17 the, with a reasonable degree of rational understanding, and
18 whether the defendant has a rational, as well as a factual,
19 understanding of the proceedings against him.

20 It's clear to me that Doctor Nichita has examined this
21 defendant, and has found this defendant to be competent to
22 stand trial based on her evaluation.

23 Also, the test is not whether the defendant is actually
24 cooperating with his attorney, but whether he has the mental
25 capacity to do so. And it was Doctor Nichita's opinion

1 further that this defendant did have that capacity.

2 I realize that this defendant may, in some cases, not
3 give what the, what counsel might of believed to be a
4 reasonable response to certain answer, questions asked of
5 him. However, on the important questions of whether or not
6 he understood the charges against him, whether or not he
7 understood the roles of the persons involved in the
8 proceedings, it was Doctor Nichita's findings that this
9 defendant was aware of those factors and did understand
10 those factors.

11 So, based on the test that's before the Court and based
12 on the facts as related to me from the witness who
13 testified, it will be my finding that this defendant is
14 competent to stand trial at this time.

15 SOLICITOR WILLINGHAM: Thank you, Your Honor.

16 THE COURT: Anything further as far as pretrial
17 motions?

18 SOLICITOR WILLINGHAM: Yes, my understanding is there's
19 a State versus Denno, but I understand also that the jury
20 has been waiting for 30 minutes.

21 Does the Court---

22 THE COURT: What I intend to do at this time is to go
23 ahead and select a jury in the case. We'll not swear that
24 jury, but will allow them to return at a later time.

25 What's the estimate on the time it's gonna take to deal

1 with the pretrial motions?

2 SOLICITOR WILLINGHAM: Judge, I've got three witnesses.
3 I think we can probably do them in half an hour or at least
4 our presentation of the witnesses.

5 THE COURT: Well, by the time we select a jury, that's
6 gonna take about 45 minutes probably or so, 30 or 45
7 minutes. So, we probably can do all this before we break
8 for lunch, and then let the jury come back about 2:30.

9 Does that sound reasonable to you, Ms. Quimby?

10 MS. QUIMBY: Well, Your Honor, we also have some
11 additional pretrial motions. One includes a motion to
12 suppress evidence.

13 There -- I can hand up -- I think that -- Your Honor,
14 there's a video that I was provided in discovery. It's an
15 in car video from one of the, from the Wellford chief of
16 police. It's a discussion that he had with Mr. Greer on the
17 day that he was arrested, and I feel like there are things
18 from that video that would apply not only to the Jackson v.
19 Denno hearing, but also to the motions to suppress hearing
20 in addition to the other testimony from any other witnesses.

21 I would ask Your Honor, just out of an interest of
22 judicial economy, if maybe we could either, one of a couple
23 things, either combine the two hearings and then play the
24 video just once or take testimony in both hearings and then
25 play the video. I just feel like, like that---

1 THE COURT: Any objection to us doing that?

2 SOLICITOR WILLINGHAM: No, sir, Your Honor.

3 THE COURT: Okay. All right. Do you have a list of
4 potential witnesses for the defense?

5 MS. QUIMBY: I do, Your Honor.

6 One other thing in the nature of housekeeping.

7 THE COURT: Yes, ma'am.

8 MS. QUIMBY: I apologize.

9 THE COURT: Sure.

10 MS. QUIMBY: Previously, Mr. Willingham and I came to
11 see you about a week ago because we had just learned and
12 Mr. Willingham had just learned that one of the witnesses in
13 his chain of evidence is Wendy Alley, and she, Wendy Alley
14 is currently an investigator in our office. At the time of
15 this incident, Mrs. Alley was an investigator for the
16 Coroner's Office, and she was responsible for going to the,
17 the pathologist office, going into the locked refrigerator,
18 taking blood out, taking it back to the Coroner's Office,
19 packaging it, and sending it to SLED.

20 I felt like that was something that was not an actual
21 conflict of interest having her be a chain witness for the
22 State. But I did feel like that was something that I needed
23 to make full disclosure of to my client, and, and let him
24 make the decision whether he had any objection to that or
25 anything to bring to the Court's attention.

1 We -- Mr. Willingham and I came and spoke with you and,
2 and let you know that there was that issue, and I would like
3 to ask Mr. Greer to stand please.

4 (Defendant complies.)

5 MR. QUIMBY: Unless something is changed, Your Honor,
6 he has let me know that he understands the, the issue with
7 her wearing two hats and that he would waive any potential
8 conflict of interest. But I don't know if the Court wants
9 to --.

10 THE COURT: I'll ask, at this point in time, that the
11 clerk please swear the defendant.

12 (Whereupon, the defendant was placed under oath at this
13 time.)

14 THE COURT: All right. Mr. Greer, you've been present
15 in the courtroom and you've heard your attorney discuss with
16 me the fact that one of the witnesses who intends to testify
17 concerning the chain of evidence in this case, in other
18 words the possession of evidence and its transportation, at
19 one time worked for the Coroner's Office and now has worked
20 I believe on your case in the Public Defender's Office.

21 Did your attorney explain that to you prior to trial?

22 DEFENDANT: Yes, sir.

23 THE COURT: And do you understand that situation?

24 DEFENDANT: I understood it to a point. But I didn't
25 understand it completely. But I told her I feel like it was

1 all right cause I wanted her to represent me in my case.

2 THE COURT: Well, I understand that.

3 So, what I'm asking you is then, then your attorney is
4 told me that that's been explained to you and you have told
5 her that you wish for her to proceed even though you know
6 that situation exists, is that true?

7 DEFENDANT: Yes, sir.

8 THE COURT: And so, you're willing to go forward even
9 though that situation exists in this case?

10 DEFENDANT: Yes, sir.

11 THE COURT: Okay. Thank you, sir. You can be seated.

12 : : : Ms. Quimby, anything else we need to discuss?

13 MS. QUIMBY: I, I just need to hand up some matters,
14 Your Honor. This, is my witness list, request for additional
15 voir dire, and pretrial motion list.

16 THE COURT: You provided a copy to the State?

17 MS. QUIMBY: Yes, sir.

18 THE COURT: All right. Pass it up.

19 (Pause.)

20 THE COURT: Yes, sir.

21 SOLICITOR WILLINGHAM: I was just asking if you'd ask
22 for the jury to come around yet?

23 I was going to get---

24 THE COURT: I have not. I'm trying to get these
25 matters out of the way.

1 Any objection to their requested voir dire from the
2 State?

3 SOLICITOR WILLINGHAM: No, sir.

4 THE COURT: Do you have any specific voir dire
5 yourself, Mr. Willingham?

6 SOLICITOR WILLINGHAM: Only, Your Honor, and maybe you
7 covered this on that list, and it's covered by whether or
8 not they've ever been prosecuted by the Seventh Circuit
9 Solicitor's Office.

10 THE COURT: All right, sir.

11 SOLICITOR WILLINGHAM: And anyone in their family.

12 THE COURT: All right. I note that the, you've handed
13 up your pretrial motions, Ms. Quimby, and as I told you, at
14 this point in time, we're gonna go through the jury
15 selection process.

16 MS. QUIMBY: Yes, sir.

17 THE COURT: I'll take up the balance of those once
18 we've completed that process.

19 MS. QUIMBY: Yes, sir.

20 THE COURT: Anything further from the State before we
21 bring the jury in?

22 SOLICITOR WILLINGHAM: No, sir, Your Honor.

23 THE COURT: From the defense?

24 MS. QUIMBY: No, Your Honor.

25 THE COURT: All right. You can bring the jury panel

1 in, please.

2 (Whereupon, the following takes place within the
3 presence of the jury.)

4 THE COURT: Again, we're about to begin the selection
5 process for a jury in this case, and it is necessary that we
6 do establish the fact that your answers to the questions
7 that I'm about to ask you that pertain to this trial are
8 truthful, honest, and complete. I realize you've been sworn
9 probably on a couple of occasions already this week. But
10 these questions have to do with this particular trial, and
11 it's very important that we assure ourselves that the
12 responses that you give us are, again, correct, accurate,
13 and complete.

14 So, at this point in time I would ask that the clerk
15 please swear the prospective jury panel.

16 Madam Clerk.

17 (Whereupon, the jury panel was placed under oath at
18 this time.)

19 THE COURT: Now, if any member of the prospective jury
20 panel either failed or refused to take the oath that was
21 just administered, I'd ask that you now please stand.

22 (No response.)

23 THE COURT: The record should reflect that all
24 prospective jury panel members have been sworn.

25 Now, ladies and gentlemen of the jury panel, as I told

1 you, we're about to begin the trial of the case in this
2 Court.

3 The case that we're about to begin is Case Number
4 2004-GS-42-2191. The State versus Harold Greer, Junior.

5 I have in my hand a document. This document is an
6 indictment. An indictment is the document issued by the
7 Spartanburg County Grand Jury that brings the case before
8 this Court.

9 Now, an indictment simply is the charge or the formal
10 document that sets forth the charges which have been lodged
11 against a defendant. It informs the, this Court of the
12 charge which we are to try. It also informs the defendant
13 of the charges which have been lodged against him.

14 I am going to read the indictment to you. The purpose
15 in my doing so is so that you'll understand a little bit
16 about what this case is about, when it occurred, and the
17 persons who were involved in the, in the alleged incident.

18 I will tell you, at this point in time, that the, that
19 a, an indictment is simply the document that brings the
20 Court, the case before this Court. It can not be used by a
21 juror in any fashion in determining the guilt or the
22 innocence of a person charged in an indictment.

23 The indictment in this case, and I've given you the
24 case number, is for the crime of murder. The indictment
25 states that the defendant, Harold Greer, Junior, did, in

1 Spartanburg County, or about February 21st of 2004,
2 feloniously, willfully, and with malice aforethought, kill
3 one Harold Greer, Senior by hitting the victim in the head
4 and stabbing him, and that the victim died as a proximate
5 result thereof in violation of Code Section 16-3-10 and
6 16-3-20 of the South Carolina Code of Laws, 1976 as amended,
7 against the peace and dignity of the State, and contrary to
8 the statute in such case made and provided.

9 Again, the reason that I go over that indictment with
10 you at this point in time is so that you will understand a
11 little bit about what this case is about, when it occurred,
12 and the persons who were allegedly involved in the case.

13 Now, I'm going to ask you some questions and I'll ask
14 you, if you have a response, to please stand and then I'll
15 take your responses in the order that I call on you.

16 The first question I have, has any member of the jury
17 panel ever been related by blood or marriage to either the
18 defendant, Harold Greer, Junior, or the alleged victim,
19 Harold Greer, Senior, if so, please stand.

20 (No response.)

21 THE COURT: Has any member of the jury panel ever had a
22 close personal or a social relationship with either the
23 defendant, Harold Greer, Junior, or the alleged victim,
24 Harold Greer, Senior, if so, please stand.

25 (No response.)

1 THE COURT: At this point in time I would ask that the
2 attorneys who are involved in this case, I'd ask that they
3 please stand and introduce themselves.

4 First of all, for the State.

5 SOLICITOR WILLINGHAM: Your Honor, please the Court.

6 My name is Donnie Willingham. I'm the deputy solicitor
7 here in Spartanburg.

8 SOLICITOR THILL: My name is Jessica Thill and I'm an
9 assistant solicitor here in Spartanburg.

10 THE COURT: Now for the defense.

11 MS. QUIMBY: May it please the Court.

12 THE COURT: Yes, ma'am.

13 MS. QUIMBY: My name is Karen Quimby, and I'm a defense
14 attorney here in Spartanburg.

15 THE COURT: And Ms. Quimby, would you please introduce
16 your client to the jury panel as well?

17 MS. QUIMBY: Yes, sir.

18 This is Harold Greer and he is a resident of Wellford,
19 South Carolina.

20 THE COURT: Thank you, ma'am.

21 Has any member of the jury panel ever been represented
22 by any of the attorneys involved in this case or have any of
23 the attorneys involved in this case ever appeared on the
24 other side of a legal controversy from you, if so, please
25 stand.

1 (No response.)

2 THE COURT: Is any member of the jury panel related by
3 blood or marriage or have you had a close personal or a
4 social relationship with any of the attorneys who are
5 involved in the trial of this case, if so, please stand.

6 (No response.)

7 THE COURT: Now, ladies and gentlemen of the jury
8 panel, I'm going to go over a list of potential witnesses in
9 this case. These persons have been identified to me as
10 persons who might possibly be testifying during the trial of
11 this case.

12 I will ask that if any of these witnesses are present
13 in the courtroom, that when I call their names, that they
14 please stand and face the panel so that you can put a face
15 with a name.

16 First of all, Barry Pridgeon with the Spartanburg
17 County Sheriff's Office.

18 Joel Greer with the Wellford Police Department.

19 (Witness stands.)

20 THE COURT: Jimmy Parris with the Spartanburg County
21 Sheriff's Office.

22 Darren Dukes with the Spartanburg County Sheriff's
23 Office.

24 (Witness stands.)

25 THE COURT: Larry Littlejohn.

1 Marco Smith or Marico Smith.

2 (Witness stands.)

3 THE COURT: Kareen Greer.

4 (Witness stands.)

5 THE COURT: Ma'am, if you'd turn and face the jury
6 panel please.

7 (Witness complies.)

8 THE COURT: Thank you very much.

9 Ted Beatty with the Spartanburg County Sheriff's
10 Department.

11 (Witness stands.)

12 THE COURT: Tony Brown with the Spartanburg County
13 Sheriff's Office.

14 (Witness stands.)

15 THE COURT: Ted Dudzenski with the Spartanburg County
16 Sheriff's Office.

17 David Wren with Spartanburg Regional Medical Center.

18 John Ortuno with South Carolina Law Enforcement
19 Division.

20 Randy Bogan of the Spartanburg County Sheriff's Office..

21 Alex Lewis with the Spartanburg County Sheriff's
22 Office.

23 Wendy Alley with the Spartanburg County Coroner's
24 Office.

25 Alex Lewis with the South Carolina Law Enforcement

1 Division.

2 Cecil Bradstreet with the South Carolina Law
3 Enforcement Division.

4 Maddison Reid.

5 Felicia Carson.

6 Now, is any member of the jury panel related by blood
7 or marriage or do you have a close personal or a social
8 relationship with any of the individuals that I just
9 identified, identified as potential witnesses in this case,
10 I'd ask that you now please stand.

11 (Juror responds.)

12 THE COURT: You can please -- you can stand if you have
13 an answer.

14 Mr. Willingham.

15 JUROR: I'm related to Barry Pridgeon. He's my uncle.

16 THE COURT: Just, just one second.

17 SOLICITOR WILLINGHAM: Judge, I apologize. There are
18 three other names that -- apparently there was a second
19 sheet to this witness list --

20 THE COURT: I only got one.

21 SOLICITOR WILLINGHAM: -- that you don't have. Neither
22 do I, judge.

23 THE COURT: All right. Would you call those names for
24 me?

25 SOLICITOR WILLINGHAM: It will be Sherry Brown with the

1 South Carolina Law Enforcement Division.

2 Robert Rosenberg of the Spartanburg County Sheriff's
3 Department.

4 And David Hogshead of the Spartanburg County Sheriff's
5 Office.

6 THE COURT: Thank you.

7 Now, if there's, there's any member of the jury panel
8 who has, who is related by blood or marriage or if you have
9 a close personal or social relationship with any of the
10 individuals named as potential witnesses, please stand.

11 (Juror responds.)

12 THE COURT: Yes, sir, give me your name first and your
13 jury number, juror number.

14 JUROR: It's 193.

15 THE COURT: And your situation, sir?

16 JUROR: Barry Pridgeon is my uncle, first uncle.

17 THE COURT: Okay, sir. I'm going to excuse you from
18 the trial of this case. You need to remain seated with the
19 jury panel, but you'll be excused from the trial of this
20 case.

21 Anyone else?

22 (No response.)

23 THE COURT: From the limited information that I have
24 given you thus far, does any member of the jury panel have
25 any knowledge or recollection concerning the facts that may

1 be involved in this case, if so, please stand.

2 (No response.)

3 THE COURT: Has any member of the jury panel formed an
4 opinion concerning any issue that might be involved in this
5 case or about the defendant involved in this case, if so,
6 please stand.

7 (No response.)

8 THE COURT: Has any member of the jury panel or any
9 member of your immediate family ever been the victim of a
10 serious assault by another family member regardless of
11 whether it was reported to the police, if so, please stand.

12 (No response.)

13 THE COURT: Has any member of the jury panel or any
14 member of your immediate family ever been the victim of a
15 serious assault by another person which led to a death, if
16 so, please stand.

17 (Juror responds.)

18 THE COURT: Yes, ma'am, your name and number?

19 JUROR: 116, Schmidt. My brother was murdered in Texas
20 March 18th of this year.

21 THE COURT: All right, ma'am. Obviously that case is
22 in Texas. So, none of the law enforcement officials here
23 are, would be involved in any of that matter, is that right?

24 JUROR: Right.

25 THE COURT: That case apparently has not yet been fully

1 resolved, is that also correct?

2 JUROR: Correct.

3 THE COURT: Now, ma'am, would the fact that you have
4 had a family member involved in a case which may have some
5 similarity to this case, would that affect your ability to
6 be fair and impartial to either the State or the defense in
7 this matter?

8 JUROR: I think so.

9 THE COURT: Okay, ma'am. Then I'm gonna excuse you
10 from the trial of this case. Again, remain seated. Thank
11 you very much.

12 Anyone else?

13 THE COURT: Has any member of the jury panel or a
14 member of your immediate family ever been threatened with a
15 weapon, if so, please stand.

16 (No response.)

17 THE COURT: Is there any member of the jury panel,
18 panel or a member of your immediate family who has been a
19 member of or a financial contributor to any group whose
20 primary aim or is the support of victims' rights?

21 Such groups include Mother's Against Drunk Driving,
22 Students Against Drunk Drivers, Citizens Against Violent
23 Crime, Safe Homes, or the South Carolina Troopers
24 Association or other like organizations, if so, please
25 stand.

1 (Jurors respond.)

2 THE COURT: Yes, ma'am, your name and number?

3 JUROR: 42, Carla Earl.

4 THE COURT: And your situation, ma'am?

5 JUROR: Just have given to the South Carolina Troopers
6 Association.

7 THE COURT: Ma'am, would that fact affect your ability
8 to be fair and impartial to either the State or the defense
9 in this case?

10 JUROR: No, sir, I don't believe so.

11 THE COURT: Thank you very much, ma'am.
12 Your name and number, please?

13 JUROR: Jessie Patterson, 152.

14 THE COURT: Yes, ma'am.

15 JUROR: I've also donated to the troopers association.

16 THE COURT: All right, ma'am. Would that affect your
17 ability to be fair and impartial to the State or the defense
18 in this case?

19 JUROR: No, sir.

20 THE COURT: Thank you very much.

21 Anyone else?

22 (No response.)

23 THE COURT: Has any member of the jury panel or a
24 member of your immediate family ever been employed in any
25 capacity whatsoever by any law enforcement department or

1 agency, if so, please stand.

2 (Jurors respond.)

3 THE COURT: Yes, ma'am, your name and number?

4 JUROR: Susanne Clement, Number 25.

5 THE COURT: And your situation, ma'am?

6 JUROR: My son-in-law is a corrections officer, officer
7 with the South Carolina Department of Corrections.

8 THE COURT: All right, ma'am. Would that fact affect
9 your ability to be fair and impartial in this case?

10 JUROR: No, Your Honor.

11 THE COURT: Thank you very much.

12 Yes, sir, in the green shirt.

13 JUROR: 146, Womack.

14 THE COURT: Yes, sir.

15 JUROR: I have a son who's a narcotics detective with
16 the City of Charleston.

17 THE COURT: All right. Would that affect your ability
18 to be fair and impartial in this matter?

19 JUROR: No, sir.

20 THE COURT: Thank you for your response, sir.

21 In the red shirt, yes, sir.

22 JUROR: Adam Harris, 63. My brother is with
23 Spartanburg Public Safety.

24 THE COURT: That's the city police department?

25 JUROR: Yes, sir, Spartanburg City.

1 THE COURT: All right. Would that affect your ability
2 to be fair and impartial in this matter?

3 JUROR: No, sir.

4 THE COURT: Thank you very much.

5 Yes, ma'am, your name number?

6 JUROR: Tiffany West, 139. My brother is a sheriff in
7 Cowpens.

8 THE COURT: Okay. He is in the Cowpens Municipal
9 Police Defendant?

10 JUROR: Yes.

11 THE COURT: Ma'am, would that affect your ability to be
12 fair and impartial in this particular case?

13 JUROR: No, sir.

14 THE COURT: Thank you very much.

15 Yes, sir, your name and number?

16 JUROR: 66, Mike Hobbs. My uncle use to be a jailor
17 for, in a county in North Carolina.

18 THE COURT: All right. Would that fact affect your
19 ability to be fair and impartial in this matter?

20 JUROR: No, sir.

21 THE COURT: Thank you very much.

22 Yes, ma'am, your name and number?

23 JUROR: 132, Jeanette Turner. My nephew is a state
24 trooper.

25 THE COURT: All right. Would that affect your ability

1 to be fair and impartial in this case?

2 JUROR: No.

3 THE COURT: Thank you, ma'am.

4 Yes, sir, your name and number?

5 JUROR: 126, Strickland. My brother is a district
6 attorney in North Carolina.

7 THE COURT: All right. Would that affect your ability
8 to be fair and impartial in this matter?

9 JUROR: No, sir.

10 THE COURT: Thank you very much.

11 Anyone else have a response?

12 (No response.)

13 THE COURT: Has any member of the jury panel or a
14 member or your immediate family been a victim or a witness
15 in any criminal case which is currently being prosecuted or
16 has been prosecuted in the past by the Seventh Circuit
17 Solicitor's Office, if so, please stand.

18 (No response.)

19 THE COURT: Is there any member of the jury panel who
20 is aware of any prejudice toward either the State or the
21 defense in this case, if so, please stand.

22 (No response.)

23 THE COURT: Is there any member of the jury panel who
24 has served as a member of the Grand Jury which may have
25 issued the indictment in this case, if so, please stand.

1 (No response.)

2 THE COURT: Does any member of this jury panel know of
3 any reason whatsoever why he or she could not serve as a
4 juror in this case with particular emphasis on your ability
5 to be both fair and impartial to both the State and the
6 defendant, if so, please stand.

7 (No response.)

8 THE COURT: Does the State have any additional
9 questions?

10 SOLICITOR WILLINGHAM: No, sir, Your Honor. Thank you.

11 THE COURT: Does the defense have any additional
12 questions?

13 MS. QUIMBY: ..No, Your Honor.

14 THE COURT: All right. Ladies and gentlemen of the
15 jury panel, we're going to begin the, the selection process.
16 I am declaring that the jury panel, as now constituted with
17 the persons, the exception of the persons that I have
18 excluded, is competent to serve in this case.

19 The selection process in the Criminal Court is a little
20 different than you may have of experienced in the Court of
21 Common Pleas. What we will do is the clerk is gonna take
22 names from this little wooden barrel that's up here in the
23 front. As she calls your name, we'll ask that you come
24 forward, bring with you whatever personal belongings that
25 you may have with you, books or what, sweaters, whatever you

1 have, come forward down the center aisle to where the
2 bailiff is standing.

3 We'll ask you to stop and face the back of the
4 courtroom, and at that point in time the attorneys will be
5 in a position to exercise their strikes.

6 In this case, the State will have five strikes.

7 The defense will have ten strikes.

8 We will select one alternate with the State having one
9 strike and the defense having two strikes.

10 Madam Clerk, you can begin the jury selection process.

11 (Whereupon, a jury panel was selected at this time.)

12 THE COURT: Any objection to the jury selection process
13 from the State?

14 SOLICITOR WILLINGHAM: No, sir, Your Honor.

15 THE COURT: Any from the defense?

16 MS. QUIMBY: No, Your Honor.

17 (Pause.)

18 SOLICITOR WILLINGHAM: May I approach?

19 May I approach, Your Honor?

20 (Whereupon, a bench conference was held out of the
21 hearing of the jury at this time.)

22 THE COURT: All right. For those of you who have been
23 selected on this jury panel, we're not going to actually
24 begin the trial of the case with you at this point in time.
25 There's some matters that I need to take up with the

1 attorneys before we actually begin the trial of the case.

2 And so, I'm going to excuse you for lunch at this point in
3 time.

4 I will, however, caution you, you have been selected on
5 this jury. When you return to the courthouse, you will take
6 an oath concerning your service as jurors in this case.
7 That oath will state that you are going to decide this case
8 solely upon the evidence that's presented to you in the
9 trial of this case, and upon the law as I charge you at the
10 close of the trial. It's very important that you maintain
11 and keep an open mind concerning any and all issues that may
12 come before you in the trial of this case.

13 Therefore, during your lunch break, and I will instruct
14 you at every time that you leave the courthouse, you should
15 not listen to, watch, or read any media report concerning
16 the trial of this case, and there's a, there's a possibility
17 that this case will be reported in the media.

18 You should not attempt to gather any information
19 concerning this case from any other source, the Internet,
20 any other source, because it is your responsibility, as
21 jurors, to decide this case solely upon the evidence that's
22 presented in this trial. That is the admissible evidence,
23 and, of course, evidence from other sources may include
24 information which is not admissible under our rules of
25 evidence and should not be considered by you in any fashion

1 whatsoever in reaching a determination in this case.

2 Also, I will instruct you Spartanburg is not such a
3 large town that you may not see some of the participants in
4 this trial in an eating establishment somewhere in town.
5 Please do not put yourself in such a position that you might
6 overhear conversations between those persons. Again, those
7 conversations might contain information which you should not
8 consider in reaching a verdict in this case.

9 Please do not discuss this case or any aspect of this
10 case with anyone, fellow jurors, family members, anyone,
11 because in those discussions, you may begin to formulate
12 opinions concerning this case or the charges that have been
13 brought in this case which might somehow affect your
14 decision at the close of the trial.

15 And again, you are going to take an oath to decide this
16 case solely upon the evidence that's presented in the trial
17 and the law as I charge you at the close of the trial.

18 Should anyone attempt to contact you concerning your
19 participation as a juror in this case during our break,
20 break, please report that upon your return to the
21 courthouse. I can assure you I'll take the appropriate
22 action should anyone attempt to contact you concerning your
23 participation in this trial.

24 The ^{will} bailiffs will show you, on the way out, the jury
25 room that you'll be using in the trial of this case. I

1 would ask that you return to that jury room at the close of
2 our lunch break. So, don't go to the jury assembly room.
3 You come straight back to the jury room that's been assigned
4 for this particular case.

5 I'm going to ask that you return -- we are gonna take
6 up some preliminary matters. Hopefully those things will
7 allow the trial to go smoother and more quickly once we
8 begin.

9 So, we will be back and begin, be in a position to
10 begin the trial of this case at 2:30 this afternoon. Please
11 be back in the jury room at that point in time.

12 Thank you very much for your participation and you're
13 free to go. The bailiff will show you the way.

14 (Whereupon, the following takes place outside the
15 presence of the jury.)

16 THE COURT: All right. We're gonna take about a five
17 minute break to give everyone a chance to stretch their
18 legs. We'll begin again in about five minutes.

19 Court's in recess.

20 (Whereupon, a short recess was taken at this time.)

21 THE COURT: All right. Ms. Quimby, let's first take up
22 a couple of things and take some of the other ones that
23 aren't quite as long and your motion number five to ensure
24 that the State complied with Brady/Rule 5.

25 MS. QUIMBY: Yes, sir.

1 THE COURT: What do you respond, Mr. Willingham?

2 SOLICITOR WILLINGHAM: Gosh, I hope so, judge.

3 MS. QUIMBY: Several of these have already been
4 resolved, Your Honor.

5 THE COURT: All right. Tell me about them. I won't go
6 through this.

7 MS. QUIMBY: Number five is already resolved. I
8 believe I got everything, every piece of paper he's got.
9 Everything.

10 THE COURT: Okay.

11 MS. QUIMBY: As far as number six, it's my
12 understanding from Mr. Willingham that there are no Lyle or
13 404(b) issues in---

14 THE COURT: Okay.

15 MS. QUIMBY: ---the State's case in chief. I have been
16 provided with two NCIC reports regarding motion number
17 seven, and would just ask that if the State decides to call
18 anybody else that I would receive a copy of that.

19 Number eight, I believe that Mr. Willingham and I have
20 discussed the substance of that and that---

21 SOLICITOR WILLINGHAM: There are no, there are no deals
22 or promises of leniency for anybody that may have charges
23 pending against them that may or may not testify in this
24 case.

25 THE COURT: Okay.

1 MS. QUIMBY: And number nine, Your Honor, there are a
2 couple of different references by different people
3 throughout discovery and anticipated testimony from at least
4 one person from the State regarding alleged use of illegal
5 drugs. Specifically crack cocaine. Mr. Willingham and I
6 discussed this and I believe that we have come to an
7 agreement that unless the door is opened on one witness in
8 particular, that, that would be on Marico Smith, that the
9 State did not plan to get into that type evidence unless the
10 door is opened.

11 SOLICITOR WILLINGHAM: That's correct, Your Honor. I
12 think we agreed with Ms. Quimby that any prior drug use or
13 drug addiction by the defendant, I consider that under Lyle
14 material and likewise under number nine. I don't intend to
15 ask anything about his prior drug use or drug abuse, that
16 sort of thing.

17 Now, I say that in this case, judge, there is testimony
18 that right after this happened, he went out looking for
19 crack and looking for alcohol. They'll also be testimony to
20 cash money taken from the victim's wallet, that it's not a
21 leap for the judge and for the jury and me to argue motive
22 in this case, that he was taking that money and killed his
23 father to get money to get crack, to go get alcohol.

24 I think that's maybe a separate motion about what he
25 takes, but I want that to be made abundantly clear on that.

1 MS. QUIMBY: Well, that issue would be included in my
2 motion, and what I put on the record was simply about the
3 one witness that we had discussed. I would object to, to
4 testimony of that nature coming from, from other witnesses
5 about what he may have done later that night after the
6 incident, and, and I suppose we can, I can handle that at
7 the appropriate time.

8 THE COURT: Well, I think it can be handled at the
9 appropriate time. I will tell you, however, that insofar as
10 this testimony is directed toward establishing a motive to
11 any more, the crime, then, of course, I certainly have to
12 weigh it at the time that it comes in. But I -- that
13 probably would be admissible if it does establish a motive.
14 I don't know if it does.

15 We may have to have a proffer of testimony at that
16 point in time to determine exactly what they are gonna say.
17 But I trust that you'll raise the objection at the
18 appropriate time, and we'll deal with it at that time.

19 MS. QUIMBY: Yes, sir.

20 THE COURT: Now, let's go back to things that we don't
21 agree on.

22 I suppose that will be the Jackson v. Denno issue about
23 statements made, is that correct?

24 MS. QUIMBY: Yes, sir.

25 THE COURT: Is three and four basically the same thing?

1 MS. QUIMBY: Yes, sir, motion three is regarding just
2 statements by my client. Number four is directed at the
3 evidence, that any evidence that was discovered and or
4 obtained as a result of a warrantless entry into the
5 residence that I do not believe falls under any recognized
6 exception.

7 THE COURT: Is there such property that was seized as a
8 result of a warrantless search?

9 SOLICITOR WILLINGHAM: No, sir, what happened is when
10 they found out about what had happened, that a murder had,
11 had been committed, they went to that location. They
12 entered the residence, checked on the victim, found him
13 dead. Also found Rico Smith asleep in the room, got him
14 out. Everybody then left until warrants arrived, went back,
15 processed the scene.

16 THE COURT: All right.

17 MS. QUIMBY: We, we would respectfully, Your Honor,
18 disagree with part of this in that, Your Honor, I don't
19 think there was a question in any of the officers' minds
20 that the deceased was actually deceased at the time, and I
21 don't think there would be any recognized exception that
22 would apply in this specific case.

23 SOLICITOR WILLINGHAM: Judge, until they don't feel the
24 pulse they never know. You -- hope runs eternal.

25 THE COURT: Well, was there anything seized at that

1 time or did they just enter the residence?

2 SOLICITOR WILLINGHAM: They entered, checked on him,
3 got Mr.---

4 THE COURT: That's what I'm trying -- any evidence
5 gathered when they went in that, that---

6 SOLICITOR WILLINGHAM: No, sir.

7 THE COURT: Okay.

8 MS. QUIMBY: No, sir, but it was the---

9 THE COURT: Apparently no evidence was seized.

10 MS. QUIMBY: But Your Honor, it was dis -- there was a
11 great deal of evidence that was seen by the officers during
12 that entry. And that when they went to get warrants, they
13 used the knowledge of what they had seen when they were in
14 the house without the warrant as the basis for getting the
15 search warrant to go and pick up those items, and I---

16 THE COURT: All right. Well, I'll be happy to hear you
17 on that, whoever the testimony comes from, then I'll make a
18 ruling.

19 MS. QUIMBY: Yes, sir.

20 THE COURT: Okay.

21 SOLICITOR WILLINGHAM: Judge, I think one other matter
22 may, may be housekeeping, I want to make sure --- the reason
23 I'm asking to do that now is because I got people coming
24 from SLED^{ly}---

25 THE COURT: All right.

1 SOLICITOR WILLINGHAM: Also, Ms. Quimby briefly
2 indicated she thinks that she'll be able to stipulate to the
3 chain of custody on certain items. And I want to make sure
4 I'm correct, by stating for the record and also to the
5 investigator here so we can call these people off.

6 Wendy Alley, with the Public Defender's Office, she's
7 gonna stipulate to that, that. Alex Smith or Alex, Alex
8 Lewis, from South Carolina Law Enforcement Division, Cecil
9 Bradstreet with South Carolina Law Enforcement Division,
10 Sherry Brown with South Carolina Law Enforcement Division,
11 Your Honor.

12 Those are all I believe just simply chain witnesses.
13 She's agreeing to stipulate to them as a result of---

14 THE COURT: She's gonna stipulate to their
15 participation in the chain of custody, is that correct?

16 SOLICITOR WILLINGHAM: Yes, sir, Your Honor.

17 THE COURT: Is that a correct statement, Ms. Quimby?

18 MS. QUIMBY: Yes, sir, I will stipulate to the chain
19 itself and not, I will, I will -- still maintaining
20 objection that they might be necessary based on---

21 THE COURT: Based on what?

22 MS. QUIMBY: In the event of the denial of my motion to
23 suppress the evidence.

24 THE COURT: Well, I understand what you're saying. The
25 question though is whether or not these witnesses are gonna

1 be required to appear and testify concerning their
2 participation in the chain of that evidence.

3 MS. QUIMBY: No, Your Honor. We will not be asking---

4 THE COURT: Not asking -- you agree to the evidence
5 being admissible at this time?

6 MS. QUIMBY: Correct.

7 THE COURT: They're not gonna be required to testify,
8 but you stipulate whatever participation they have had is in
9 the transmittal of the evidence?

10 MS. QUIMBY: Correct.

11 THE COURT: Testing, whatever?

12 MS. QUIMBY: All right.

13 THE COURT: All right. The stipulation will be
14 accepted by the Court.

15 SOLICITOR WILLINGHAM: Thank you, Your Honor.

16 THE COURT: All right.

17 SOLICITOR WILLINGHAM: Now, on the question of the
18 statements, we call -- Judge, give you background
19 information. There are probably four statements involved
20 here. One involves the initial contact with law enforcement
21 that involves Chief Greer of Wellford.

22 Some time after that, the chief turned over the
23 investigation to the Sheriff's Department cause the chief
24 was the only officer on duty in Wellford. Tony Brown, with
25 the Sheriff's Department, came, made contact with the

1 defendant, and received information from him. Later on he
2 was transported to the Sheriff's Office where Darren Dukes,
3 investigator, talked to him at approximately 10:20 in the
4 morning.

5 A statement was---

6 THE COURT: When did the alleged incident happen
7 supposedly?

8 SOLICITOR WILLINGHAM: We don't know exactly, judge.
9 He indicates he killed his father some time the night
10 before.

11 THE COURT: Okay.

12 SOLICITOR WILLINGHAM: Also, Your Honor, he gave a
13 statement to Darren Dukes at 10:20 at the Sheriff's Office.
14 Later that evening, at 7:44 I believe, the, Investigator
15 Dukes went to the detention center and talked to him again.
16 So, that's really the, I guess the fourth statement.

17 So, those are all the statements that we have at this
18 time. But I -- this takes up with the Denno motion.

19 THE COURT: Okay. Are those the statements you're
20 referring to in your motion, Ms. Quimby?

21 MS. QUIMBY: Yes, sir, they are.

22 (Whereupon, a pre-interrogation waiver form was marked
23 as State's Exhibit No. 1. A statement was marked as State's
24 Exhibit No. 2. Two more pre-interrogation waiver forms were
25 marked as State's Exhibit Nos. 3 and 4. All of the above

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1 exhibits were for identification purposes only at this
2 time.)

3 THE COURT: All right. You may call your first
4 witness.

5 SOLICITOR WILLINGHAM: We call Joel Greer.

6 THE COURT: Come forward and be sworn, sir.

7 JOEL GREER, being first duly sworn,
8 testified as follows:

9 THE COURT: Mr. Willingham, your witness.

10 DIRECT EXAMINATION

11 BY SOLICITOR WILLINGHAM:

12 Q Can you tell the Court who you are?

13 A My name is Joel Brian Greer, Senior.

14 Q Mr. Greer, you use to be chief of police in Wellford?

15 A That is correct, sir.

16 Q Are you still the chief of police?

17 A No, sir.

18 Q You're out on disability?

19 A Yes, sir.

20 Q Back in February of 2004, you were the officer on duty,
21 is that right?

22 A That is correct.

23 Q Did -- how long you been in law enforcement?

24 A Approximately 14 and a half years.

25 Q Okay. On this date, on February the 21st of 2004,

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1 did you receive a call to go to [REDACTED] [REDACTED] [REDACTED]?

2 A That is correct.

3 Q And what time did you receive that call?

4 A I received the call at 9:01 from dispatch in reference
5 to a disturbance over the phone.

6 Q Reference on---

7 A That's---

8 Q That's all you knew at the time?

9 A Yes, sir.

10 Q Did you go to [REDACTED] [REDACTED]

11 A I did respond there.

12 Q How long did it take you to get there?

13 A I arrived at 9:04.

14 Q Okay. Three minutes?

15 A Correct.

16 Q All right. When you got to [REDACTED] [REDACTED] [REDACTED], what did
17 you find?

18 A I observed a black male in the, walking toward my
19 vehicle.

20 Q Okay. Do you see the black male in the courtroom
21 today?

22 A Yes, sir.

23 Q Point him out for me.

24 A (Witness points.)

25 Q Tell me what he's wearing, where he's sitting, tell me

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1 who he---

2 A His name is Harold Greer, Junior. He's wearing a,
3 black male wearing a black long sleeve shirt.

4 Q Sitting at the defense table?

5 A That is correct.

6 Q When he came to you, did he say anything?

7 A He said he needed to go to the detention facility.

8 Q Okay. And what did you respond?

9 A I said well, you have to commit a crime before you can
10 go to the detention facility.

11 Q Okay. What did he say then?

12 A He said he just needed to go to the detention facility.

13 Q Okay. Then what?

14 A I said well, you got to commit a crime before I carry
15 you to the detention facility. He said well, I did, I
16 killed my father last night.

17 Q He told you he killed his father last night?

18 A That's correct.

19 Q All right. At that point, was he in custody?

20 A No, sir.

21 Q Okay. As soon as he said that, what did you do?

22 A Put my gun, my hand on my gun and unlocked it to get
23 out of the car.

24 Q Okay. And then when you got out, and what did you do
25 with him?

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- 1 A Advised him if he sit up in front -- advised him to
2 take his hands out of his pockets.
- 3 Q Okay. And did he comply with your request?
- 4 A Yes, he did.
- 5 Q Okay. And did you handcuff him?
- 6 A At this time, I told him I'm gonna handcuff him,
7 transport him up, and we would discuss it further.
- 8 Q Okay. And after you handcuffed him, what did you do
9 with him?
- 10 A I Mirandized him before I put him in the vehicle.
- 11 Q When you Mirandized him -- tell me what you told him.
- 12 A I told him he had the right to remain silent. Anything
13 he said can be used against him in a court of law. He had
14 the right to have an attorney, and have an attorney present
15 during any questioning.
- 16 Q Okay. Did he appear to understand those rights at that
17 time.
- 18 A Yes, he did.
- 19 Q All right. You put him in the car?
- 20 A Correct.
- 21 Q Once you got him in the car, what did you do?
- 22 A I then proceeded to explain to him I was gonna cut my
23 camera on, which is the in car video, and it would record
24 what was being said inside the video or inside the car.
- 25 Excuse me.

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1 Q Okay. Did you ever again advise him of his rights?

2 A At this time, as soon as I cut my video camera on, I
3 did advise him of his rights again.

4 Q So, those statements he had given to you were on the
5 side of the street?

6 A That's correct.

7 Q Okay. Did he, again, appear to understand those
8 rights?

9 A Correct.

10 Q Did he -- you say you've been in law enforcement for
11 how long?

12 A Fourteen and a half years.

13 Q Fourteen and a half.

14 During the 14 and a half years, have you ever had an
15 opportunity to deal with people under the influence of drugs
16 or alcohol?

17 A That is correct.

18 Q Did Mr. Greer, this morning, seem to be under the
19 influence of drugs or alcohol?

20 A I could not determine by, by the smell or odor. I
21 couldn't determine if, any kind of alcohol that he had been
22 using.

23 Q Okay. Did he appear under the influence of drugs?

24 A Not at that time, no.

25 Q Okay. And after you advised him of his Miranda

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1 warnings a second time, what happened?

2 A I advised -- I asked him did -- you know, with -- we
3 started pulling out the driveway, and he said well, you need
4 to go the other way. And I -- we have to go the way we have
5 to go up to the police department.

6 Q Okay. Well, let me backtrack to about what happened
7 before then.

8 When you advised him of his Miranda warnings the second
9 time, did you then ask him if he wanted to talk to you?

10 A Correct.

11 Q And what did he say?

12 A Something like hu huh.

13 Q He said hu huh?

14 A No.

15 Q Okay. Did you know immediately what he had said to
16 you?

17 A No, sir.

18 Q Did you ask him again if he wanted to talk to you?

19 A Yes, sir.

20 Q And did he respond?

21 A No, I mean I asked him did he wish to have an attorney.
22 Once he said that, I -- so, I didn't, I didn't deal with
23 any---

24 Q You did not you're saying?

25 A Correct.

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- 1 Q He never asked for a lawyer?
- 2 A No, sir.
- 3 Q All right. Did you, at that point, did you ever ask
- 4 him anything else right then?
- 5 A No, sir.
- 6 Q Did he continue to talk to you?
- 7 A Not at that point. In route to the police department I
- 8 explained to him what was happening.
- 9 Q Well, now, have you been watching the tape a number of
- 10 times?
- 11 A Correct.
- 12 Q Did he -- not after saying -- you said you asked him do
- 13 you want to talk to me, right?
- 14 A Right.
- 15 Q He said hu huh.
- 16 A Uh-huh. (Affirmative).
- 17 Q But then he immediately says I just want to go to the
- 18 detention center, doesn't he?
- 19 A That is correct.
- 20 Q He initiates that conversation?
- 21 A That's correct, yes.
- 22 Q And then you talk to him.
- 23 What did you tell him?
- 24 A You mind if I refer back to my notes?
- 25 Q (Nods affirmatively.)

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1 Well, I'll rephrase the question again.

2 Well, let me do this.

3 (Whereupon, the videotape was marked as State's Exhibit
4 No. 5 for identification purposes only at this time.)

5 Q Show you what's marked as State's Exhibit No. 5, the
6 videotape.

7 Do you recognize that?

8 A That's correct, yes.

9 Q You had an opportunity to review this videotape?

10 A That's correct.

11 Q This videotape is the in car discussion you had with
12 him?

13 A That's correct.

14 Q Is this videotape accurate of the conversation you had
15 with him?

16 A Yes, sir.

17 SOLICITOR WILLINGHAM: Okay. At this time, for
18 purposes of this hearing, move State's Exhibit No. 5 into
19 evidence.

20 MS. QUIMBY: No objection, Your Honor.

21 THE COURT: Without objection, be received.

22 (Whereupon, State's Exhibit No. 5 was received into
23 evidence for purposes of this hearing only.)

24 Q Okay. But he continues to talk to you?

25 A Yes, sir.

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1 Q He says that he wants to go to the detention center?

2 A Yes, sir.

3 Q You explain you can't take him to the detention center?

4 A I explained to him I can't take you to the detention
5 facility unless you've committed a crime.

6 Q And did he again tell you anything?

7 A I don't recall at this time until we got back to City
8 Hall.

9 Q Okay. But if it's on the tape---

10 A Is it on the tape?

11 Q Okay. At some point did you ask him and when did it
12 happen?

13 A I did, yes, sir.

14 Q Did you ask him where it had happened?

15 A Yes, sir, I asked him that question. I said I need to
16 know, you know, where this occurred, what time it occurred,
17 and where the, where this location, where your dad lives.

18 Q And you asked him if it was his father and asked him
19 his father's name?

20 A That's correct.

21 Q Okay. What was your purpose of trying to find that
22 information?

23 A To see if there was aid to be rendered to the victim.

24 Q Okay. Now, you were the only officer on duty?

25 A That's correct.

Joel Greer - Direct examination
by Solicitor Willingham

1 Q Who did you call to assist you to render aid?

2 A I called dispatch and had the, Spartanburg County, to
3 request Spartanburg County to come up and assist me.

4 Q And where were those dispatched to?

5 A They were dispatched to the location -- I gave them
6 the, what he talked to, talked to the supervisor then when,
7 where the location was and what he was, what he was telling
8 me, what I asked, and then they responded to City Hall where
9 I was at.

10 Q Okay. And this location I think is [REDACTED] [REDACTED] [REDACTED]

11 [REDACTED]?

12 A That was the address that Mr. Greer had given me.

13 Q Okay. Now, you were in custody of him, of Mr. Greer?

14 A Yeah, he was sitting in my vehicle.

15 Q He wasn't under arrest, but he was clearly detained?

16 A Yes, he was in handcuffs.

17 Q Okay.

18 A Seat belt on.

19 Q Okay. But you -- again, you were the only officer, you
20 had to safeguard him until someone from the county got
21 there?

22 A It was the only thing I could really do.

23 Q Okay. Now, is it my understanding the county took over
24 this investigation?

25 A At the time, yes, they did. While we -- excuse me.

Joel Greer - Direct examination
by Solicitor Willingham

1 While they were responding, he did say not to carry him back
2 to that location. So, that's why we ended up at City Hall.

3 Q Okay. So, Mr. Greer asked not to go to the location?

4 A Correct.

5 Q Okay. So, you went and waited at City Hall and you
6 kept him secure?

7 A Until the county got there, that's right.

8 Q And the county officer that responded was Sergeant Tony
9 Brown, is that --?

10 A Tony Brown was the first one that I came in contact
11 with.

12 Q Okay. How -- do you know how long he was in your
13 custody before Tony Brown got there?

14 A I'm gonna say probably about 30 to 35 minutes.

15 Q Okay. All right. And when Tony Brown got there, what
16 happened?

17 A At the time when Tony got there, I explained to Tony
18 what I had been told and told him I'm kind of, I've got him,
19 I haven't been down there, I'm gonna let you guys handle
20 that because we, we needed to get somebody down there and
21 check and see what's going on.

22 Q Basically you didn't have the resources to do it and
23 the county is gonna take over?

24 A I had no resources, no, sir.

25 Q Okay. During the time that Mr. Greer was with you, did

Joel Greer - Direct examination
by Solicitor Willingham

1 you ever threaten him in any way?

2 A No, sir.

3 Q Did you ever promise him anything?

4 A No, sir.

5 Q Did you ever force him, coerce him in any way to get
6 him to talk to you or anybody else?

7 A No, sir.

8 Q He never asked for a lawyer?

9 A No, sir.

10 Q And after initially telling you that he didn't want to
11 talk to you, he kept talking on his own?

12 A He did continue to talk.

13 Q Okay. Now, when Investigator Brown or Sergeant Brown
14 got there, did you witness him being advised again of his
15 Miranda rights?

16 A Yes, I did. Tony did advise him of his Miranda rights,
17 and, in fact, he was looking for the form for him to sign
18 and he didn't have one at the time.

19 Q Okay. And did Mr. Greer, at this point, talk to
20 Investigator---

21 A He did. He talked to Tony Brown.

22 Q ---Brown?

23 Okay. If you would, please answer any questions the
24 defense lawyer has for you.

25 A Thank you.

Joel Greer - Cross-examination
by Ms. Quimby

1 CROSS-EXAMINATION

2 BY MS. QUIMBY:

3 Q Should I still call you Chief Brown, I mean Greer,
4 Chief?

5 A Yeah, it's mine.

6 Q Okay. Chief Greer, have you had a chance to review
7 your in car video since time that you turned it over?

8 A I have. I reviewed it the other day. It's the first
9 time I viewed it.

10 Q Okay. And after you picked Mr. Greer up, you took him
11 to Wellford P.D. to City Hall, correct?

12 A That is correct.

13 Q All right. And that's where you had advised the county
14 supervisor to meet you, correct?

15 A I advised the county supervisor that what, I would be
16 with him, yes, that's correct.

17 Q Okay. And you think it was -- I think you testified
18 somewhere around 30, 35 minutes before Sergeant Brown
19 arrived?

20 A That's correct.

21 Q Okay.

22 A That's my guesstimate.

23 Q Okay. And what you needed -- well, you testified
24 initially that in response to one of Mr. Willingham's
25 questions that you asked him, when you asked Mr. Greer

Joel Greer - Cross-examination
by Ms. Quimby

1 when -- after he told you that he killed, he thought he
2 killed his daddy, you asked him when, correct?

3 A I don't know the first question I asked after that.

4 Q One of---

5 A It was either one of the questions. Either where did
6 it occur or when did it occur.

7 Q Okay. Would it surprise you if you asked both?

8 A I did.

9 Q Okay.

10 A Just don't know which one I asked first.

11 Q Okay.

12 A Yes, I did ask both.

13 Q And can you tell me what a Code 1 is?

14 I'm not familiar with some of that---

15 A That is---

16 Q ---lingo.

17 A When I use to use now -- just verbal. It's a murder.

18 Q Okay.

19 A They're several Code 1 or Code A, B, and C. So,
20 there's different types.

21 Q Okay. What are Codes A, B, and C?

22 A One is basically a murder.

23 Q Uh-huh. (Affirmative).

24 A And I think the B is a attempted suicide or they go
25 into three different orders.

Joel Greer - Cross-examination
by Ms. Quimby

- 1 Q Okay. What are the other codes?
- 2 I mean what are they for?
- 3 A Use to be used just for, you know, scanner purposes.
- 4 Q Right.
- 5 You said that a Code 1 was used for murder?
- 6 A Was a murder, correct.
- 7 Q Code B is for?
- 8 A I don't know if it's a suicide, B or C, suicide, a --
- 9 or suicide.
- 10 Q Okay. Any others that you can remember?
- 11 A I don't know. We hadn't used them in a long time.
- 12 Q Okay. But you were using them back in early 2004?
- 13 A Yeah, I used it on this day.
- 14 Q Okay. Do you recall your phone call with Tony Brown
- 15 when, during, while the tape was running?
- 16 A I don't think Tony was the supervisor on call.
- 17 Q Okay.
- 18 A I really don't know who that was that day.
- 19 Q Okay. But you reviewed the tape and---
- 20 A Correct.
- 21 Q You've been able to, to at least refresh your memory as
- 22 what your part of the conversation was?
- 23 A To the supervisor?
- 24 Q Yes.
- 25 A Yes.

Joel Greer - Cross-examination
by Ms. Quimby

- 1 Q Okay. And you, you told whoever was on the phone that
- 2 Mr. Greer had said that he killed him, correct?
- 3 A Yeah. Yes, I told the supervisor that.
- 4 Q Okay.
- 5 A I also said I don't know what, what's going on.
- 6 Q Okay. You were actually familiar with the Greer's,
- 7 correct?
- 8 A I met his father before, yes.
- 9 Q Okay. And I believe that you even described him at
- 10 some point---
- 11 A Yes.
- 12 Q ---on the tape as, mean as a damn snake?
- 13 A The first time I met him, yes, ma'am.
- 14 Q Okay. Pardon my language.
- 15 A Well, you wait until you hear the tape.
- 16 Q What -- you were concerned with -- it seemed that you
- 17 were concerned with having a county supervisor come meet you
- 18 at Wellford so that you could, I guess, update them on the
- 19 situation and they could take it from there because you
- 20 didn't have the manpower this day, correct?
- 21 A I wouldn't say that's -- my first train of thought was
- 22 basically I need to get somebody down there to check and see
- 23 if, if, if Mr. Greer was alive or was actually dead in
- 24 which, when I talked to the supervisors, I didn't know
- 25 which, what to believe, whether it be true or not. And in

Joel Greer - Cross-examination
by Ms. Quimby

1 accordance with, instead of calling rescue, rescue and their
2 policy is they will not enter a scene of a shooting or
3 whatever the case may be unless the deputy goes in first or
4 an officer goes in first.

5 So, at the time, to answer your response to you, I was
6 concerned. I just basically was trying to get someone to go
7 down there and check to make sure that, you know, that maybe
8 he was alive or what the situation was is what I was trying
9 to get over to the supervisor.

10 Q And he had told you -- Mr. Greer had told you that
11 whatever happened the night, whatever happened happened the
12 night before, correct?

13 A He did. Yes, he did.

14 Q Okay. And you called it in as Code 1, which is a
15 murder?

16 A I -- what -- I told the supervisor that's what he said.

17 Q And murder -- you agree that murder implies already
18 dead, correct?

19 A Correct, that's what he stated.

20 Q Okay. Is there a different kind of code for somebody
21 needs to get here in an awful hurry cause we may have
22 someone we can save?

23 Is there a code for that?

24 A Zero/zero.

25 Q Did you use zero/zero?

Joel Greer - Cross-examination
by Ms. Quimby

1 A No, that's just usually when an officer needs
2 assistance. But no, I mean you try to get a response as
3 soon as possible.

4 Q Okay. But instead of responding there, you didn't tell
5 them to respond to that house, did you?

6 A I was, I was in the situation at the time either that
7 they wasn't gonna -- you know, they was gonna assist me on
8 the crime scene.

9 Okay. So, I either had to make a decision that I had
10 him and he was there. Okay. And I was gonna have to do a
11 statement and allow the county to come in and to investigate
12 it.

13 The first thing that needed to be done at the time was
14 basically get, get someone down there to check and get
15 someone in there to check and see if this is true cause I
16 didn't know, at the time, if it was true or not.

17 Q Well, but you didn't tell them to go there first,
18 correct?

19 A No, because---

20 Q Come to, come to where you were?

21 A Because Mr. Harold, Mr. Greer stated don't carry me
22 back down to there or I'll freak out on you.

23 Q And you always listen to people you're detaining and do
24 what they tell you?

25 A Well, it's the first time I had somebody call me and

Joel Greer - Cross-examination
by Ms. Quimby

1 tell me they killed their father last night.

2 Q I understand that.

3 A I didn't know if it was true or not.

4 Q Is that normal practice though to okay, Mr.,

5 Mr. Whoever I'm Detaining At The Moment, I'm, you don't want
6 to go somewhere, fine, we won't go there?

7 A I mean I'm in the situation at this point that I had
8 two, one or two things that I could do. I could not, you
9 know, take him, leave him in the car and me go, try to see
10 if the victim is dead. I couldn't do that.

11 Q So, at the risk of -- hypothetically, had Mr. Greer,
12 Senior still been alive, it would of been 35, 40 minutes
13 because you were acquiescing to what Mr. Greer, Junior
14 wanted you to do?

15 A No, I mean I had to -- you know, he, he said what he
16 had to say. I mean that's what he said. He never told me
17 what actually occurred.

18 Q I understand that.

19 A You know, I was in the city -- you know, that's, that's
20 all I can say. I mean he actually -- I didn't know it to be
21 actually true or not. But I mean I had to get somebody down
22 there to confirm it.

23 Q What I believe that you stated on, on the tape -- first
24 of all, in the phone call -- actually not, not but a minute
25 or so after the tape comes on, you told Mr. Greer you were

Joel Greer - Cross-examination
by Ms. Quimby

1 gonna call the county supervisor for assistance to go and
2 secure the crime scene, correct?

3 A Correct.

4 Q Okay. And my notes say you say that, you said that to
5 him twice in a row, got to go secure the crime scene.

6 Do you recall, not long after that being on the radio,
7 and saying well, they'll get an ambulance down there?

8 A To who?

9 Q I'm not sure. I, I couldn't -- it -- you weren't on
10 the cell phone. It sounded like you were on, on the radio
11 with dispatch or something.

12 A I don't -- it might of been. It might of been. I
13 think I might of been talking to dispatch on the phone.

14 Q Okay.

15 A But not on the radio.

16 Q Okay. And then there were, then there was, then there
17 was a subsequent phone call after you radioed a Code 1
18 murder where you stated again I need someone to secure a
19 crime scene, correct?

20 A You talking about radio or, or are you talking the
21 dispatch or---

22 Q At this point---

23 A ---are you talking about a phone call?

24 Q ---I believe it was a phone call.

25 A Okay. Yes.

Joel Greer - Cross-examination
by Ms. Quimby

1 Your question again?

2 Q You needed someone to secure the crime scene?

3 A Right.

4 Q Okay.

5 A If, in fact, it was a crime scene.

6 Q Okay. And you said that you hadn't called EMS yet,
7 you'll let the county handle that, however they want to?

8 A Right. Correct.

9 Q Do you recall having -- well, and you, you reviewed the
10 video.

11 You, you did get fairly conversational with Mr. Greer
12 and y'all were having a conversation, correct?

13 A Yes, ma'am.

14 Q Okay. And a lot of it had to do with you telling him,
15 praising him for coming forward and saying you're doing the
16 right thing, you just need to cooperate, you need to tell
17 them whatever they're -- you know, you need to cooperate,
18 correct?

19 A Yeah, I did. Correct.

20 Q Okay. And you said it will be a long process, but this
21 ain't murder repeatedly, correct?

22 A I don't know if I said -- I might of said this ain't
23 murder. There's different forms of, of what may of
24 occurred.

25 Q Okay.

Joel Greer - Cross-examination
by Ms. Quimby

1 A I might of said murder. I probably did.

2 Q Okay. And I believe they're several instances on here
3 where you, you go into -- do you recall going into
4 different -- you just said they're different degrees of
5 this?

6 A That is correct.

7 Q You recall that on and off again conversation with
8 Mr. Greer?

9 A Yes, ma'am.

10 Q Okay. And you told him that you knew he didn't plan
11 anything, that it had to be an accident or manslaughter?

12 Do you remember that?...

13 A Yeah, I explained those to him, yes.

14 Q Okay. And---

15 A I told him I didn't think he seem, he seemed the type
16 of guy that planned to do anything like this.

17 Q Well, I don't remember hearing that part in the video.

18 A It's something to that effect.

19 Q Okay.

20 A Yeah, it's something to that effect.

21 Q You told, you -- there were even a couple of times
22 where you told him you were not gonna plaster him all over
23 the news, that's why you handled this in a phone call,
24 correct?

25 A That's correct.

Joel Greer - Cross-examination
by Ms. Quimby

1 Q And I think that may of been discussed a couple of
2 times with Mr. Greer?

3 A Yes, it may have.

4 Q You told him he just needed to cooperate because you
5 were gonna tell everybody with I guess the Sheriff's
6 Department or whoever else or I don't know where you, how,
7 what kind of extent they would go to, but you were gonna
8 tell them that Mr. Greer turned himself in and how good it
9 made you feel as an officer because you never would of known
10 really what happened had he not come forward and told you,
11 correct?

12 A That's correct.

13 Q Okay. Followed by you need to cooperate, you need to
14 tell him everything you know?

15 A It's either that or you're doing the right thing. It's
16 either that statement or you continue -- you're doing the
17 right thing.

18 Q Okay. And I, I've got to come back briefly to the
19 discussion that you had with Mr. Greer concerning what seems
20 to be your evaluation of what he had done.

21 And, and what I mean by that is a whole another
22 discussion about well, you were mad, and that's just
23 different, that's different than if you planned it, that's
24 just a different charge, that's manslaughter, you didn't
25 plan it, it's, it's not first degree murder, you were

Joel Greer - Cross-examination
by Ms. Quimby

1 emotionally mad, that's what I'm telling you, it just
2 happened, that's what I'm telling you.

3 Do you recall saying those things?

4 A Correct.

5 Q Okay. And then you recall immediately after that
6 reminding him again that you had met his father before and
7 you knew he was mean as a damn snake?

8 A The first time I met him, yes, ma'am.

9 Q Okay. Do you recall him asking you if the, if, if it
10 was state, if the tape was still recording?

11 A Yes, ma'am.

12 Q Do you recall saying I don't know, it probably ain't
13 because the recording ain't working? . . .

14 Q Because the light was not working on -- I mean the, the
15 light had -- I cut it off right after that.

16 Q Okay.

17 A I guess I figured he was either asking me to cut it off
18 or what have you.

19 Q You thought this was a Code 1, correct?

20 A From what he, he said. I didn't know. I mean---

21 Q You treated it as a Code 1?

22 A I had to.

23 Q Correct?

24 A Because I had to. Yes, I had to treat it as a Code 1.

25 Q Treated it as a murder call?

Joel Greer - Cross-examination
by Ms. Quimby

1 A I had to, yes.

2 Q And as a crime scene?

3 A I had to get---

4 Q Kept calling it a crime scene, correct?

5 A I had to get somebody -- yes, I agree. I had to get
6 somebody down there to establish that yes, it was a crime
7 scene.

8 Q You told Mr. Greer that you would do everything you
9 could to help him through this long process, you just needed
10 to cooperate, you needed to tell everything, you needed to
11 be straight up with them because they were gonna be honest
12 and straight up with him, correct?

13 A I think that's what I said, yes, ma'am.

14 Q And he subsequently gave some statements, correct?

15 A He kept talking.

16 Q Pardon me?

17 A He kept talking and saying certain statements, certain
18 things.

19 Q And he subsequently gave statements to those officers
20 that you told him to cooperate with?

21 A Yes.

22 MS. QUIMBY: Nothing further.

23 THE COURT: Redirect?

24 SOLICITOR WILLINGHAM: Briefly.

25 THE COURT: Yes, sir.

Joel Greer - Redirect examination
by Solicitor Willingham

1 REDIRECT EXAMINATION

2 BY SOLICITOR WILLINGHAM:

3 Q You said -- first of all, I just want to go back.

4 You told him that this didn't appear to be capital
5 murder?

6 A Correct, capital murder, that's correct.

7 Q Okay. And you were trying to get assistance to you.

8 You said you didn't give out the call ten/zero or

9 ten/zero/zero. That's---

10 A Zero, that's correct.

11 Q That's an officer in distress, right?

12 A Right.

13 Q The officer wasn't in distress at this point, right?

14 A No, sir.

15 Q Generally if you give out a Code 1 murder call you get
16 attention?

17 Is that fair?

18 A Yes, yes. Fair.

19 Q People get to you fairly quickly?

20 A Yes, sir.

21 Q Okay. Now, you indicated that the ambulance or the
22 local rescue squad has a policy of not going into a
23 residence unless it's been secured by an officer, is that
24 right?

25 A I, I'd say yeah, the local. But I'm pretty positive

Joel Greer - Redirect examination
by Solicitor Willingham

1 that's the paramedic procedure for all.

2 Q And that's probably even in the result of that
3 paramedic being shot several years ago responding to a scene
4 without an officer?

5 A That's correct.

6 Q Okay. They will not respond to a scene until it is
7 secured by an officer?

8 A Until an officer says come on in.

9 Q Okay.

10 A Exactly. Till it's secured.

11 Q All right. Did you know, at the time, what Mr. Greer
12 was telling you was the truth or not?

13 A No, sir.

14 Q Did you ever ask him any details of what happened?

15 A No, sir.

16 Q Did you ever ask him how he killed his father?

17 A No, sir.

18 Q Or what object -- did he use a gun, a knife, brick, et
19 cetera?

20 Did you ever ask him any of that?

21 A No, sir, never discussed it.

22 Q Did you think that there would be a possibility of
23 someone still being alive?

24 A Yes, sir.

25 Q I mean that's why you said that the county probably

Joel Greer - Redirect examination
by Solicitor Willingham

1 should send an ambulance?

2 A Right. Correct.

3 Q You're not gonna send an ambulance after a dead guy,
4 are you?

5 A I wouldn't, no. I mean I, I mean you send one there
6 for transport basically.

7 Q Okay. All right. Thank you.

8 THE COURT: Anything further from this witness?

9 Recross?

10 MS. QUIMBY: No, Your Honor.

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

12 I'm gonna break at this time for lunch. We'll return
13 at two o'clock. I will be taking a plea at two o'clock and
14 then we'll resume the hearing.

15 SOLICITOR WILLINGHAM: Thank you.

16 THE COURT: Thank you very much.

17 (Whereupon, Court was in recess for the lunch hour.)

18 THE COURT: Mr. Willingham, you may call your next
19 witness.

20 SOLICITOR THILL: Your Honor, the State would next call
21 forward Tony Brown.

22 THE COURT: Excuse me, Ms. Thill.

23 SOLICITOR THILL: That's fine, Your Honor.

24 TONY BROWN, being first duly sworn,
25 testified as follows:

Tony Brown - Direct examination
by Solicitor Thill

1 THE COURT: Your witness, Ms. Thill.

2 SOLICITOR THILL: Thank you, Your Honor.

3 May it please the Court?

4 THE COURT: Yes, ma'am.

5 DIRECT EXAMINATION

6 BY SOLICITOR THILL:

7 Q Sergeant Brown, if you could, please introduce
8 yourself.

9 A My name is Tony Brown.

10 Q And where are you currently employed?

11 A Spartanburg County Sheriff's Office.

12 Q And what do you do for the Sheriff's Office?

13 A I'm an investigator. I'm a sergeant in the
14 investigation division.

15 Q And how long have you been in investigations?

16 A About seven years now.

17 Q And what education and training have you received as a
18 police officer?

19 A I've been to the Criminal Justice Academy and numerous
20 other advanced courses after that.

21 Q And what capacity were you employed in on
22 February 22nd of 2004?

23 A In the same position, a sergeant in the investigations.

24 Q And were you involved in the investigation of the
25 defendant, Harold Greer---

Tony Brown - Direct examination
by Solicitor Thill

- 1 A Yes, ma'am, I was.
- 2 Q ---Junior?
- 3 And how did you become involved in the investigation?
- 4 A I was notified that Wellford Police Department was
- 5 requesting assistance from the Sheriff's Office on a
- 6 possible murder that they was investigating.
- 7 Q And when you received that telephone call, where did
- 8 you go?
- 9 A I went to Wellford P.D.
- 10 Q And was someone, at that same time, dispatched to the
- 11 scene of the crime?
- 12 A I think that they was officers responding to Wellford
- 13 P.D. Once one got there, one went, proceeded from Wellford
- 14 P.D. on to the crime, to the actual crime scene, yes.
- 15 Q And do you know who proceeded to the crime scene?
- 16 A I believe it was Barry Pridgeon.
- 17 Q Okay. And you're familiar with Miranda warnings,
- 18 correct?
- 19 A Yes, ma'am, I am.
- 20 Q Did you advise the defendant of his Miranda rights?
- 21 A Yes, ma'am, I did.
- 22 Q How did you do that?
- 23 A I read it off of a card that I keep in my pocket.
- 24 Q And what specifically did you, did you do?
- 25 A I read him the, his Miranda rights off the card, and I

Tony Brown - Direct examination
by Solicitor Thill

1 asked him did he understand these rights and he stated yes.

2 Q Okay. And that card states specifically what?

3 Can you demonstrate for the Court what you read to him?

4 A Yes, you have the right to remain silent. Anything you
5 say can and will be used against you in a court of law. You
6 have the right to talk to a lawyer, have him present with
7 you while you're being questioned. If you can not afford a
8 lawyer, one will be appointed to represent you before any
9 questioning if you so wished. You have the right to stop
10 answering questions at any point in the questioning.

11 Do you understand these rights.

12 Q And where were you when that was done?

13 A At Wellford P.D.

14 Q And who else was present when you read those Miranda
15 rights?

16 A Chief Joel Greer was.

17 Q In your experience in law enforcement, have you dealt
18 with individuals who have been under the influence of drugs
19 or alcohol?

20 A Yes, ma'am, I have.

21 Q Did the defendant, at any time, appear to be under the
22 influence of drugs or alcohol?

23 A No, ma'am, I did not think so.

24 Q Okay. Did he respond to your questions when you
25 advised him of your rights?

Tony Brown - Direct examination
by Solicitor Thill

1 A Yes, ma'am, he did.

2 Q Did he appear, in your opinion, to understand what his
3 rights were?

4 A Yes, ma'am, he did.

5 Q Was his speech coherent?

6 A Yes, ma'am it was.

7 Q Did he, at any time, ask to speak with an attorney?

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

9 Q Did he, at any time, invoke his right to remain silent
10 and not talk to you?

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

12 Q So, he agreed to answer any questions without an
13 attorney present?

14 A Yes, ma'am, he did.

15 Q Did you promise him anything in return for making the
16 statement?

17 A No, ma'am, I did not.

18 Q Did you coerce him or threaten him in any way to
19 making---

20 A No, ma'am, I did not.

21 Q ---to make a statement?

22 So, to the best of your knowledge, did the defendant
23 freely and voluntarily waive his rights?

24 A Yes, ma'am, he did.

25 Q Did he make any statements to you?

Tony Brown - Direct examination
by Solicitor Thill

1 A Yes, he did.

2 Q What did he say?

3 A He stated that he had killed his father.

4 Q Okay. Was that the extent of his statement or did he
5 tell you anything else?

6 A I've got some notes I think I can refer to. I had
7 asked the suspect what happened. He stated he and his
8 father had argued and he had taken a brick and hit him in
9 the head and killed him. He then stated I know he is dead.

10 Q Okay. Was that the only time that the defendant was
11 either interviewed by you or interviewed in your presence?

12 A Yes, ma'am, that was the only time that I did it at
13 that point.

14 Q Okay. Were you present at a later interview with the
15 defendant?

16 A No, ma'am, I was not.

17 Q Okay.

18 A I did witness, I believe, a statement later on. But I
19 was not actually in the interview.

20 Q Okay. I'm gonna show you what's been marked for
21 identification purposes as State's Exhibit No. 3.

22 What is that document?

23 A This is a pre-interrogation waiver form.

24 Q And what is a pre-interrogation waiver form?

25 A It's basically a Miranda rights again. It says the

Tony Brown - Direct examination
by Solicitor Thill

- 1 same thing that I have on my card, and this is what we use
2 when we take a written statement from someone.
3 Q Okay. And you notarized that document, correct?
4 A Yes, ma'am, I did. That is my signature.
5 Q Okay. And that was in regards to the statement that
6 the defendant gave where?
7 A I believe it was at the jail.
8 Q Okay. And approximately what time did he make that
9 statement?
10 A This was at 7:17 when he was, when this document right
11 here was filled out.
12 Q Okay. And who is the investigator that was speaking
13 with him at that time?
14 A Darren Dukes.
15 Q Okay. And he is employed with the Sheriff's Office?
16 A Yes, ma'am, he is.
17 Q Okay. And you notarized that document, correct?
18 A Yes, ma'am, I did.
19 Q In the course of your notarizing it, what, if anything,
20 did you do?
21 A When Darren asked me to notarize it, I went in and
22 asked Mr. Greer is this your signature, and do you
23 understand everything on here and he said he did. I said do
24 you swear. He held up his hand I swear, and that's when I
25 notarized it.

Tony Brown - Cross-examination
by Ms. Quimby

1 Q Okay. I'm gonna show you what's been marked as State's
2 Exhibit No. 4.

3 Can you identify what that document is?

4 A Yes, this is a statement given by Mr. Greer.

5 Q And you notarized that as well, correct?

6 A Yes, ma'am, I did.

7 Q Okay. And did you follow the same procedure when you
8 notarized it?

9 A Yes, ma'am, I did.

10 Q Okay. And he indicated to you that that was his
11 signature on that statement?

12 A Yes, ma'am, he did.

13 SOLICITOR THILL: Okay. Your Honor, I have no further
14 questions.

15 Sergeant Brown, please answer any questions Ms. Quimby
16 has for you.

17 A Yes, ma'am.

18 THE COURT: Ms. Quimby, your witness.

19 MS. QUIMBY: May it please the Court, Your Honor?

20 THE COURT: Yes, ma'am.

21 CROSS-EXAMINATION

22 BY MS. QUIMBY:

23 Q Hey, Sergeant Brown.

24 You've testified that you responded and you got a call
25 about 9:15, correct?

Tony Brown - Cross-examination
by Ms. Quimby

1 A Approximately 9:15, yes, ma'am.

2 Q And you responded to Wellford P.D. or City Hall?

3 A Yes, ma'am.

4 Q And you understood that you were responding to a
5 homicide call or a murder call?

6 A Yes, ma'am.

7 Q Okay. And when did you first realize that Wellford was
8 gonna be asking for y'all to take over the case?

9 A When I arrived on the scene, I talked to Chief Greer
10 and I asked, at that point, did he wish us to take over or
11 did he wish us just to assist him and he asked us to take
12 over.

13 Q Okay. And did Chief Greer give you any indication of
14 when this incident was suppose to have occurred?

15 A Yes, he, he said that it occurred some time last night
16 I believe it was.

17 Q Okay. And you went over and spoke to Mr. Greer, read
18 him his Miranda rights?

19 A Yes, ma'am.

20 Q And you asked him what happened. You asked him several
21 questions, what's your father's name, where did it, where
22 did it occur, things like that?

23 A Yes, ma'am.

24 Q Did you find out -- did you already know, through Chief
25 Greer possibly, who all lived in that house?

Tony Brown - Cross-examination
by Ms. Quimby

1 A No, at that time I did not know everyone that lived in
2 the house.

3 Q Okay. Who did you know lived in the house?

4 A I knew that the victim, Mr. Greer, Senior, lived in the
5 house, and I, and I knew Mr. Greer, Junior lived in the
6 house.

7 Q Okay. You were present at Wellford when Officer
8 Pridgeon arrived, correct?

9 A Yes, ma'am, I was.

10 Q And you sent him on to the house?

11 A Yes, ma'am.

12 Q To secure it?

13 A Yes, ma'am.

14 Q Okay. Because you considered it a crime scene,
15 correct?

16 A A crime scene, yes, ma'am.

17 Q Okay. And as instructed, if I understand the
18 discovery, as, as you had instructed, he was securing the
19 residence, but not making entry?

20 A He did not make entry before I arrived, no.

21 Q Okay. When you and Officer Dudzenski did make
22 entrance, did you, did you knock first?

23 How did that come about?

24 A We tried to get the, I believe, the garage door opened
25 to see if it was open. It was not. And we always announce

Tony Brown - Cross-examination
by Ms. Quimby

1 ourself when we make entry into any house.

2 So, we did knock, yelled sheriff's officer. But we
3 went ahead and made entry when no one answered.

4 Q Okay. It's very important, when you're going to be
5 making reports, to be as thorough as possible, right?

6 A Yes, ma'am.

7 Q And be as complete and as accurate as possible?

8 A Yes, ma'am.

9 Q And that's, that's an important part of your job
10 because you know that, first of all, you may be come, coming
11 to Court on it at some point and you'll need to have an
12 accurate memory of things, correct?

13 A Yes, ma'am.

14 Q All right. And it's also to give the people who
15 weren't present an accurate idea of what was going on?

16 A Yes, ma'am.

17 Q It also helps because, over time, sometimes it takes
18 more than a year for things to come to court, and, over
19 time, even, even the officer who was present, even their
20 memories fade a little bit, correct, and cases may blur
21 together?

22 A I'm sure it does, yes, ma'am.

23 Q I, I'm not sure that, that I see in your report that
24 you knocked or announced.

25 A No, I did not write it in there.

Tony Brown - Cross-examination
by Ms. Quimby

1 Q Okay. Before you went in -- do you think that would of
2 been important?

3 A I have no problem with remembering that event though.

4 Q Okay.

5 A I know that's what I did. So --

6 Q Okay.

7 A But yeah, it would of probably been a good idea---

8 Q You agree that I wasn't present there?

9 A It would of probably been a good idea for me to put it
10 in my report, yes, ma'am.

11 Q Okay. So, you knocked, you announced, and you went on
12 in the front door?

13 A Yes, ma'am.

14 Q Okay. And how many times did you yell?

15 A I'm sure I yelled two or three times. That's what we
16 normally do.

17 Q And I understand you say yelled, but was it loud enough
18 to where anybody in the house could of heard you?

19 A Well, I probably would say so if I, if I yelled loud
20 enough.

21 Q Okay.

22 A Somebody probably should of heard it.

23 Q Okay. When you -- taking you back to Wellford P.D.,
24 Mr. Greer stated to you that he knows his father's dead?

25 A Yes, ma'am.

Tony Brown - Cross-examination
by Ms. Quimby

1 Q And you had, you had -- it was your understanding that
2 it had happened, whatever happened had happened the night
3 before?

4 A Yes, ma'am.

5 Q And you sent Officer Pridgeon to secure a crime scene?

6 A Yes, ma'am.

7 Q And how long do you think it was before -- well, you
8 got to the crime scene about 45 minutes, 50 minutes after
9 you had initially received the dispatch call, correct?

10 A Yes, ma'am, it's about 30 minutes after, after I first
11 heard about it.

12 Q Okay.

13 A Oh, to the crime scene?

14 I'm sorry....

15 Q To the crime scene.

16 A About 40 minutes, yes, ma'am.

17 Q Okay. When you went into the house the first time, you
18 said that you spoke loudly enough to him to see if he would
19 respond, correct?

20 A Yes, ma'am.

21 Q But you didn't have to do anything cause you said you
22 could simply tell he was dead?

23 A I figured, at that point, yes -- I, I figured, at that
24 point, he was dead, yes, ma'am.

25 Q Okay. So, you didn't have to touch him, anything like

Tony Brown - Cross-examination
by Ms. Quimby

1 that?

2 A (Witness nods negatively.)

3 Q Okay. Do you remember when EMS arrived?

4 A No, ma'am, I don't, I don't know the exact time.

5 Q Okay. Were they there when you got there?

6 A I don't remember.

7 Q Okay. When you came back out of the house, the first
8 time, were they there?

9 A I don't remember that either.

10 Q Okay. Were you aware that -- you're obviously aware
11 that Chief Greer had been speaking to Mr. Greer prior to
12 your arrival at Wellford P.D., correct?

13 A Yes, ma'am.

14 Q And Chief Greer filled you in on probably the, the high
15 points of what he believed to be important about their
16 conversation?

17 A Yes, ma'am.

18 Q Did, did Chief Greer make it plain to you that
19 Mr. Greer is the one who, who approached him, who called him
20 and said I need for you to come take me to jail?

21 A Yes, ma'am.

22 Q Okay. So, in effect, that would be turning himself in
23 for something, right?

24 A Probably, yes, ma'am. You could say so.

25 Q Did he, at any time, ask you to play down the

Tony Brown - Redirect examination
by Solicitor Thill

1 publicity?

2 A No, ma'am.

3 Q Okay. So, when, when you spoke with Mr. Greer -- well,
4 I've already asked that.

5 Nothing further.

6 THE COURT: Ms. Thill, redirect?

7 SOLICITOR THILL: Moments indulgence, Your Honor,
8 please.

9 THE COURT: Yes, ma'am.

10 (Pause.)

11 REDIRECT EXAMINATION

12 BY SOLICITOR THILL:

13 Q Sergeant Brown, when you spoke to the defendant, and he
14 stated to you I know he's dead, at that point did you know
15 whether the victim was dead?

16 A No, ma'am, I did not.

17 Q Okay. And in your notes, Ms. Quimby pointed out that
18 when you got to the, the, the incident location that you
19 could tell the victim was dead.

20 What did you see that led you to believe that it was
21 likely that the victim was dead?

22 A He was not moving. I could not see any form of
23 breathing from the victim or any indications. Just based on
24 observation.

25 (Whereupon, a group of photographs was marked as

Tony Brown - Redirect examination
by Solicitor Thill

1 State's Exhibit No. 6 for identification purposes only at
2 this time.)

3 Q Okay. I'm gonna show you what's been marked, for
4 identification purposes, as State's Exhibit No. 6.

5 Can you tell me what that is?

6 A Yes, ma'am, this is a picture of the victim.

7 Q Okay. Is that a fair and accurate representation of
8 the way you found the victim when you arrived on scene?

9 A Yes, ma'am, it is.

10 Q Okay. And can you describe what condition the victim
11 is in as far as his body positions, so on, and so forth?

12 A He's laying face down.

13 Q Okay. And what other evidence is there regarding the
14 events that took place?

15 A Looks like there's some blood stains around the body.

16 Q Okay. Is it a minimal, a couple drops of blood, a
17 significant amount of blood?

18 A I wouldn't say significant. But it's, it's more than a
19 few drops, yeah. I've seen worse, but I've seen a lot less,
20 yes.

21 SOLICITOR THILL: Okay. Your Honor, at this time I'd
22 like to move State's Exhibit No. 6 in for purposes of this
23 hearing.

24 THE COURT: Any objection?

25 MS. QUIMBY: No objection, Your Honor.

Darren Dukes - Direct examination
by Solicitor Thill

1 THE COURT: Without objection, it will be admitted into
2 evidence.

3 (Whereupon, State's Exhibit No. 6 was received into
4 evidence for purposes of this hearing only.)

5 SOLICITOR THILL: Your Honor, I have no further
6 questions.

7 THE COURT: Recross?

8 MS. QUIMBY: Nothing, Your Honor. Thank you.

9 THE COURT: You may step down, sir.
10 State may call its next witness.

11 SOLICITOR THILL: Your Honor, the State would next call
12 forward Darren Dukes.

13 THE COURT: Come forward and be sworn.

14 DARREN DUKES, being first duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY SOLICITOR THILL:

18 Q Darren, can you state your full name for the record?

19 A Darren Christopher Dukes.

20 Q And where are you currently employed?

21 A Spartanburg County Sheriff's Office.

22 Q And how long have you been with the Sheriff's Office?

23 A Approximately eight years total.

24 Q Okay. And what are your present duties and
25 responsibilities with the Sheriff's Office?

Darren Dukes - Direct examination
by Solicitor Thill

1 A I'm uniform patrol officer for, assigned to first
2 shift.

3 Q Okay. And back in February of 2004, what was your
4 position with the Sheriff's Office?

5 A I was an investigator assigned to the homicide
6 division.

7 Q And what were your duties and responsibility as
8 investigator with the homicide division?

9 A To respond to, to different types of incidents
10 including homicides for investigator purposes and that type
11 of thing.

12 Q And were you involved in the investigation of Harold
13 Greer, Junior, the defendant?

14 A I was.

15 Q And when did you become involved in that investigation?

16 A I was contacted by Sergeant Brown from the Sheriff's
17 Office on that morning, and he gave me a brief description
18 of the situation and asked that I respond.

19 Q And when you responded, where did you go?

20 A I went to the Sheriff's Office.

21 Q Why did you go to the Sheriff's Office?

22 A Because I was told that the defendant was being
23 transported to the Sheriff's Office from the Wellford area.

24 Q And when -- who arrived first, you or the defendant?

25 A I believe I did.

Darren Dukes - Direct examination
by Solicitor Thill

1 Q Okay. And when he arrived, what did you do?

2 A Introduced, introduced myself to him.

3 Q Okay. And did you advise him of his Miranda warnings?

4 A I did.

5 Q And how did you advise him of his Miranda warnings?

6 A Through a, a Sheriff's Office pre-interrogation waiver
7 form.

8 Q Okay. I'm gonna show you State's Exhibit, what's
9 marked as State's Exhibit No. 1.

10 Do you recognize that document?

11 A I do.

12 Q What is it?

13 A That's the pre-interrogation waiver form, I just
14 mentioned.

15 Q Okay. And how are you able to recognize it?

16 A Based on the case number, handwriting, my name,
17 defendant's name, signature.

18 SOLICITOR THILL: Okay. Your Honor, at this time I'd
19 like to offer State's Exhibit 1 into evidence for purposes
20 of this hearing.

21 THE COURT: Any objection?

22 You need to see the form, Ms. Quimby?

23 MS. QUIMBY: Your Honor, no objection.

24 THE COURT: All right. Without objection, it will be
25 admitted into evidence.

Darren Dukes - Direct examination
by Solicitor Thill

1 (Whereupon, State's Exhibit No. 1 was received into
2 evidence for purposes of this hearing only.)

3 THE COURT: You may proceed.

4 SOLICITOR THILL: Thank you, Your Honor.

5 Q Using that form, how did you advise the defendant of
6 his rights?

7 A First I filled out the top information, which is name,
8 address, age, date, time, and location of the interview.

9 Secondly, I read the rights to him turning the form
10 this way so that he could look on as I read over them. And
11 as I'm doing that, I put a line beside of each number. When
12 I'm finished with that, with those five, with those five
13 specific rights, I asked him to then review those and
14 initial beside of each one after he has reviewed those.

15 Q Okay. And on this occasion, did the defendant do that?

16 A He did.

17 Q Okay. And after you read him those rights, what did
18 you do, what did he do next in regards to the form?

19 A The next section is, is one paragraph about four lines
20 that states that he understands the rights explained above
21 to him, and that he agrees to talk to me in reference to
22 whatever it is we're talking about, and that any statement
23 he may make is of his own free will without fear, threat,
24 promise, favor, or reward of any kind, and then it asks if
25 he's able to read and write the English language and how.

Darren Dukes - Direct examination
by Solicitor Thill

1 many years of school did he finish.

2 Q Okay. And did he sign in both locations for each of
3 those?

4 A He did.

5 Q Okay. And where were you when this was done?

6 A In one of the interview rooms of the investigation
7 division.

8 Q And who else was present with you when it was done?

9 A When the Miranda rights were read?

10 Q Yes.

11 A I, I don't know that anybody was standing there as it
12 was being done.

13 Q Okay. But somebody notarized it as being it was his
14 signature?

15 A That's correct

16 Q Okay. In your experience in law enforcement, you've
17 dealt with people who are under the influence of drugs and
18 alcohol, correct?

19 A That's correct.

20 Q Did he appear, in any way, to be under the influence of
21 either drugs or alcohol?

22 A No, he did not.

23 Q And did he respond to your questions?

24 A He did.

25 Q Did he appear to understand what his rights were and

Darren Dukes - Direct examination
by Solicitor Thill

1 what he was waiving?

2 A He did.

3 Q Did, did he speak in a coherent manner?

4 A He did.

5 Q Did he, at any point, invoke his right to remain
6 silent?

7 A He did not.

8 Q Did he, at any time, ask to have an attorney present?

9 A No, he did not.

10 Q Did he agree to answer your questions without an
11 attorney present?

12 A He did.

13 Q Did you, in any way, promise him anything in return for
14 his statement?

15 A I did not.

16 Q Did you make any threats or coerce him into making the
17 statement?

18 A I did not.

19 Q Okay. And in fact, you actually did some things to
20 make the environment more comfortable for him, correct?

21 A Right, as far as, you know, whatever he needed, if he
22 needed something within reason, then, you know, we certainly
23 try to accommodate that.

24 Q So, if he asked for something to drink, you gave him
25 something to drink and so on, correct?

Darren Dukes - Direct examination
by Solicitor Thill

1 A That's right.

2 Q Okay. So, to the best of your knowledge, were his
3 statements freely and voluntarily given?

4 A It was.

5 Q Okay. And did he make a statement in response to your
6 questions?

7 A He did.

8 Q Okay. And was there a record of transcript of it made?

9 A There was.

10 Q Okay. I'd like you to look at State's Exhibit No. 2.
11 Can you identify that document?

12 A This is the written statement that was taken from
13 Ms. Greer, I'm sorry, Mr. Greer by myself.

14 Q Okay. And did he write it or did you write it?

15 A I wrote it.

16 Q Okay. And what process did you use to write it?

17 A First of all, I asked him, told him that I would like
18 to get a written statement from him about what happened,
19 asked if he would like to write it or if he would like for
20 me to write it for him, and he indicated he would like for
21 me to write it for him.

22 Q Okay. And State's Exhibit No. 2 is the statement that
23 he gave you at that time?

24 A That's right.

25 SOLICITOR THILL: Your Honor, at this time, I'd like to

Darren Dukes - Direct examination
by Solicitor Thill

1 offer State's Exhibit No. 2 into evidence.

2 THE COURT: Any objection?

3 MS. QUIMBY: To the statement, no, sir.

4 THE COURT: It's admitted without objection.

5 (Whereupon, State's Exhibit No. 2 was received into
6 evidence for purposes of this hearing only.)

7 THE COURT: You may proceed.

8 Q Was he given copies of both the pre-interrogation
9 waiver form and copies of this statement after those items
10 were done?

11 A He was.

12 Q Was that the only time that you ever had interaction or
13 questioned the defendant about this incident?

14 A No, I, I questioned him later at the Spartanburg County
15 Jail later that evening.

16 Q Okay. And why did you reinterview him?

17 A Because the first time I had spoke to him at the
18 Sheriff's Office, I had not yet been to the incident
19 location. So, after I did go to the incident location, was
20 able to visualize what the house looked like, what the
21 circumstances appeared to be, there were some additional
22 questions that I wanted to ask him. And so, that's why I
23 spoke to him again later that night.

24 Q Okay. And did -- when you spoke with him the second
25 time, did you advise him again of his Miranda warnings?

Darren Dukes - Direct examination
by Solicitor Thill

1 A I did.

2 Q And how was he advised of those warnings?

3 A The, the same pre-interrogation waiver form.

4 Q Okay.

5 A Not the same one. But a, another copy. We went over
6 the, another copy of the waiver form.

7 Q Okay. And did you go through this same procedure in
8 regards to this pre-interrogation waiver form as you did the
9 first?

10 A That's correct.

11 Q Okay. And I want you look at what's been marked as
12 State's Exhibit No. 3.

13 Do you recognize that document?

14 A I do. It's the pre-interrogation waiver form I just
15 mentioned.

16 SOLICITOR THILL: Okay. Your Honor, at this time, the
17 State would offer State's Exhibit No. 3 into evidence for
18 purposes of this hearing.

19 THE COURT: Any objection?

20 MS. QUIMBY: No, Your Honor.

21 THE COURT: Without objection, it will be received as
22 marked.

23 (Whereupon, State's Exhibit No. 3 was received into
24 evidence at this time for purposes of this hearing only.)

25 Q Okay. So, you followed the same protocol that you

Darren Dukes - Direct examination
by Solicitor Thill

1 described earlier?

2 A That's correct.

3 Q Correct?

4 And where were you when the second statement was taken?

5 A In a, in a small room kind of like a break room just
6 off of the booking area at the Spartanburg County Jail.

7 Q Okay. Was -- from the first time you spoke with him
8 till the second time, was there any change in his mental or
9 physical condition?

10 A No, there was not.

11 Q Okay. And did he again respond to your questions?

12 A He did.

13 Q Did he still appear to understand what he was doing?

14 A He did.

15 Q Okay. Did he, during the second occurrence, ever say
16 I'm invoking my right to remain silent, I don't want to talk
17 to you?

18 A No, he did not.

19 Q Did he ever ask for an attorney?

20 A No, he did not.

21 Q And he agreed to answer questions without an attorney
22 present on the second occasion, correct?

23 A That is correct.

24 Q Okay. And again, did you promise him anything, did you
25 threaten or coerce him in any way to get him to make a

Darren Dukes - Direct examination
by Solicitor Thill

1 statement?

2 A No, I did not.

3 Q So, on the second occasion, to the best of your
4 knowledge, was the defendant's statement freely and
5 voluntarily given?

6 A It was.

7 Q Okay. What, if any, statements -- well, I apologize.
8 Was a record -- he gave a statement to you, correct?

9 A That's right.

10 Q Was a record made of that statement as well?

11 A It was.

12 Q Okay. I want you to look at State's Exhibit No. 4.

13 A Okay.

14 Q What is, what is that document?

15 A That's the, the second written statement that was taken
16 from him at the jail that night.

17 Q Okay. And you followed the same protocol in that you
18 wrote the statement in response to the questions you asked
19 him?

20 A That's right

21 Q Okay. And he agreed that he wanted you to write the
22 statement for him?

23 A That's correct.

24 SOLICITOR THILL: Okay. Your Honor, at this time I'd
25 like to offer State's Exhibit No. 4 into evidence.

Darren Dukes - Cross-examination
by Ms. Quimby

1 MS. QUIMBY: No objection, Your Honor.

2 THE COURT: Without objection, it will be received as
3 marked.

4 (Whereupon, State's Exhibit No. 4 was received into
5 evidence at this time for purposes of this hearing only.)

6 Q And the second time you met with him, he was again
7 given copies of both the pre-interrogation and the
8 statement?

9 A That's correct.

10 Q Correct?

11 Your Honor, I have no further questions.

12 Answer any questions Ms. Quimby may have.

13 A Okay.

14 THE COURT: Ms. Quimby, your witness.

15 MS. QUIMBY: Thank you, Your Honor.

16 CROSS-EXAMINATION.

17 BY MS. QUIMBY:

18 Q Detective Dukes, you, you stated that Mr. Greer
19 responded to your questioning?

20 A That's correct.

21 Q And that he was very cooperative?

22 A That's right.

23 Q And that he understood that he was talking to you to
24 help you understand what happened?

25 A That's correct.

Darren Dukes - Cross-examination
by Ms. Quimby

1 Q And while I understand that you testified that you made
2 him no promises of, of bond, leniency, anything like that,
3 did you ask him if anyone else had made him any promises?

4 A I don't recall asking him that.

5 Q So, you don't know if anyone had previously made him
6 any promises in exchange for him---

7 A No, I don't.

8 Q ---cooperating to the fullest extent?

9 A I don't.

10 Q Okay. And you were still with Mr. Green for your, for
11 the initial meeting that you had with him at the time that
12 the, the search warrant on the house was initially executed,
13 correct?

14 A I, I believe, I believe so. I believe, while I was
15 with him, that that had begun.

16 Q Okay.

17 A While I was away from the house.

18 Q And you were aware it was going on?

19 A That's correct.

20 Q Thank you.

21 Nothing further, Your Honor.

22 SOLICITOR THILL: Your Honor, I have no questions.

23 THE COURT: You may step down.

24 SOLICITOR WILLINGHAM: Your Honor, just to let the
25 Court know, I'm gonna call Ted Beatty to the stand. He is

Ted Beatty - Direct examination
by Solicitor Willingham

1 more the Fourth Amendment issue than, than the statement
2 issue. But I figure we'd get all the testimony in before
3 arguments.

4 THE COURT: That will be fine.

5 Mr. Beatty, come forward and be testify, be sworn.

6 TED BEATTY, being first duly sworn,
7 testified as follows:

8 DIRECT EXAMINATION

9 BY SOLICITOR WILLINGHAM:

10 Q Tell the Court who you are.

11 A Ted Beatty.

12 Q Mr. Beatty, you work with the Sheriff's Office?

13 A I do.

14 Q You were back in forensics back in February of '04?

15 A Yes.

16 Q You executed a search warrant at [REDACTED] [REDACTED]

17 [REDACTED] in Wellford?

18 A Right.

19 Q I'm going to show you this after I have it marked.

20 (Whereupon, the search warrant was marked as State's
21 Exhibit No. 7 for identification purposes only at this
22 time.)

23 Q Show you State's Exhibit No. 7.

24 Is that the search warrant that you executed on that
25 house?

Ted Beatty - Direct examination
by Solicitor Willingham

1 A It is.

2 Q And it had your signature on it as executing officer?

3 A Yes.

4 Q And you actually did the return of items that were
5 taken from that location?

6 A Yes.

7 Q Does that document accurately reflect the search
8 warrant as a whole as it was in y'all's possession back in
9 February of '04?

10 A Yes, sir.

11 SOLICITOR WILLINGHAM: Your Honor, at this time I move
12 State's Exhibit No. 7 into evidence for purposes of this
13 hearing.

14 THE COURT: Any objection?

15 MS. QUIMBY: No objection, Your Honor.

16 THE COURT: All right. Admitted as marked.

17 (Whereupon, State's Exhibit No. 7 was received into
18 evidence for purposes of this hearing only.)

19 SOLICITOR WILLINGHAM: That's all the questions I have
20 of this witness, Your Honor.

21 THE COURT: Ms. Quimby, your witness.

22 CROSS-EXAMINATION

23 BY MS. QUIMBY:

24 Q Officer Beatty, you got to the scene at what point?

25 A The original officers were there, and then I was

Ted Beatty - Cross-examination
by Ms. Quimby

1 requested to come process the scene.

2 Q Okay. So, you, you arrived there after Officer,
3 Investigator Dudzenski arrived with the search warrant?

4 A No, we waited for a while for him to get there with it
5 before I ever went in.

6 Q Okay. Were you there when the initial entry into the
7 home was made?

8 A No.

9 Q No.

10 Okay. Okay. Thank you.

11 A Well, are you talking about when Sergeant Brown first
12 went in or for the search warrant?

13 Q When Sergeant Brown first went in.

14 A No, I was not.

15 Q Okay. Thank you. Nothing further.

16 THE COURT: Anything further from this witness?

17 SOLICITOR WILLINGHAM: No, sir, Your Honor.

18 THE COURT: You may step down, sir. Thank you very
19 much.

20 SOLICITOR WILLINGHAM: Your Honor, that would be the
21 State's showing at this time.

22 THE COURT: Can I ask the attorneys to approach?

23 (Whereupon, a bench conference was held at this time.)

24 THE COURT: Bring the jury in.

25 (Whereupon, the following takes place within the

Ted Beatty - Cross-examination
by Ms. Quimby

1 presence of the jury.)

2 THE COURT: Ladies and gentlemen of the jury, we're
3 still in the process of dealing with preliminary matters in
4 this case. It's taking longer than I originally
5 anticipated.

6 And so, rather than have you -- it looks like we might
7 be able to get started some time after four o'clock. But
8 rather than have you sit in a jury room for two hours and
9 then try and get started, I think the best procedure is to
10 just start the case fresh in the morning as far as you're
11 concerned. I'm gonna continue to deal with the preliminary
12 matters.

13 I apologize to you about my inability to properly
14 estimate the time on this. But that happens in, in trials.
15 And I'll explain that to you in a little more detail
16 tomorrow.

17 My same admonishment goes as far as your contact
18 outside of the courtroom or any information outside of the
19 courtroom that I gave before the lunch break. Please do not
20 discuss this case with anyone, anything about it, what it's
21 about. Do not begin to formulate any opinions concerning
22 this matter until you've heard all the evidence and I charge
23 you with the law.

24 Again, I apologize for having you come back. But this
25 is taking longer than I thought it would. But we want to be

1 sure we cover it thoroughly.

2 So, I'm going to release you at this point in time. We
3 will begin the trial, I can assure you, at 9:30 in the
4 morning. Please be in the jury room at that time.

5 Thank you very much.

6 You're free to go.

7 (Whereupon, the following takes place outside the
8 presence of the jury.)

9 THE COURT: All right. Ms. Quimby, I had agreed to do
10 a plea at two o'clock. I'm gonna ahead, go ahead and start
11 that before I call on you. Give you a few minutes to talk
12 it over with your client or whatever you need to do.

13 But at any rate, we'll go ahead and do that plea this
14 time.

15 (Whereupon, a short recess was taken at this time.)

16 THE COURT: All right. All right. When we took our
17 break, Ms. Quimby, the State had made its showing in, on the
18 motion.

19 Do you wish to call any witnesses?

20 MS. QUIMBY: One, one moment.

21 THE COURT: Yes, ma'am.

22 (Pause.)

23 THE COURT: Yes, ma'am. I'm sorry.

24 MS. QUIMBY: That's, that's all right, Your Honor.

25 For purposes of, of this motion only, without waiving

1 any Fifth Amendment rights to remain silent during the trial
2 itself, I would, at this time, call Mr. Harold Greer.

3 THE COURT: Come forward and be sworn.

4 I assume he's only gonna offer testimony concerning the
5 voluntariness of his statement, is that correct?

6 MS. QUIMBY: I have explained to him the bounds of the
7 questions and answers for this hearing, and I believe that
8 he understands them.

9 THE COURT: I will go over that with him.

10 MS. QUIMBY: Yes, sir.

11 THE COURT: You may swear him.

12 HAROLD GREER, being first duly
13 sworn, testified as follows:

14 THE COURT: Mr. Greer, you have sworn to, been sworn to
15 testify in this matter. This hearing is concerning the
16 voluntariness of statements that may of been given to you
17 prior to this trial. This hearing is also concerning the
18 appropriateness of searches that may of taken place at a
19 place where you resided.

20 I will caution you that you will be allowed to testify
21 on these matters without waiving your right to remain
22 silent. However, the statements that you make during this
23 hearing are evidence and can be used in a later trial or
24 court proceeding. Specifically the trial of your case.

25 I assume you've discussed this with your attorney, is

1 that correct?

2 DEFENDANT: Yes, sir.

3 THE COURT: Do you understand the bounds of your
4 testimony in this matter?

5 DEFENDANT: Yes, sir.

6 THE COURT: Do I need to go over that with you any
7 further at this point in time?

8 DEFENDANT: No, sir.

9 THE COURT: All right. Anything else you'd like to ask
10 me to ask him, Ms. Quimby, before we begin?

11 MS. QUIMBY: I think that should be sufficient, Your
12 Honor.

13 THE COURT: All right. You may proceed.

14 MS. QUIMBY: May it please the Court?

15 THE COURT: Yes, ma'am.

16 DIRECT EXAMINATION

17 BY MS. QUIMBY:

18 Q Please state your name for the record.

19 A First, giving all honors to the Lord Jesus Christ, our
20 Savior, Harold Greer, Junior.

21 Q Okay. And how old are you, Mr. Greer?

22 A I'm 47.

23 Q And you understand what you're being charged with?

24 A Yes, ma'am.

25 Q Correct?

Harold Greer - Direct examination
by Ms. Quimby

1 And you understand -- do you remember giving certain
2 statements to officers, police officers about two years ago?

3 A I remember giving some of them, yes, ma'am.

4 Q Okay. And some of them ended up being written down
5 that you signed.

6 Do you remember that?

7 A Yes, ma'am.

8 Q Okay. And some of them were things that you just said
9 out, that, that you may of said out loud to a police officer
10 and that now they, the State is trying to use that in the
11 trial against you.

12 You understand that?

13 A Yes, ma'am.

14 Q Okay. Do you remember the, the morning that you came
15 into contact with Chief Joel Greer of the Wellford Police
16 Department?

17 A Yes, ma'am.

18 Q Okay. And do you remember what happened when you
19 initially made contact with him?

20 A Yes, ma'am.

21 Q What do you recall?

22 What do you recall your purpose being?

23 What did you want to talk to him for?

24 What was, what was the thing on your mind that you
25 wanted him to do or why did you want him there?

Harold Greer - Direct examination
by Ms. Quimby

1 A Because I knew I had did something wrong that night.

2 But I knew in my heart that I wasn't in my right mind. So,

3 I---

4 Q Well---

5 A ---called him to let him know that it was something I

6 had did wrong, and I wanted him to bring me to the detention

7 center for it.

8 Q Okay. So, so, you felt emotional?

9 A Right.

10 Q Okay. When, when you first -- do you remember sitting

11 in Chief Greer's car, in his patrol car?

12 A Yes.

13 Q Okay. And you remember you had the handcuffs on?

14 A Yeah, he put the handcuffs on. But I don't---

15 Q Okay.

16 A ---I don't remember him putting them on---

17 Q Okay.

18 A ---at my cousin's house.

19 Q Okay. That's, that's fine.

20 Do you remember whether or not you were in a seat belt

21 in the car?

22 A I wasn't -- he didn't, he didn't put no seat belt on

23 me. We didn't go no far than Dodd Road to the Wellford

24 Police Department, which was what, two, three minutes and

25 you're there.

Harold Greer - Direct examination
by Ms. Quimby

1 Q Okay. Do you recall your conversation with Chief Greer
2 at all?

3 A Yes, ma'am.

4 Q And you were in the courtroom a little bit earlier
5 today when you heard Chief Greer testify, correct?

6 A Yes, ma'am.

7 Q All right. Was it your intent to, to give him a
8 complete story about what happened or did you -- let me, let
9 me, let me back up just a little bit.

10 What do you remember about -- do you remember a time
11 when you started feeling comfortable enough with Chief Greer
12 to start talking to him?

13 A I guess when he start telling me that everything going
14 to be all right, and you doing the right thing by you turned
15 yourself in, you think you done did something wrong, but it
16 just, it just, when he was talking to me, it made me feel
17 like I -- you know, this be the best thing for me to do is
18 just, just tell the truth, you know.

19 So, that's---

20 Q Right.

21 He asked you to cooperate, right?

22 A Yeah.

23 Q Okay.

24 A When he asked me to, you know, what had happened or
25 whatever and I just --.

Harold Greer - Direct examination
by Ms. Quimby

1 Q Did you believe that something -- did you believe that
2 there was gonna be a certain outcome for you if you
3 cooperated?

4 A Maybe. Yeah, cause the way he was saying it to me
5 like, you know, it's, this the best thing for you to do no
6 matter what. Say what you need to say now, you know, or I'm
7 not thinking about no lawyer or they gonna throw this back
8 up on me now or whatever, what I done said about what
9 happened.

10 So, I just -- I was hurt cause I done realized I done
11 did something wrong.

12 Q Okay. Did you feel, in any way, like you were being
13 threatened into making any statements or giving any
14 statements?

15 A No, not really.

16 Q Okay. So, you didn't feel threatened?

17 A No.

18 Q Did you feel like, did you feel like they were doing
19 the opposite, he might of been doing the opposite of that?

20 I mean did you -- you didn't feel threatened.

21 Did you feel like anything was being promised to you?

22 A No, ma'am, felt like he doing his job.

23 Q Okay. And so, you do not -- so, did you believe that
24 there would be any specific outcome for you from giving any
25 statements either out loud or in writing?

Harold Greer - Direct examination
by Ms. Quimby

1 A Yes, in a way.

2 Q And can you say what those are?

3 A I just thought maybe they, it, it would help me.

4 That's what they wanted me to say. I mean -- cause I know,
5 like I say, I didn't, I didn't feel like I was in my right
6 mind at the time. So --

7 Q Okay. Just let me shift over real quick, Mr. Greer,
8 and ask you this.

9 Do you remember whether or not you told Chief Greer
10 where you lived?

11 A Yeah, I remember telling him where I lived.

12 Q Okay. And who did you live with?

13 A With my daddy. . .

14 Q Okay. And Chief Greer knew that?

15 A I guess he did.

16 Q Did -- I mean did y'all -- do you remember whether or
17 not y'all had any conversation about that?

18 A Hu huh. (Negative).

19 Q Okay. And did, at any time, do you remember talking
20 with Sergeant Brown?

21 He was the one who came to Wellford Public, Wellford
22 Police Department after y'all got there.

23 A All I remember him doing was I got out of the car with
24 Sergeant Greer, the Officer Greer, Wellford. The other one
25 hand, took -- he took his handcuffs off me. The other one

Harold Greer - Direct examination
by Ms. Quimby

1 put his on, and put me in the other car. That's all I
2 remember.

3 Q Okay. All right. And do you remember Sergeant Brown
4 talking to you at all and asking you questions like where,
5 where, where is your daddy, what, things about -- well, let
6 me -- do you remember him asking you any questions about
7 what had happened the night before?

8 A No, he didn't.

9 Q Well---

10 A The Greer man told him and we went on down to -- well,
11 everything I had told the Wellford police he told the
12 others, the Spartanburg County man, which was whatever it
13 was, whichever one. He came and he came and he told him.
14 And then he went on, went on down there to the house.

15 Q Okay. Well, I don't know if you remember Sergeant
16 Brown testifying earlier, just a little while ago, that he
17 came and read you your Miranda rights.

18 Do you remember that?

19 A No, I don't.

20 Q Okay. Do you remember at all whether any officer on
21 that day asked you for, for permission to go into your
22 house?

23 A No, didn't nobody ask me no permission to go in the
24 house.

25 Q Okay. Please answer any questions that the State might

Harold Greer - Cross-examination
by Solicitor Willingham

1 have for you.

2 Okay, Mr. Greer?

3 THE COURT: Mr. Willingham.

4 SOLICITOR WILLINGHAM: Thank you, Your Honor.

5 A Yes, ma'am.

6 CROSS-EXAMINATION

7 BY SOLICITOR WILLINGHAM:

8 Q Mr. Greer, I just want to make sure I understand what,
9 what you told us is that Chief Greer, this fellow right here
10 on the end, never threatened you in any way?

11 A No, he didn't.

12 Q ... He never promised you anything?

13 A ... No, he didn't.

14 Q He, he was doing his job?

15 A That's what I think, he was doing his job.

16 Q And he was nice about it?

17 A Yeah, when I called him, he -- it took a few minutes.

18 But he came.

19 Q Okay.

20 A And I---

21 Q I'm sorry. I didn't mean to interrupt.

22 A When I called, I didn't tell him nothing about what had
23 happened cause I didn't know for sure what really had
24 happened.

25 Q Right.

Harold Greer - Cross-examination
by Solicitor Willingham

1 A I asked -- I just wanted to get him over to my uncle's,
2 to my cousin's house to take me to the detention center
3 cause I knew, I feel like I had did something wrong.

4 Q And, and he explained to you or, or didn't he explain
5 to you that he just can't take you to the detention center
6 for no reason?

7 A Right.

8 Q And that's when you went forward and you told him well,
9 I think I killed my dad?

10 A I think I had killed my daddy.

11 Q Okay. Now, he gave you his, the Miranda rights too,
12 didn't he?

13 He told you you had the right to remain silent, had the
14 right to have a lawyer, if you can't afford a lawyer, the
15 court will appoint one, and you got a right to stop
16 questioning at anytime.

17 He went through all those rights with you, didn't he?

18 A He might of did, but he didn't do it right then.

19 Q Okay. How far did you go in school?

20 A I went to the, finished the tenth grade.

21 Q Tenth grade.

22 Did you ever do any of the eleventh?

23 A I think I might of did a little bit of the eleventh .

24 Q Okay. And I hate to ask you this, Mr. Greer, how old
25 are you?

Harold Greer - Cross-examination
by Solicitor Willingham

- 1 A I'm 47.
- 2 Q Forty-seven years old.
- 3 Now, you've been in the criminal justice system for a
- 4 while, haven't you?
- 5 A Criminal justice system?
- 6 Q You've been arrested before; hadn't you?
- 7 A Yeah, I've been arrested.
- 8 Q A bunch of times?
- 9 A No, I ain't been arrested no bunch of times.
- 10 Q Well, back in 19 -- starting in 1979, wasn't it?
- 11 A '79?
- 12 Q You got a car breaking and grand larceny?
- 13 A How many years that is, '79?
- 14 Q I'm sorry?
- 15 A How long that's been, '79?
- 16 Q That's a long time.
- 17 A Right.
- 18 Q That's a long time.
- 19 But you were arrested back then, right?
- 20 A I probably were.
- 21 Q Car breaking and grand larceny, right?
- 22 A Yeah.
- 23 Q Okay. And then looks like you got a, maybe a youthful
- 24 sentence, offender sentence for that.
- 25 You remember that?

Harold Greer - Cross-examination
by Solicitor Willingham

- 1 A I can't remember.
- 2 Q Okay. Your next arrest was in 1983, is that right, for
- 3 driving under suspension and filing a false affidavit?
- 4 A Yeah, traffic. Right. Yeah. Okay.
- 5 Q Okay.
- 6 A Yeah.
- 7 Q '84, for discharging a firearm and malicious damage.
- 8 A '84, right, right.
- 9 Q '85, failure to stop, driving under suspension.
- 10 A Trafficking, yes, sir.
- 11 Q Another traffic, driving under suspension in '87 and
- 12 another failure to stop.
- 13 A Yes, sir, if that's what you got.
- 14 Q And in 2000, you had a common, a strong armed robbery,
- 15 common law robbery conviction?
- 16 A Yes, sir.
- 17 Q And you got what, eight years on that suspended to
- 18 three years maybe?
- 19 How much time you do on that?
- 20 A Three years probation, yes, sir.
- 21 Q During those times of your prior arrests, other
- 22 officers have told you what your rights are, haven't they?
- 23 A Yeah, I have been read -- somebody read they rights to
- 24 me before, yeah.
- 25 Q And you know what they are, don't you?

Harold Greer - Cross-examination
by Solicitor Willingham

1 A You got the right, the right to remain silent unless
2 you got a lawyer. That's the only part I understand of it
3 anyway.

4 Q Okay. And, and anything you say can be used against
5 you, right?

6 A If that's, if that's what it say.

7 Q Well, you know it.

8 I mean if you say something to the police, they gonna
9 use it against you?

10 A Sometimes they don't say all that to you. They just
11 say you got the right to remain silent and whatever you say
12 will be used against you and that's all.

13 Q Okay. All right. Whenever Sergeant Brown with the
14 county came up there, he gave you your rights too, right?

15 A He might of did.

16 Q He might of did?

17 A He might of did. I don't know.

18 Q Okay. When Darren Dukes talked to you, he actually
19 read those rights off of a form to you, didn't he?

20 A Yeah.

21 Q Yeah. And---

22 A Cause the man from Greer made it so, from Wellford made
23 it so clearer that this was what I needed to do cause I know
24 I couldn't afford no lawyer.

25 Q Right.

Harold Greer - Cross-examination
by Solicitor Willingham

- 1 A So, I don't know how I was really gonna get a lawyer
2 anyway. So, that's why I said what I did.
- 3 Q Okay. But you made that decision on your own, right?
- 4 A When they talked to me, yeah, I answered they
5 questions.
- 6 Q Nobody made you do it?
- 7 A No, didn't nobody make you.
- 8 Q Nobody forced you to give a statement, did they?
- 9 A No.
- 10 Q And you, and you signed these forms?
- 11 You signed these forms saying that you understood those
12 rights?
- 13 Isn't that your signature right there on State's
14 Exhibit No. 1?
- 15 A Yes, it is.
- 16 Q And the same thing on State's Exhibit No. 3?
- 17 A Yes, it is.
- 18 Q And then you give up those rights and you agree to talk
19 to the officers, right?
- 20 A Yeah, I must of did, but I didn't know that what I was
21 doing, giving up my rights.
- 22 Q Well, he read it to you, didn't he?
- 23 A I guess. I don't know. I can't remember.
- 24 Q So, you're saying, you're saying you can't remember?
25 You don't know if it happened or not?

Harold Greer - Cross-examination
by Solicitor Willingham

1 A Huh hu. (Negative).

2 Q And then you gave statements, didn't you, State's
3 Exhibit No. 2, which is a two page statement, and State's
4 Exhibit No. 4, which is another two page statement, and you
5 signed both of those?

6 A Right.

7 Q And nobody made you give those statements?

8 A No, they didn't make me.

9 Q They didn't force you?

10 A No.

11 Q They never told you that you would, you'd get anything
12 in exchange for those statements, did they?

13 A No. And after he told me that, that my, I had, my
14 father was dead, it didn't make no difference then what
15 happened to me cause I loved him. I know I did it. And
16 like I say, I'm ready to die now for him.

17 Q Thank you, Mr. Greer.

18 Thank you, judge.

19 THE COURT: Redirect?

20 MS. QUIMBY: Nothing, Your Honor.

21 THE COURT: You may step down, sir.

22 State wish to call, I mean the defense wish to call any
23 other witnesses?

24 MS. QUIMBY: No, Your Honor.

25 THE COURT: All right. I'll be happy to hear argument

1 on the point.

2 Mr. Willingham.

3 SOLICITOR WILLINGHAM: Judge, I don't really know where
4 to start cause I'm not sure exactly what their, their
5 arguments are.

6 THE COURT: Well, I'll let her go first.

7 SOLICITOR WILLINGHAM: I'm sorry. Thank you.

8 THE COURT: And then, then that might frame the
9 argument.

10 SOLICITOR WILLINGHAM: Thank you, judge.

11 THE COURT: Ms. Quimby.

12 MS. QUIMBY: Thank you, Your Honor.

13 Taking these separately -- actually, I'm not sure --
14 can I inquire of the Court whether, whether you, whether
15 you'd like to see the video or not?

16 THE COURT: Well, has it been put in yet?

17 I don't know.

18 SOLICITOR WILLINGHAM: Yes, sir.

19 THE COURT: It has?

20 SOLICITOR WILLINGHAM: It was. It was put in through
21 the officer.

22 THE COURT: I would like to see it.

23 MS. QUIMBY: Thank you, sir.

24 SOLICITOR WILLINGHAM: Judge, you want to look at that
25 back in chambers or do you want to watch it out here?

1 THE COURT: Let's take it back to chambers unless
2 someone has an objection.

3 Any objection to my viewing it back in chambers?

4 MS. QUIMBY: No objection.

5 THE COURT: Do you wish to be present, either of you?

6 SOLICITOR WILLINGHAM: I don't need to, Your Honor.

7 THE COURT: Okay. If you'll set it up and I'll watch
8 it back there.

9 Court will be in recess while I review that evidence.

10 MS. QUIMBY: Thank you, sir.

11 (Whereupon, a short recess was taken at this time.)

12 THE COURT: All right. I've had an opportunity to
13 review that videotape.

14 Ms. Quimby, you may proceed.

15 MS. QUIMBY: Thank you, Your Honor.

16 May it please the Court?

17 THE COURT: Yes, ma'am.

18 MS. QUIMBY: Taking the two issues in, in order, I will
19 begin with the Jackson v. Denno, the statement issue.

20 There, there is a good possibility, based on the testimony,
21 I believe it was a little bit alluded to in, on direct
22 questioning of Mr. Greer, but, but he even, he stated it
23 more clearly in cross-examination, that he believed that he
24 was being, he believed that there was an inducement for him
25 to give those initial, to, for him to give statements based

1 on almost being lulled into a, some sort of feeling that he
2 was being promised that everything's gonna be okay by Chief
3 Greer of Wellford.

4 He was warmly received. He was put in the front seat.
5 Chief Greer spoke to him like an old friend. He told
6 Mr. Greer that it wasn't murder, that it was probably, it
7 was manslaughter or accident, told him, you know, people
8 would understand, that it would be a long process, but, but
9 just to cooperate. And that was the overriding theme was
10 cooperate and things will work out.

11 I'll be happy to tell people things on your behalf.
12 I'll be happy to do this. Here's what I'm gonna tell them.
13 I'm gonna make sure that every, that -- I think what
14 Mr. Greer was hearing from that conversation was all you
15 have to do is give them statements, all you have to do is
16 cooperate and tell them. Whatever they ask you, you just
17 tell it all and there will be a good result for you.

18 It's, it's -- I will agree that it wasn't anything
19 specific. He didn't promise him a low bond. He didn't
20 promise him a PR bond. He didn't promise him a dismissal or
21 even that no charges would ever be filed. He didn't promise
22 him anything specific, but what he did do was tell him, you
23 know, I'm, I'm not gonna plaster your name all over
24 everything, I'm gonna keep it quiet, I'm not gonna, you
25 know, in essence, I'm gonna help make everything okay, I'm

1 gonna help make it right, and you just have to cooperate,
2 you just have to talk to everybody.

3 Chief Greer seemed to insist that Mr. Greer cooperate
4 to the fullest extent, extent possible, and, you know, that,
5 that could be seen as an inducement to, to give an
6 incriminating statement, whether that statement ultimately
7 was given to Chief Greer or some subsequent person.

8 And in fact, Mr. Greer did continue to cooperate. He
9 did continue to given incriminating statements, and, and
10 even signed them when he thought that they were induced.

11 THE COURT: And each time -- he was given his rights at
12 each stage, is that correct?

13 You're not contesting--

14 MS. QUIMBY: I'm of---

15 THE COURT: Are you contesting whether or not he was
16 Mirandized at each, before each statement?

17 MS. QUIMBY: No, sir, I'm not contesting that.

18 THE COURT: Okay.

19 MS. QUIMBY: But I am -- but I suppose, I suppose that
20 my position would be that---

21 THE COURT: You're saying if there was a taint at the
22 first, then that would carry over to the others because of
23 the urge that he should cooperate?

24 MS. QUIMBY: Yes, sir.

25 And Investigator Dukes even said he did respond well,

1 he understood, he cooperated, and he did not ask Mr. Greer
2 if anybody ^{or} else had promised him anything or made him feel
3 like there was a promise to him.

4 Regarding the next issue, the warrantless search, Your
5 Honor, I understand that the State, the State's position is
6 that there were exigent circumstances and that they were
7 making entry into the residence without a warrant to render
8 aid, if necessary.

9 But it's the State's burden of proof to prove that that
10 was reasonable, that the existence of the exceptional
11 situation, and -- the, the rule is that warrantless entry
12 may be legal, not is legal, but may be held legal when
13 there's a compelling need for official action, action and
14 no time to secure a warrant.

15 They did not have a warrant. They did not have his
16 consent. I don't know how many people talked to Mr. Greer,
17 at least Chief Greer and Sergeant Brown, prior to them
18 making entry and Officer Pridgeon even came up to Wellford.
19 Nobody asked Mr. Greer for consent. That's all they had to
20 do.

21 He was telling them where he is. He was telling them
22 that he had done something the night before. But nobody
23 asked the magic question well, do you, do you mind if we go
24 in. ^{he} That's all they had to do or get a warrant.

25 They didn't have one. They didn't have his consent.

1 They did not have exigent circumstances. I don't think that
2 they really believed that they were going to have to render
3 any aid to the deceased.

4 Chief Greer did not call EMS. He did not go himself
5 and secure Mr. Greer in the rear of his car if need be. He
6 didn't rush there. He didn't have anybody else rush there.

7 He had Sergeant Brown come to Wellford P.D. Officer
8 Pridgeon came to Wellford P.D. And even when Officer
9 Pridgeon was sent out to the residence, he was just told to
10 secure a crime scene. That's what they considered it. They
11 considered it a crime scene. I don't think anybody
12 reasonably believed there was anybody inside that needed
13 aid.

14 And under, under that circumstance, Your Honor, I
15 it's an exclusionary rule, and, and I don't think that it
16 should be weakened on a could be when every indication -- it
17 was called out as a death call, a deceased call, a murder
18 call. Every indication was that they were processing this
19 as a crime scene.

20 And whether there ended up being a person inside of the
21 house or not, which ended up being Mr. Greer's son, in
22 those, in the sweep of the house, whether there actually
23 ended up being someone in the house or not, that did not
24 change the circumstances under which they went in. They
25 didn't go render aid because they already believed that they

1 were going to a death call. And that, that's our position,
2 Your Honor.

3 And I would, I would ask Your Honor to consider the
4 case of State versus Jessie Keith Brown. It's a 1986 case.
5 But I have, I have not found that that's been specifically
6 overruled or made bad law. And in this case -- I'm sorry,
7 Your Honor.

8 (Pause.)

9 MS. QUIMBY: In this case, Your Honor, I don't think
10 the State can meet its burden of justifying the warrantless
11 entry into the house. And the reason that I would ask Your
12 Honor to include all evidence obtained after that point from
13 the house is because the search warrant that has already
14 been admitted, in the affiant's reasons for, in the
15 affidavit, it, it, it's knowledge that was gained from being
16 inside the house. And if it's knowledge that was being
17 gained from being inside the house, when they weren't
18 suppose to be in the house, it tainted everything
19 thereafter.

20 And I would ask Your Honor to, to consider that and
21 suppress any evidence that was either discovered or
22 ultimately obtained as a result of the initial warrantless
23 entry with no exception that I'm aware of that I believe
24 applies.

25 THE COURT: Now, the only information in the affidavit

1 that would of been gained by entering the house is the fact
2 that they found a dead victim inside?

3 MS. QUIMBY: Well---

4 THE COURT: Am I reading that right?

5 MS. QUIMBY: I apologize, Your Honor. I'm sorry. I
6 got too many things sitting right here.

7 (Pause.)

8 MS. QUIMBY: Well, Your Honor, it does include they,
9 they did find him dead in the garage, and there wouldn't
10 have been, they would have had to step over blood. And in
11 their investigative reports and all of their, all of the
12 officers' reports, they described we had to maneuver
13 ourselves around all this evidence and back ourselves out
14 carefully so we didn't disturb any of it, blood spatters,
15 and other things that they noticed.

16 So, I do, I do believe that --.

17 THE COURT: And, and I do note that in the affidavit
18 for the search warrant, it indicates that they went to the
19 home to check on the well being of the victim.

20 MS. QUIMBY: I understand that it says that, Your
21 Honor.

22 THE COURT: And, of course, you may argue that may be a
23 self-serving statement I guess in there. But the -- it does
24 state that that was the reason for going to the home.

25 But I don't see anything in there indicating that they,

1 they already identified any evidence in, within the home
2 other than the body itself and the pool of blood that he was
3 lying in.

4 MS. QUIMBY: Well -- and I understand, I understand
5 that, Your Honor. But, but I think that due to the fact
6 that they did have to maneuver around all this other---

7 THE COURT: What other evidence are we talking about?
8 What was seized at the house?

9 I got no idea what was seized at the house.

10 SOLICITOR WILLINGHAM: Judge, it's on the---

11 THE COURT: What other evidence; what other evidence
12 would of been plainly in view?

13 SOLICITOR WILLINGHAM: It's on the return of that
14 search warrant what was seized.

15 THE COURT: All right. Let me see what that says.

16 Looks like a wallet from a sewing table. Other than
17 blood samples that were taken from various places around the
18 house.

19 MS. QUIMBY: There were---

20 SOLICITOR WILLINGHAM: There was a wallet. There were
21 a couple -- there were several knives taken.

22 THE COURT: A couple of pocket knives.

23 SOLICITOR WILLINGHAM: There was a brick.

24 THE COURT: A butcher knife, yeah.

25 MS. QUIMBY: The knife that I believe the State would

1 be identifying as the murder weapon, the brick that the
2 State would be identifying as the murder weapon. All of
3 these things.

4 The majority of these things would of been visible to
5 the people who, to Sergeant Brown and Officer Dudzenski when
6 they made their initial entry.

7 THE COURT: Okay. Anything else, ma'am?

8 MS. QUIMBY: No, Your Honor.

9 THE COURT: Mr. Willingham.

10 SOLICITOR WILLINGHAM: Your Honor, there are -- I think
11 I misspoke when I told you earlier about there only being
12 four statements. I think they're a total of five.

13 The first being on the roadside with Chief Greer when
14 he first arrived at [REDACTED] [REDACTED] [REDACTED]. He met the defendant
15 there. Before he could say anything, he said that the
16 defendant indicated he wanted to go to the detention center.
17 He indicated I can't just take you to the detention center.
18 He said well, I killed my father.

19 Those -- that statement, Your Honor, those statements I
20 do not believe are subject to Miranda because he was not in
21 custody at that time, and I'd ask that they be admitted as
22 being freely and voluntarily made, basically spontaneous
23 utterances made by the defendant that was not subject to
24 interrogation and not subject to be in custody.

25 The next statement involves the conversation that he

1 had with Chief Greer. Your Honor, I believe that is a free
2 and unconstrained statement, a voluntary statement of the
3 defendant.

4 While the defense attorney keeps alluding to promises
5 made or promises of leniency that were made, there's been
6 absolutely no testimony of that. Where they got the exact
7 opposite is, is that I believe the argument was that he was
8 warmly received, was talked to as an old friend. That flies
9 in the exact face of it not being voluntary.

10 The Court's now had an opportunity to review the tape,
11 and, and at one point, the defendant thanks the chief for
12 being so nice to him.

13 I do not think there's anything improper with an
14 officer trying to develop a rapport with a suspect. The,
15 they -- he was encouraged to cooperate. He was encouraged
16 to tell the truth. I do not believe there's anything wrong
17 with that.

18 It was a concern initially that, when he advised him of
19 his rights, he said or he -- when questioned if he wanted to
20 talk, he indicated, in a grunting sound, that he may not
21 wish to, but then he continued to talk. He continued to
22 talk about how he wanted to go to the detention center and
23 how he wanted to be held responsible for this. And he
24 continued the conversation with the officer.

25 I believe his statement is voluntary.

1 As far as the other statements, Your Honor, I believe
2 they are likewise voluntary. He was given his Miranda
3 rights by Tony Brown, by Darren Dukes at 10:25, and then by
4 Darren Dukes again at seven something that night. Each time
5 he indicated he understood those rights. And on those forms
6 that are State's Exhibits before the Court, he waived -- he,
7 he not only signed he understood those rights, that he
8 waived and freely gave up those rights and agreed to talk to
9 the officers.

10 Never has there been any testimony of leniency, of a
11 promise, of a threat, or ever him asking to cut off
12 questioning or for a right to an attorney.

13 ... Your Honor, he is an -- he went to the, graduated the
14 tenth grade, went to part of the eleventh grade. He's 47
15 years old. He's been in the criminal justice system since
16 1979.

17 I bring that out, one, for impeachment purposes, but
18 also, more importantly, to show the background of this
19 defendant. This is not the first time that his rights have
20 ever been read to him, that he knows the system, that he
21 knows his rights, and he knew what he was doing when he
22 waived, waived those rights and continued and agreed talk to
23 the officer.

24 I don't think the officer should be held or penalized
25 for being nice to the defendant. I think, if he's been

1 anything but nice, we would be hearing more of, during these
2 arguments.

3 As far as the suppression of the evidence, Your Honor,
4 it's clear that these are exigent circumstances that existed
5 in this case and they're cases on that. I know the Court
6 knows concerning exigent circumstances. They are State
7 versus Brown, 1986, and also Rhoden versus Kentucky, which
8 is the United States Supreme Court.

9 The Exigent Circumstances Doctrine allows warrantless
10 entry by criminal law enforcement officials based upon
11 probable cause when there is a compelling need for official
12 action and no time to secure a warrant. Your Honor, he had
13 someone reporting to him that he, he had possibly killed his
14 father. His testimony today even was he didn't know at the
15 time, the defendant didn't know at the time whether or not
16 he had killed his father. He believed that he had. And
17 once he learned that he had, at that point he wished to
18 assume some responsibility.

19 Your Honor, the officers, Tony Brown, Barry, went to
20 the scene. They went to that scene, they testified, to
21 render aid, if necessary, to the victim.

22 Your Honor, if they had gone to that scene under
23 exigent circumstances and gone in and started collecting
24 evidence and, and seizing items that were, at that point, in
25 plain view and trying to bring them in here, I think,

1 arguably, she may have a better, the defense lawyer may have
2 a better argument, judge.

3 But the fact they went in, that immediately, was
4 immediately apparent he was dead, and you've seen the
5 pictures, and you can see how, no respirations, they came to
6 that conclusion fairly quickly, and at that point they
7 backed out. They backed out and they waited a substantial
8 amount of time for that warrant.

9 Judge, if you look at that warrant, the only reference
10 to what may of been seen was the dead body. Even if you
11 take that line out of the warrant, of the affidavit, you
12 still have probable cause to search that house. That,
13 warrant is not defective even if you take that line out of
14 the affidavit. There's still probable cause. They still
15 have a right to search it.

16 So, judge, I believe the statements made to Joel Greer,
17 I believe the statements made to Tony Brown, I believe the
18 statements made to Darren Dukes are all freely, voluntarily,
19 and intelligently given based upon the totality of the
20 circumstances, that he knew his rights, based on his
21 background, that he knew his rights, he agreed to talk to
22 these officers, and he agreed to tell them what happened.

23 Additionally, Your Honor, I believe it's the State --
24 the officers had a right to be where they were when they
25 went to check on that victim. And as soon as they saw that

1 he was deceased, they backed out and they waited for a
2 warrant cause, at that point, they were, the exigent
3 circumstances had evaporated. There, there was no need to
4 stay in that house. They backed out and they secured it
5 until a warrant got there.

6 I think they did exactly what they were suppose to do,
7 and, Your Honor, I'd ask that no evidence be suppressed.

8 THE COURT: Anything else you'd like to say,
9 Ms. Quimby?

10 MS. QUIMBY: Just very briefly, Your Honor.

11 The fact that the officers then backed out and left
12 does not, in and of itself, excuse the, this warrantless
13 entry into the house simply by the fact that they see what
14 they want to see and then they leave and they go get a
15 warrant.

16 Additionally -- well, thank you, Your Honor.

17 THE COURT: Couple of questions I have.

18 As far as the -- and I know it's testified to, but
19 refresh my memory, the timing of the various statements.

20 SOLICITOR WILLINGHAM: Your Honor?

21 THE COURT: The first one obviously was a statement
22 given at the time that he was picked up when he called.

23 SOLICITOR WILLINGHAM: That was, that was at 9:04.

24 THE COURT: All right. 9:04 in the morning?

25 SOLICITOR WILLINGHAM: 9:04 in the morning, yes, sir.

1 MS. QUIMBY: That's correct.

2 THE COURT: After---

3 THE COURT: All right. When was the next statement?

4 SOLICITOR WILLINGHAM: After that, Your Honor, the next
5 statement was made at 9:45 to Tony Brown. That was again at
6 the, at the Wellford Police Station.

7 The statement after that to Darren Dukes at the County
8 Sheriff's Office was at 10:25 a.m. The final statement to
9 Darren Dukes was at 7:17 p.m.

10 THE COURT: Question I have.

11 In listening to the tape, it sounded as if, when the
12 defendant was placed in the vehicle and the tape was turned
13 on, the police officer asked whether he wanted to talk, and
14 I think the defendant responded that he did not wish to
15 talk.

16 Is that a correct statement of what I heard?

17 SOLICITOR WILLINGHAM: Your Honor, he, he, he indicated
18 hu huh. At that point, the officer again asked him so, you
19 don't want to talk to me. There was no response. But from
20 that we can assume that he did not wish to speak to the
21 officer at that time.

22 However, Your Honor, that, that concerned me as well
23 the first time I heard it. There are, there are cases out
24 there, judge, that if the officer, if the, at that point the
25 officer doesn't ask him anything else, but the defendant

1 continues talking, that that is basically not, that's an
2 ineffective indication of his right to remain silent. And
3 the fact he continues to talk to the officer and has
4 conversation with the officer, the officers are not, does
5 not have to sit there quietly. He can have a conversation
6 or discussion with the defendant, with the defendant.

7 Your Honor, that would be the case of State versus
8 Mobley. No.

9 THE COURT: State versus Benjamin.

10 SOLICITOR WILLINGHAM: That will be State versus
11 Benjamin which cites the, the Mobley, I believe it's
12 Michigan versus Mobley case, Your Honor.

13 So, Your Honor, I, I, I do not believe that was an
14 effective indication of his rights. Even if it was, he
15 continued -- he basically reinitiated. I know the Court
16 knows it, there's a difference between exercising your right
17 to counsel and exercising his right to remain silent.

18 If you're exercising your right to remain, right to
19 counsel, an officer later can not reinitiate any contact.
20 It's different with the right to remain silent. If you
21 exercise your right to remain silent, the Court, in
22 Benjamin, cites that that's not a permanent bar to, for the
23 police to go back and talk to you again if enough time has
24 passed and his rights have been scrupulously honored.

25 Your Honor, I believe his rights were scrupulously

1 honored. I believe he continued the conversation with the,
2 with the officer. I do not believe this would be a
3 violation of his right to remain silent.

4 THE COURT: All right. You wish to be heard on that
5 point, Ms. Quimby?

6 MS. QUIMBY: No, Your Honor.

7 THE COURT: All right. I'm going to take the matter
8 under advisement. We will -- I'd ask that counsel be
9 available by nine o'clock in the morning. We'll resume the
10 trial at that point in time.

11 Court's in recess.

12
13 (Whereupon, Court was in recess for the evening.)

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1 Wednesday, March 17th, 2006

2
3 THE COURT: All right. Please swear the defendant.

4 (Whereupon, the defendant was placed under oath at this
5 time.)

6 THE COURT: All right. You are Harold Greer, Junior,
7 is that right, sir?

8 DEFENDANT: Yes, sir.

9 THE COURT: And you are represented by Ms. Quimby in
10 this case.

11 Is that also correct?

12 DEFENDANT: Yes, sir.

13 THE COURT: Have you had an opportunity to fully
14 discuss your situation with Ms. Quimby?

15 DEFENDANT: Yes, sir.

16 THE COURT: Has she answered all of your questions and
17 done everything you've asked her to do in connection with
18 your case?

19 DEFENDANT: Yes, sir.

20 THE COURT: Is there anything else, at this point in
21 time, that you feel that you need to discuss with your
22 attorney?

23 DEFENDANT: No, sir.

24 THE COURT: Now, sir, are you satisfied with your
25 attorney's services at this point in time?

1 DEFENDANT: Yes, sir.

2 THE COURT: Sir, I have in front of me an indictment.
3 The indictment is for the crime of murder. That carries a
4 potential penalty of 30 years to life.

5 Do you understand that, sir?

6 DEFENDANT: Yes, sir.

7 THE COURT: The murder indictment that I have is in
8 Case Number 04-GS-42-2191. The indictment states you did,
9 in Spartanburg County, on or about February 21st of 2004,
10 feloniously, willfully, and with malice aforethought kill
11 one Harold Greer, Senior by hitting the victim in the head
12 and stabbing him and that the victim died as a proximate
13 result thereof. All in violation of Code Section 16-3-10
14 and 20 of the South Carolina Code of Laws, 1976 as amended.

15 Do you understand the indictment I just read to you,
16 sir?

17 DEFENDANT: Yes, sir.

18 THE COURT: Now, you have the right to plead either
19 guilty or not guilty to that indictment.

20 How do you wish to plead?

21 DEFENDANT: I wish to plead guilty, sir.

22 THE COURT: Now, have you ever been treated for mental
23 illness or substance abuse?

24 DEFENDANT: No, sir.

25 THE COURT: All right. We've had a mental evaluation

1 of you done yesterday and previously.

2 Has anything changed since that time?

3 DEFENDANT: A lot of changes, sir, I've been going
4 through.

5 THE COURT: I'm talking about in your, your ability to
6 understand what's going on.

7 You understand what this proceeding is about?

8 DEFENDANT: Yes, sir. Yes, sir.

9 THE COURT: You understand the roles of the various
10 parties involved?

11 DEFENDANT: Yes, sir.

12 THE COURT: Is that correct?

13 And you understand the charge that you face.

14 Is that also correct?

15 DEFENDANT: Yes, sir.

16 THE COURT: All right. Today, have you taken or used
17 any substances that might affect your ability to reason or
18 make decisions today?

19 DEFENDANT: No, sir.

20 THE COURT: Now, Ms. Quimby, I assume you've had an
21 opportunity to fully discuss this case with your client?

22 MS. QUIMBY: Yes, Your Honor, I have.

23 THE COURT: And you've explained to him the nature of
24 the charge he faces, the potential penalties, any defenses
25 that he may have to the charge that he faces, along with his

1 Constitutional rights?

2 MS. QUIMBY: Yes, sir, we've discussed all of those
3 things at great length.

4 THE COURT: All right. And are you satisfied he
5 understands the discussions you had with him?

6 MS. QUIMBY: Your Honor, I believe that he, he does
7 have a factual understanding of, of all of those things and
8 the various things that we have discussed and some of the
9 concerns that I have raised previously. Your Honor, I don't
10 think go to his acknowledgment of what happened on that
11 night.

12 THE COURT: I understand.

13 But do you believe that he understood the explanations
14 you gave to him concerning what I just discussed with him?

15 MS. QUIMBY: Yes, sir.

16 THE COURT: Does he understand the nature of the
17 charge, the penalties involved---

18 MS. QUIMBY: Yes, sir.

19 THE COURT: ---constitutional rights, things of that
20 nature?

21 MS. QUIMBY: Yes, sir.

22 THE COURT: All right. He tells me he wishes to enter
23 a plea of guilty.

24 Do you agree with his decision to do that?

25 MS. QUIMBY: Yes, sir, I do.

1 THE COURT: Now, Mr. Greer, according to my
2 information, you're 47 years of age, is that correct?

3 DEFENDANT: Yes, sir.

4 THE COURT: How far did you go in your education?

5 DEFENDANT: I finished the tenth grade and started in
6 the eleventh and dropped out.

7 THE COURT: All right. And were you employed at the
8 time of this particular incident occurred?

9 Were you working anywhere?

10 DEFENDANT: No, sir, but I had got a job with Warner
11 Trucking Company. I was a truck driver before all this
12 happened.

13 THE COURT: Okay. So, you -- you're a truck driver by
14 profession, is that correct?

15 DEFENDANT: Yes, sir.

16 THE COURT: All right. Now, are you currently married?

17 DEFENDANT: Yes, sir.

18 THE COURT: Do you have children?

19 DEFENDANT: Yes, sir.

20 THE COURT: What -- tell me the ages of your children.

21 DEFENDANT: My youngest son is Jamar Irby. He's 17.
22 My next to the youngest son is Rashad Carson. He's 23 or
23 24. My daughter, Felicia Carson, is 25. And my oldest son,
24 Rico Smith, is 27.

25 THE COURT: All right. Now, sir, has anyone, in any

1 way, threatened you, coerced you, put pressure on you, tried
2 to intimidate you, in other words, done any act to try to
3 make you plead guilty when you didn't want to?

4 DEFENDANT: No, sir.

5 THE COURT: All right. Are you offering your plea
6 freely and voluntarily?

7 DEFENDANT: Yes, sir.

8 THE COURT: Have you had enough time to think about all
9 the matters in your case?

10 DEFENDANT: Yes, sir.

11 THE COURT: Now, sir, has anyone made any promises or
12 guarantees or assurances to you concerning any matter...
13 involved in your case such as pardon, parole, probation,
14 early release, length of sentence?

15 How much -- have they made a promise or guarantee to
16 get you to plead guilty?

17 DEFENDANT: Length of sentence, the time.

18 THE COURT: Has someone promised you that you will get
19 something or have they told you there's a possibility that
20 you will get something?

21 DEFENDANT: There's a possibility.

22 THE COURT: All right. My question was has anybody
23 made any promises, guarantees, or assurances to you of any
24 matter to get you to plead guilty?

25 Has someone said I guarantee that you'll get 25, 30

1 years, or 40 years if you'll plead guilty?

2 Did they guarantee or assure you that that's gonna
3 happen?

4 DEFENDANT: In a way I was assured that was gonna
5 happen.

6 THE COURT: Well, sir, I -- but I've already advised
7 you of the potential sentence and the fact that I have the
8 right, under the law, to sentence you to the full extent if
9 I choose to do so.

10 Do you understand that?

11 DEFENDANT: Yes, sir.

12 THE COURT: So, I'm telling you, at this point in time,
13 you should not rely on any assurances whatsoever as to any
14 of those matters.

15 Do you understand that?

16 DEFENDANT: Yes, sir.

17 THE COURT: Now, does that, in any way, change your
18 plea?

19 DEFENDANT: No, sir.

20 THE COURT: Still pleading guilty?

21 DEFENDANT: Yes, sir.

22 THE COURT: All right, sir. I'm gonna go over with you
23 your Constitutional rights. I want to be sure you
24 understand them. If you have any questions concerning these
25 rights, you let me know when I finish.

1 As you're aware, you have the right to a trial by jury.
2 At that jury trial, you would be presumed to be innocent
3 until the State proves your guilt beyond a reasonable doubt.
4 You'd have the right to have witnesses subpoenaed and
5 brought to Court to testify for you. You would have the
6 right to confront or question any witness the State presents
7 against you.

8 You have the right, at all times, to remain silent.
9 That includes at your trial or this hearing. If you decide
10 to remain silent at your trial, I would instruct the jury
11 that your silence could not be used against you in any
12 fashion whatsoever in determining the outcome of your case.
13 You'd be allowed to present any defense that you may
14 have to the, to the charge, and you'd be given an
15 opportunity to try to suppress the evidence that the State
16 has at the trial.

17 Now, do you understand your rights, Constitutional
18 rights concerning a trial in this matter?

19 DEFENDANT: Yes, sir.

20 THE COURT: Any question about those Constitutional
21 rights I just explained to you?

22 DEFENDANT: No, sir.

23 THE COURT: Do you understand that, if you plead guilty
24 and I decide to accept your plea, that you will have given
25 up all of those rights I just described to you?

1 DEFENDANT: Yes, sir.

2 THE COURT: Now, does that, in any way, change your
3 plea?

4 DEFENDANT: No, sir.

5 THE COURT: Are you still pleading guilty?

6 DEFENDANT: Yes, sir.

7 THE COURT: Are you pleading guilty because you are
8 guilty, sir?

9 DEFENDANT: Yes, sir.

10 THE COURT: Mr. Solicitor, tell me the facts of the
11 case, sir.

12 SOLICITOR WILLINGHAM: Your Honor, the victim in this
13 case was Harold Greer, Senior. He was 68 years old. He was
14 disabled on his left side as a result of a stroke.

15 He lived at [REDACTED] which is here in
16 Spartanburg County. Also living there at the time was his
17 son, Harold Greer, Junior.

18 On the, the late night hours of February 20th, early
19 morning hours of February 21st, Mr. Greer, Senior was
20 sitting in his living room when this defendant came in,
21 apparently had some type of discussion or argument with his
22 father, picked up a butcher knife from somewhere in the
23 house, thought about killing his father. At that point, he
24 couldn't bring himself to do so.

25 Went to his bedroom. In that bedroom is a stack of, of

1 bricks like pavers, judge. He picked up one of those
2 bricks, came out where his father was in the living room,
3 and struck him in the head.

4 He, of course, according to Doctor Wren, probably would
5 of been unconscious at that time, would not have been
6 immediately necessarily fatal. Doctor Wren doesn't believe
7 it was immediately fatal.

8 He was then taken -- the victim was then taken out
9 through the kitchen into a garage area where another butcher
10 knife from some location in the house was retrieved and
11 Mr. Greer, Senior was ultimately stabbed through the chest
12 and through the heart and went through and through the
13 heart.

14 That happened some time that night. But the, the law
15 enforcement was notified, as the Court knows, at nine
16 o'clock the next morning whenever he turned himself in to
17 Joel Greer, and you saw the exchange of what happened there,
18 that he, he told him what happened.

19 He then told Tony Brown what happened. He then told
20 Darren Dukes what happened. The details I have of the case
21 came from those, those statements, Your Honor.

22 They went to the scene. They found Mr. Greer, Senior
23 in the garage. He was deceased. Doctor Wren says that the
24 fatal blow would have been the through and through to the
25 heart. That basically caused the heart to stop beating and

1 a significant amount of blood to be lost. And that's
2 ultimately why he died.

3 The head injury could have been fatal as well because a
4 subdural hematoma had begun to develop. When the heart
5 stopped, that hematoma stopped as well. If he had not
6 gotten medical treatment within 20 minutes or so, he would
7 of, he would of passed away.

8 Judge, he -- this defendant has a -- I will tell you
9 this too, judge. The victim's wallet was found on a sewing
10 machine in the garage and there was no money in it. I
11 believe the defendant explains in his statement and I
12 believe the last statement that he took that money out of
13 that wallet to keep other family members from faithfully
14 raiding it from the victim.

15 Your Honor, his prior criminal history, he's got a 1979
16 car breaking and grand larceny.

17 '83, driving under suspension, false information.

18 1984, discharging a firearm, malicious damage.

19 1985, driving under suspension and failure to stop.

20 1987, driving under suspension and failure to stop.

21 And in 2000, he's got a common law robbery conviction,
22 which I, I believe he is on either parole or probation for
23 right now.

24 Judge, I know, I know the minimum sentence on this. I
25 figured there's time for probation to deal with that matter

1 some other date.

2 The victim's family has been here through the, through
3 the trial so far. Present in the courtroom is Koreen Greer.
4 That's the victim's sister-in-law. She's married to James
5 Greer. James is the victim's brother. He was here all day
6 yesterday. He was here on Monday when I asked him to be
7 here. He's concerned about the case.

8 He actually works for a drug company. He's kind of
9 self-employed. He drives a route. He's in Greer and in
10 Greenville to this morning driving the route. He had hoped
11 to be back for the trial this afternoon.

12 Okay. Also present -- and this is, this is all family,
13 judge, is his son and other family members, Loraine Miller,
14 out, out in the courtroom. Other family members that have
15 been involved in this case and worked with both the
16 prosecution and the defense in preparation of this case.

17 Koreen Greer is present, judge. I do wish -- I believe
18 she wishes to address the Court at the appropriate time.

19 THE COURT: All right. Now, Mr. Greer, you were
20 present in the courtroom. You heard the solicitor go over
21 with me the facts that they allege, and you also heard him
22 go over with me your prior criminal record.

23 Is that correct?

24 DEFENDANT: Yes, sir.

25 THE COURT: Did you understand what he told me?

1 DEFENDANT: Yes, sir.

2 THE COURT: Do you agree that what he told me is true?

3 DEFENDANT: No, sir, not all of it.

4 THE COURT: All right. Tell me how, how you disagree
5 with what he told me.

6 DEFENDANT: One part about he said that I went into
7 the, got up and went into the kitchen to get a knife and I
8 was thinking about at the time stabbing my father. That
9 was, that was not the case.

10 The case were we had had, been having verbal words and
11 he was arguing at me. So, I'm -- I done been threatened
12 four times, three or four times that he had told me he
13 was---

14 THE COURT: Well, sir, I'll let you talk in mitigation
15 in a few minutes.

16 MS. QUIMBY: Your Honor, I---

17 THE COURT: What I'm trying to find out is about the
18 incident that occurred.

19 DEFENDANT: Right.

20 THE COURT: How you disagree with what he told me
21 happened.

22 DEFENDANT: Okay.

23 THE COURT: Now, you can tell me why it happened or
24 what happened if we get that far.

25 The question is whether or not -- you want to talk with

1 him, Ms. Quimby, for a second.

2 MS. QUIMBY: Well, I -- Mr. Greer, what, what the judge
3 is asking is if you agree substantially with what
4 Mr. Willingham has said about that night. Not every tiny
5 .itty bitty detail, but substantially, and what we're
6 concerned with is those couple of minutes.

7 Okay?

8 DEFENDANT: Like I say, he said I picked up the butcher
9 knife. That was just for my protection.

10 MS. QUIMBY: Your Honor, if I may?

11 THE COURT: I understand, I understand what you're
12 saying...

13 The question is do you agree with the facts concerning
14 your actions in killing your father?

15 DEFENDANT: Yes, sir. Yes, sir.

16 THE COURT: Do you agree that that's what happened?

17 DEFENDANT: Yes, sir.

18 THE COURT: All right. You agree with what he said
19 about your record?

20 DEFENDANT: Yes, sir.

21 THE COURT: You agree that that's right?

22 DEFENDANT: Yes, sir.

23 THE COURT: I think then you're telling me what you
24 disagree with is maybe your motivations in why you did what
25 you did that night.

1 DEFENDANT: Yes, sir.

2 THE COURT: And I'm gonna let you speak in mitigation
3 if we get that far.

4 Okay?

5 DEFENDANT: Thank you, sir.

6 THE COURT: You'll have an opportunity to speak and
7 tell me why you did what you did.

8 But you agree that you did kill your father that night?

9 DEFENDANT: Yes, sir.

10 THE COURT: All right. Thank you; sir.

11 Now, have you truthfully and honestly answered my
12 questions today?

13 DEFENDANT: Yes, sir.

14 THE COURT: The answers that you've given me, were they
15 your answers?

16 DEFENDANT: Yes, sir.

17 THE COURT: In other words, nobody told you what to say
18 today?

19 You're saying what -- you're answering truthfully, is
20 that right?

21 DEFENDANT: Yes, sir.

22 THE COURT: All right. Is there any part of the plea
23 process that you want me to reconsider, go back over, or
24 explain to you again at this point in time?

25 DEFENDANT: No, sir.

1 THE COURT: Do you still plead guilty?

2 DEFENDANT: Yes, sir.

3 THE COURT: All right. I'm gonna accept the plea as
4 being freely and voluntarily given by this defendant. I
5 find that he is competent to offer the plea based on the
6 testimony this Court received yesterday and my prior
7 rulings.

8 Also, in the appropriateness of his answers to my
9 questions today and our discussions, I find that he, that
10 there is a factual basis for the plea. He's had the advice
11 of, of counsel with whom he states he's satisfied.

12 Now, Ms. Quimby, it's your opportunity to speak on
13 behalf of your client.

14 MS. QUIMBY: Thank you, Your Honor.

15 May it please the Court?

16 THE COURT: Yes, ma'am.

17 MS. QUIMBY: I'm not sure where to start exactly.

18 All of my discussions with Mr. Greer have culminated
19 in, in a pretty consistent of, account of, of what happened
20 that night. Mr. Greer has not disagreed and he never has,
21 and, in fact, he's told anybody who would listen what
22 happened that night.

23 But, but I -- what I would like for the Court to
24 understand or, or to know about, about this situation is
25 that just because he agrees about the acts that he did

1 doesn't mean that, that we always look at things in a
2 vacuum, and that's why we have things like defenses,
3 absolute defenses, affirmative defenses, we have lesser
4 included. We have those because everything is not in a
5 vacuum and there can be -- there's also mitigation that
6 doesn't quite rise to the level of what would excuse or
7 justify some act that you do.

8 And while he has never denied or disagreed with the
9 acts that caused his father's death, there have been many
10 things that have been pretty consistent with what he and
11 what he's told me all along about his state of mind at the
12 time or all of the things that had built up.

13 Mr. Greer is probably admittedly a very troubled
14 individual. I think that those troubles had been growing
15 for many years. I think that he has carried around
16 feelings, lots of feelings of not good enough, of feeling
17 like he's disappointed his father in some way.

18 There had -- it was not always a good relationship with
19 him and his father. He was very close with his mother.
20 When she passed away a few years before this incident,
21 Mr. Greer's world just kind of crumbled because his mother
22 was who looked after, who looked after him.

23 He is told me on more than one occasion that he just
24 never felt like his dad loved him although his father did
25 allow him to live there, and, you know, there was that, that

1 parent/child relationship there. It just wasn't necessarily
2 a nurturing one.

3 Mr. Greer is 47 now. He was about 45 at the time. He
4 was still being treated, living under his father's roof, as,
5 as pretty much a child would of been. He was not allowed to
6 bring outside food into the house. And if he did, his
7 father didn't want to see it. His father was in charge of,
8 kept almost an inventory of the things that were in the
9 kitchen and didn't want to see anything missing.

10 He had phone restrictions. Phones -- the phone would
11 be taken out of his room. He would only be allowed to use
12 the phone at certain times of the day. He had restrictions
13 about whether he could have friends over or not, and, and
14 certainly that, those things, in and of themselves, do not
15 rise to the level of anything that would excuse anything of
16 this nature.

17 But when you have that situation, plus the other things
18 that were going on in Mr. Greer's personal life, he had lost
19 that job opportunity that he spoke about at Warner Trucking.
20 He had -- as he told the Court, he had been a truck driver
21 by trade and he had been in prison for a little bit. And
22 when he was released, he did everything he could to try to
23 find a job.

24 He was finally hired on at Warner Trucking. They sent
25 him to Atlanta to do the orientation. While in Atlanta,

1 something happened where they found out about probation,
2 that he was on probation, and I don't think he disclosed
3 that to them. Mr. Greer -- and, and again, this goes back
4 to -- a lot of this goes back to why I felt that the
5 evaluations were important in the beginning. Mr. Greer has
6 some very fixed ideas about why he lost that job. He
7 believes that his father called down there to tell them that
8 he was on probation in order to make him lose that job.

9 I don't know that that's necessarily a rational
10 assumption because I believe that a big trucking company
11 probably would be pulling background checks even if it took
12 them all the way up until they had somebody in orientation.
13 But Mr. Greer and I have discussed that.

14 But ever since he lost that job and had to come back
15 home, it was a very very bad environment between him and his
16 father. His father consistently berated him basically
17 calling him worthless. He had threatened Mr. Greer's life
18 on a number of occasions. He was known to keep a, a gun,
19 actually two guns. There was a pistol and a, like a shotgun
20 or a rifle or something. And had we finished out the trial,
21 you would of heard evidence of that, Your Honor, from family
22 members who have known, by reputation, that, that he, that
23 Mr., that Mr. Greer's father kept a gun in the house. And
24 then you would heard from his daughter, Felicia, that, that
25 would corroborate what Mr. Greer has told me and what he

1 would of said on the stand had he chosen to testify that his
2 father would, from time to time, bring the gun out when he
3 needed a heavy stick, you know, when he needed to make a
4 point, when he wanted people in his house to listen to him,
5 when things weren't, when things weren't running smoothly in
6 his, in Mr. Greer father's mind, he would bring usually the
7 shotgun out and make threats.

8 Sometimes they were explicit threats. Sometimes they
9 were veiled threats. Sometimes they were just intimations.
10 But when you're holding a gun, it takes on a different life.
11 His daughter is actually witnessed that occur on one
12 occasion.

13 Your Honor heard yesterday the testimony of Chief Joel
14 Greer from the Wellford Police Department who said, in his
15 chances to meet up with Mr. Greer, Senior, he's mean as a
16 damn snake and that's a quote from Chief Greer. Kept
17 talking about what a bad attitude Mr. Greer's father had.

18 I'm certainly -- I want to be very cautious because I
19 am certainly not trying to say that this should of happened
20 or that Mr. Greer is necessarily legally justified or
21 excused in what he did because obviously he and I have
22 discussed all of the different options he had available to
23 him, lesser includeds, defenses, and I think that at
24 trial -- well, at trial, we would have been doing what we
25 could to elicit testimony and evidence that went toward a

1 voluntary manslaughter charge.

2 The, the -- Mr. Greer and I have discussed that most
3 things don't happen for no reason. Most affirmative acts
4 that people do have some, some reason behind them. But that
5 not all of them rise all the way up to the level of a
6 defense or, or lesser included and that if it falls short of
7 that, then, then that really falls under mitigation. And,
8 and I think that while it would of been our, our great hope
9 that we would of been able to get out enough testimony to
10 warrant a voluntary manslaughter charge, there was also a
11 greet possibility that that, that all of his reasons or
12 motivations would simply have fallen under the heading of
13 mitigation.

14 Mr. Greer loved his father. And, and it seems, it
15 might seem inconsistent by what, what resulted from this
16 night. But there's many times that Mr. Greer has said that
17 if he hadn't been there, something would of happened to his
18 father before. There were many nights that he, that
19 Mr. Greer's father would fall asleep leaving something on,
20 burning on the stove. And Mr. Greer would either come home
21 or hear it or smell it and come out and have to take care of
22 that. And he just -- he, he consistently tells me what if I
23 hadn't been there, what if I hadn't been there, I loved my
24 daddy, I didn't want to lose my daddy.

25 Everything he has told me leads me to believe that this

1 was not anything that he set out to do. I don't think he
2 woke up this, that morning and said I think I'm gonna do
3 something bad to my daddy, I think I'm gonna plan something
4 bad. And I understand and I have explained to Mr. Greer
5 that, that aforethought can happen in a split second, and
6 that's what South Carolina law has, has held. And that a
7 jury is -- if the charge is able to be given, a jury is free
8 to make that inference or not.

9 We've also discussed the permissive inference that
10 malice can be inferred from the use of a deadly weapon.
11 Here we not only have a brick paver, we also have a butcher
12 knife. And while, while the jury would be free to decide
13 that, I don't, I don't, I think that malice and aforethought
14 would be that, would be that, the elements that we would be
15 disagreeing with in a trial. Although I'm not sure that,
16 that it, that a jury would come to the same, same result
17 that I think Mr. Greer has consistently felt like it should.

18 I -- in the evaluations, Doctor Nichita felt like
19 Mr. Greer's fixed ideas about things could be altered. He,
20 he, he didn't hold them so firmly as to make them something
21 that she would of found to be important in terms of
22 competency.

23 And as I stated yesterday, Your Honor, the beliefs that
24 he has had have, have never changed, in my opinion. I've
25 been the one that talked to him ten times longer and more

1 frequently than Doctor Nichita. And I do not see some of
2 these fixed beliefs changing. And so, I would respectfully
3 disagree with her in that regard. But I do understand that
4 the Court has, understand the Court has taken Doctor
5 Nichita's testimony as, as medical testimony and has found
6 that Mr. Greer's competent.

7 But, but I'm speaking specifically to certain ideas he
8 has that also fit into his state of mind that night. He had
9 some fixed beliefs about the death of his mother two years
10 previously. He seems to believe, or as Doctor Nichita had
11 told me previously, he seems to need to believe that his
12 mother's death was not an accidental heart attack.

13 He has -- and I'm not saying anything the family
14 doesn't already know. This, this is been just part of
15 what's been plaguing Mr. Greer. He has decided that he
16 believes that a family member and, has conspired, had
17 conspired with his father to plan the death of his mother.
18 And whether or not that's reasonable or irrational, judge,
19 I -- his, his mother died of a massive art attack.

20 And the reason that he has this belief is because she
21 was taking blood pressure pills and he just doesn't think
22 that's medically possible to have a massive heart attack if
23 you are taking blood pressure pills.

24 Some other beliefs have to do with root work, as Doctor
25 Nichita alluded to. He, he felt like some family members

1 were practicing root work and or under the root. And again,
2 whether that's rational or reasonable is, is anyone's, is
3 anyone's guess.

4 But I think primarily there were some pressures
5 building on him that didn't let up over a period of time and
6 it, it just blew. And that's, that's the only way I, I can
7 phrase it. He, he -- I think there is a degree of snapping
8 and doing something you wouldn't ordinarily do and it's out
9 of the heat of passion.

10 I do honestly believe that this came out of a heat of
11 passion. I don't think that there was any planning that
12 went into it. You know, to sit down and say well, I think
13 this is how I'm gonna do it, this is the date I'm gonna do
14 it, I think it was heat of passion, Your Honor. But
15 there -- I don't, I don't know that there was necessarily
16 and I don't know if there would of been enough evidence and
17 I don't know what a jury would of done with it to find
18 sufficient legal provocation.

19 But in his, with his state of mind, he certainly, he
20 certainly believed that he had been provoked past the limit
21 that he could turn back. But he understands that, by
22 pleading, he is accepting responsibility and accepting, and
23 acknowledging guilt for the charge as indicted. And, and he
24 understands the inferences that the jury would be able to
25 make, and that, that there would a great likelihood that he

1 would be found guilty of murder.

2 He understands that the sentence is anywhere from 30
3 years to life. He understands that there's no parole and
4 it's not just an 85 percent case. That, that murder is day
5 for day. He understands that.

6 And I would like, at this time, to let the Court know
7 that his son, Rico, is here in the courtroom. He's standing
8 behind me. And he was in the courtroom all day yesterday.
9 Because he was found in the house that next morning when the
10 police came, he was under subpoena by the State and would
11 have testified at trial that yes, I was there. But I didn't
12 see anything fishy. I think it was more of a witness of
13 exclusion.

14 So, therefore, he started out on the other side of the
15 room yesterday. Your Honor, by, by lunchtime, he is here in
16 support of his father. He loves his father. He -- his
17 daughter, Felicia, was here all day yesterday and very much
18 loves her father. I was able to get her a visit last night
19 with Mr. Greer, and she has told me repeatedly that,
20 regardless of this sentence, if it's anything less than
21 life, he has a place to live with her. She -- he's welcome
22 to go live there. She has an eight year old son. I -- both
23 of the children wanted---

24 THE COURT: Is this the daughter that's come in?

25 MS. QUIMBY: No, sir.

1 THE COURT: Okay. Go ahead.

2 MS. QUIMBY: These are other, other family members
3 and---

4 THE COURT: All right. That's all right. I thought
5 this might be the one we were waiting on.

6 Go ahead.

7 MS. QUIMBY: All of the children are of the same mind
8 as far as, as their sentencing wishes. And if Your Honor
9 wants to hear from Rico at the appropriate time, I'm sure
10 he'll tell you the same thing. But they've all expressed to
11 me that they don't understand. You know, it's hard to
12 understand when a family member hurts another family member,
13 and this is difficult for everyone in this family because
14 they've all lost somebody and they're all in danger of
15 losing somebody for a, an extended period of time if not for
16 even longer.

17 So, this is been very difficult on, on everybody in the
18 matter of where on the fence they fall. But his children
19 are hoping and praying, Your Honor, that, that he can
20 receive the minimum sentence for this. They have expressed
21 to me that they would of been testifying that there was some
22 provocation.

23 They all knew about it. The family knew about it. It
24 may not have -- it may not rise to excusing it. But there
25 was, there was a good deal of provocation.

1 There are two other sons as Mr. Greer told you.
2 There's Jamar who is 17. He's still in school and not able
3 to be here. But he is of the same mind as far as--
4 sentencing.

5 And the son in Atlanta, his daughter, Felicia, has been
6 in touch with him and is keeping him up-to-date. And he is
7 very concerned with this also and is of the same mind about
8 sentencing. And I want the Court to know that his, his
9 children are, are all supportive of him even though they've
10 also lost a grandfather who they did love and respect
11 regardless of whether he was ornery or, or whatever.

12 Your Honor, under the circumstances, I do honestly
13 believe that a 30 year sentence is appropriate for this
14 offense. Were we to have been lucky enough to get a
15 voluntary charge and have the jury come back with voluntary
16 manslaughter, obviously the sentencing range, range would be
17 much lower and I do, I do think that there are reasons
18 why -- there is there, is a -- I believe that there is a
19 chance that, that that could of been the result, but I
20 don't, I don't think that it was enough to bank on.
21 necessarily.

22 But I would ask Your Honor to, to please consider all
23 of the circumstances in this case and that we can't look at
24 it in a vacuum. And I would ask Your Honor to, to please
25 consider the minimum sentence in this case.

1 And I don't -- I'm -- again, I'm not sure which family
2 members want to speak on either side.

3 THE COURT: All right. Anyone wish to speak on
4 Mr. Greer's behalf for the family?

5 Sir, you wish to speak at this time?

6 DEFENDANT'S SON: Oh, no, I'm all right. I'm straight.

7 THE COURT: Sir?

8 MS. QUIMBY: Is there anything you want the judge to
9 know about your dad or sentencing?

10 Anything you'd like to see happen or anything?

11 You don't have to say anything. You can if you want.

12 DEFENDANT'S SON: I don't really, really know what to
13 say.

14 THE COURT: Okay.

15 DEFENDANT'S SON: So, I don't know -- I don't have
16 anything to say.

17 THE COURT: Mr. Greer, your opportunity to speak.

18 DEFENDANT: First, giving all honors to Lord Jesus
19 Christ, our Saviour, this has really really made a big
20 difference in my whole family. I feel though, in my heart,
21 that this was never suppose to had happened.

22 When I first got in trouble that I felt like that I
23 would get some time for I was 42. I made it through the
24 teenage years on through all the way up to -- I got 42
25 before I committed a crime, strong armed robbery. I took

1 something from someone. And I know it was wrong.

2 And just like I turned myself in for what, what had,
3 what happened to my daddy, when I did that, I knew I was
4 wrong. And I went straight -- I turned myself in for doing
5 wrong.

6 But at that time, I got -- first time getting in any
7 trouble, I got sentenced to eight years and that was three
8 years, and suspended to three years and three years
9 probation.

10 When I did, got out of jail, I went and did 21 days. I
11 was locked up for 21 days. I got out. But before I got
12 out, I asked the Lord to change my life, give me new
13 friends, get me away from the drugs, the alcohol, the stuff
14 that I had been doing.

15 And he blessed me to become a truck driver. I went to
16 truck driving school and in Kentucky and two weeks I had my
17 CDL's.

18 I was hired on first with Dick Simon Trucking Company.
19 I drove for six months. And when I came to Court, that's
20 when I was sentenced to eight years, three years, from eight
21 years suspended to three years, and three years probation
22 for taking \$500 from a man.

23 That changed my whole life. I went to prison. My
24 mother died while I was in prison, and that really really
25 hurt me. And hurt the family and all.

1 But my mother had a \$25,000 insurance policy. She got
2 two kids, me and my sister. I knew my mother meant for me
3 and my sister to split this money. It was for both of us if
4 anything happened to her.

5 But I didn't get near a penny of it. Not nothing.
6 That there, if I had of got half of what, \$18,000 after
7 burying her, I had a chance to get out of prison, maybe stay
8 with my daddy for a couple weeks, get my own place.

9 I had cars at the time. All I needed was my own place
10 and that money that my mother had paid her insurance for all
11 them years was for that cause she knew that my daddy didn't
12 really want me living with him. But I didn't have nowhere
13 else to go.

14 At the time, when this happened, seemed like I was
15 trapped. I didn't have no transportation. I didn't have
16 no -- couldn't get no job for five months when I had never
17 had no problem getting a job. I went five months and I
18 couldn't get a job at Hardee's, BiLo's, the Pizza Hut,
19 nowhere. I got CDL's. I couldn't get a job. I was
20 suffering.

21 I loved my daddy and he is the most wonderful man in
22 the world to me. He took care of me, my sister, and my
23 mother. He worked every day, every day until he passed. It
24 ain't a day I ain't see him leave out this house, out of the
25 house. Every morning he went to work. And he was a brick

1 mason and he was a hard working man. I know he was. He
2 took care of me and my sister and my mother.

3 But they had separated. And this separation, it -- I
4 don't know what happened. It just -- it maybe changed a lot
5 of things. But -- thank you, Jesus. Hallelujah.

6 I just, I just don't understand how this could of
7 happened. I ain't have no reason, no reason at the world to
8 kill my daddy. No reason.

9 And I must say it, and it's the truth, if I was a
10 killer, I would of killed my sister cause she took
11 everything from me. But I'm no killer. I love her and I
12 always love her. I love everyone in here cause I'm saved
13 and I'm filled with the Holy Spirit and everyone in here is
14 my neighbor. And my Bible tells me to love your neighbor as
15 you love yourself.

16 And I believe in Jesus Christ and I know I'm gonna die.
17 But I got a heaven waiting on me. I know I do. I thank
18 God, Jesus.

19 That's it, Your Honor.

20 Thank you, sir.

21 MS. QUIMBY: Your Honor, just very -- I'm sorry. Very
22 very briefly, to clarify a couple of things.

23 Mr. Greer has, at one time, possibly more often, has
24 used the phrase not in my right mind at the time and I just
25 wanted to clarify that. That has been something that I've

1 asked him about on several occasions because he uses that
2 frequently, and I think that is more a, a familiar phrase
3 rather than taking the, the legal definition of that when he
4 explains what he means by that.

5 I think that he snapped and that he just, he -- you're
6 not in your right mind when you snap. But it doesn't
7 necessarily mean it doesn't rise to the level of legal
8 insanity.

9 Also, I would---

10 THE COURT: I've already accepted the report as part of
11 the, for purposes of this trial of the, of the psychologist.
12 Go ahead.

13 MS. QUIMBY: Yes, sir.

14 Also wanted to clarify, he's spoken that the strong
15 armed robbery was his first time in trouble, and just to
16 clarify, what he means is the first time he's gotten in any,
17 in any General Sessions trouble and he---

18 THE COURT: Those other cases were driving under
19 suspensions and things of that nature.

20 MS. QUIMBY: Yes, sir.

21 THE COURT: I recall the record.

22 Go ahead.

23 MS. QUIMBY: And also, simply because I forgot the
24 first time, he had wanted me to let the Court know that he
25 has, during this, these last two years, he has graduated

1 from the Cross Roads Bible Institute and he's gotten
2 certificates. I'm not sure if the Court would like to see
3 those or not.

4 THE COURT: I'll take your word for it.

5 MS. QUIMBY: And he's also gotten certificates, several
6 certificates from The Highways and Hedges Christian
7 Ministries. He's gotten one, two, three, four, five of
8 those certificates.

9 And he's -- so, if I could hand those up, Your Honor.

10 THE COURT: Certainly.

11 Mr. Willingham, you indicated some family members might
12 wish to speak.

13 SOLICITOR WILLINGHAM: Yes, Your Honor.

14 Koreen Green. And if it pleases the Court, she'll
15 probably address the Court from here cause she has a walker.

16 THE COURT: That will be fine. I see she's not able to
17 walk a lot.

18 Ma'am, you are Koreen Greer, is that right?

19 MRS. GREER: Yes, sir.

20 THE COURT: You have the right to speak concerning the
21 sentencing in this case.

22 Is there anything you'd like to say?

23 MRS. GREER: I just like to say that I'm sorry about
24 what happened. Like he said, he have, he had a good daddy.
25 He had a hard working daddy and that daddy loved his family

1 and wanted to take care of the family.

2 He wanted his family to have the best, and he loved his
3 grandchildren too. And my husband is not here. My other
4 sister will be on later.

5 But on the night of -- I came home from the hospital on
6 if 19th after I broke my leg. I was in a hospital bed.
7 And on the 20th, which is on Friday, my brother-in-law
8 called me to see how I was doing, and I told him I was doing
9 pretty good.

10 He says sister-in-law, I'm glad you're home. I said
11 I'm glad to be home. He said I be out to see you tomorrow.
12 This be on Saturday, on Saturday. We normally go to eat his
13 breakfast Saturday morning at a little restaurant where we
14 live. And he -- and his brother is not here. They were --
15 all we having real close and they loved one another. He
16 always come by the house some time Saturday morning to visit
17 his brother.

18 And so, he said I'll be to see you on Saturday. I said
19 all right. He asked to speak to his brother and I told him
20 my husband in the kitchen washing dishes. And when he came
21 out the kitchen washing dishes, he said tell him I'll call
22 him back. And so, he was unable to call back because he had
23 took sick and I had took some medicine. So, I went to
24 sleep.

25 Woke up at about 12:30. He said well, I'll wait and

1 call him in the morning.

2 So, that next morning, that Saturday morning, he said
3 well, I had, help you get dressed, get your bath and
4 everything. And so, I said okay. And then I'm gonna call
5 my brother.

6 Just as he mentioned, reached for the phone to call his
7 brother, the doorbell rang. He said that's my brother at
8 the door now. But it was not. It's a friend of ours came
9 to tell my husband that his brother was dead.

10 And they wanted him to come out to the home, to the
11 house. We live not too far from there. And so, and so,
12 instead of him going right there, and he had to get dressed.
13 And so, about the time, about three minutes later, the phone
14 rang. It's someone call and said James, said they waiting
15 on you out here. Say your brother is dead. Said do you
16 know this. Said yeah, I have been notified.

17 So, he said well, his son is there. He said no, his
18 son the one that killed him. And so, we just, you know,
19 just stunned to know what happened. We didn't know what
20 happened.

21 So, he went shortly out there and he stayed out there
22 all day long to see about what happened. So, that's all
23 that I know. That's all I have to say, and I said, you
24 know, the family is really hurt and we're sorry what
25 happened and we hate this happened because it did not have

1 to happen.

2 And so, that's all I have to say.

3 THE COURT: Thank you, ma'am.

4 Anything further from the State?

5 SOLICITOR WILLINGHAM: Judge, the only other thing I
6 think is important for the Court to know is when they
7 searched that house, no guns were found. No long guns.
8 They were knives found. Two butcher knives that we've
9 discussed earlier and a couple other pocket knives that were
10 found and retrieved. But no other weapons were found.

11 MS. QUIMBY: Your Honor, I'm not sure. I hear lots of
12 family members over on the other side, and I think that what
13 they are all mumbling or speaking about is that in response
14 to what Mr. Willingham just said. I'm, I'm not sure that
15 they were, that they may of known where to look in the house
16 to find those guns.

17 And unfortunately, just for the record, his daughter
18 was, Mr. Greer's daughter, Felicia, did want to be here.
19 She was suppose to be on her way and she has not made it
20 here. But, but is very much in support of his father.

21 And while Mr. Willingham is not making a formal
22 recreation and is instead remaining silent on sentencing,
23 from my conversations with him, I think, I think it is fair
24 to say that I don't think he has any objection to, to
25 whatever the Court---

1 THE COURT: Mr. Willingham, you wish to make any
2 statement concerning sentencing?

3 SOLICITOR WILLINGHAM: Judge, I have no recommendation
4 on sentence, and that's what I told the defense counsel that
5 I would tell the Court. I -- it's, it's not my roll to
6 sentence him.

7 THE COURT: I understand.
8 Anything further?

9 SOLICITOR WILLINGHAM: No, sir.

10 MS. QUIMBY: Your Honor?

11 (Pause.)

12 MS. QUIMBY: Nothing further, Your Honor.

13 (Pause.)

14 THE COURT: In reviewing what was said here today, and,
15 of course, I also, yesterday afternoon, reviewed the tape
16 that was taken at the time that the defendant turned himself
17 into the police officers, and it was placed into evidence,
18 and so, I think I have the right to consider that in, at
19 this time as well, I find that there was, there was a
20 strained relationship between the parties, the, the victim
21 and the defendant, that the, while there's no doubt that
22 Mr. Greer, Senior was a fine man and was a hard working
23 individual, there were problems between he and his son that
24 existed and Mr. Greer, Senior apparently was known in some
25 circles as being a very tough man. He apparently probably

1 was from what I've heard here today.

2 Terrible tragedy that's occurred in this particular
3 case. The family, everyone involved.

4 Nothing that I do here today is gonna change that
5 tragedy. Nothing I do here today is gonna change the hurt
6 feelings on both sides and the, and the loss and the grief
7 that the family has experienced.

8 I note that Mr. Greer, Junior is 47 years old. He
9 indicates that he has a, has had a change in his life. I
10 hope that's the case.

11 DEFENDANT: Yes, sir.

12 THE COURT: I realize that whatever sentence I give him
13 is going to take away a substantial portion of his useful
14 life. Perhaps all of it no matter what sentence I give here
15 today.

16 DEFENDANT: Yes, sir.

17 THE COURT: And so, I'm mindful of that fact as well.

18 Therefore, it's the Order of this Court that you be
19 confined in the State Department of Corrections for a period
20 of 30 years.

21 Good luck to you, sir.

22 Court's in recess.

23 MS. QUIMBY: Thank you, Your Honor.

24 SOLICITOR WILLINGHAM: Thank you.

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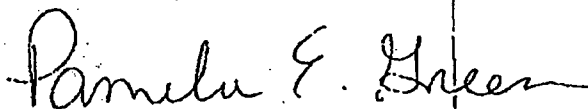
* * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

C E R T I F I C A T E

1
2
3 I, Pamela E. Green, Official Court Reporter for the
4 Seventh Judicial Circuit of the State of South Carolina, do
5 hereby certify that the foregoing is a true, accurate and
6 complete Transcript of Record of the proceedings had and
7 evidence introduced in the trial of the captioned case,
8 relative to appeal, in the Court of General Sessions for
9 Spartanburg County, South Carolina, on the 16th and 17th day
10 of March, 2006.

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

13
14 June 30th, 2006

15
16 
17

18 PAMELA E. GREEN, Court Reporter
19
20
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25

02, 5/1/7

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Roger L. Couch, Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HAROLD LEE GREER, JR.,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

JOSEPH L. SAVITZ, III
Chief Attorney

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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TABLE OF AUTHORITIES**Cases**

Hill v. Lockhart, 474 U.S. 52 (1985) 5

Stone v. State, 294 S.C. 286, 363 S.E.2d 903 (1988) 5

STATEMENT OF ISSUE ON APPEAL

Defense counsel rendered ineffective assistance when she advised Greer to plead guilty to murder, since the State's evidence may have supported the lesser-included offense of voluntary manslaughter or possibly self-defense.

STATEMENT OF FACTS

On June 10, 2004, a Spartanburg County grand jury indicted Harold Greer, Jr., for the murder of his father, Harold Greer, Sr., by striking him in the head with a brick and then stabbing him through the heart with a butcher knife. On May 16, 2006, following jury selection, Greer decided to plead guilty as charged before Judge Roger L. Couch and was sentenced to imprisonment for thirty years.

ARGUMENT

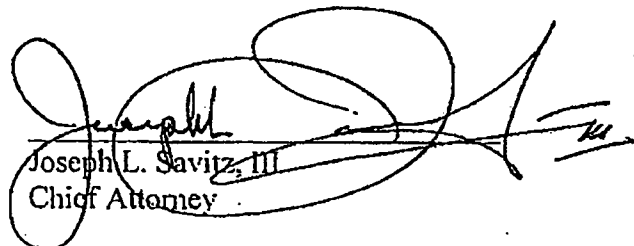
Defense counsel rendered ineffective assistance when she advised Greer to plead guilty to murder, since the State's evidence may have supported the lesser-included offense of voluntary manslaughter or possibly self-defense.

According to the record below, the State's evidence and Greer's own testimony may have supported a charge on voluntary manslaughter and possibly self-defense. For example, Greer told the judge that he had been threatened by the victim several times and had armed himself "just for my protection." ROA p. 171, line 6 – p. 172, line 9. Defense counsel appears to have gone out of her way to discount the possibility of lesser charges or defenses. ROA p. 174, line 17 – p. 185, line 25.

Where there has been a guilty plea, the defendant must prove that counsel's performance was deficient and that, but for counsel's errors, there is a reasonable probability he would not have pleaded guilty and instead would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52 (1985). Counsel's failure to recognize the possibility of self-defense or voluntary manslaughter may constitute ineffective assistance of counsel. See, for example, *Stone v. State*, 294 S.C. 286, 363 S.E.2d 903 (1988).

Greer may need to raise this issue by way of an application for post-conviction relief. If not, the Court should reverse his guilty plea and remand for further proceedings.

Respectfully submitted,


Joseph L. Savitz, III
Chief Attorney

ATTORNEY FOR APPELLANT

This 14th day of May, 2007.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Roger L. Couch, Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HAROLD LEE GREER, JR.,

APPELLANT

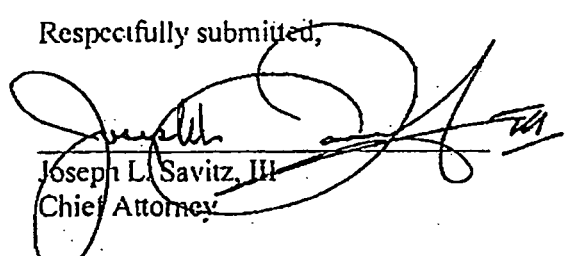
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Harold Lee Greer Jr., states:

1. He is Chief Attorney for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Roger L. Couch, which was held on 5-17-06, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Harold Lee Greer Jr.

Respectfully submitted,

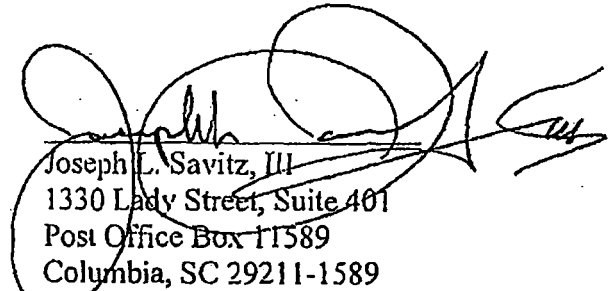

Joseph L. Savitz, III
Chief Attorney

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

May 14, 2007



Joseph L. Savitz, III
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, SC 29211-1589
803) 734-1343
Attorney for Appellant

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State,

Respondent,

v.

Harold Lee Greer, Jr.,

Appellant.

Appeal From Spartanburg County
Roger L. Couch, Special Circuit Court Judge

Unpublished Opinion No. 2008-UP-377
Submitted July 1, 2008 – Filed July 14, 2008

APPEAL DISMISSED

Chief Appellate Defender Joseph L. Savitz, III, South Carolina Commission of Indigent Defense, Division of Appellate Defense, of Columbia, for Appellant.

Attorney General Henry Dargan McMaster, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Donald J.

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Zelenka, all of Columbia; and Solicitor Harold W. Gowdy, III, of Spartanburg, for Respondent.

PER CURIAM: Harold Lee Greer, Jr., appeals his guilty plea to murdering his father. On appeal, Greer maintains his trial counsel was ineffective. After a thorough review of the record and counsel's brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss¹ Greer's appeal and grant counsel's motion to be relieved.

APPEAL DISMISSED.

HEARN, C.J., CURETON and GOOLSBY, A.J.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

FORM 5

STATE OF SOUTH CAROLINA

County of SpartanburgHarold Lee Greer Jr

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2009-CP-42-01216

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention McCormick Corr. Inst.
386 Redemption Way McCormick, S.C. 29899
2. Name and location of Court which imposed sentence Spartanburg County
Court of General Session
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 04-65-42-2191 H701004
(b) _____

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CLERK OF COURT
FILED

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:

(a) MAY 16, 2006 IMPRISONMENT FOR

(b) THIRTY YEARS

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

YES

8. If you answered "yes" 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. DENIED Court of Appeals

ii. _____

iii. _____

(c) the date of each such result:

i. July 14, 2008

ii. _____

iii. _____

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

i. Remittitur to lower Court & Appeal Dismissed

ii. _____

iii. _____

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

(a) N/A

(b) _____

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- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) TRIAL COURT COMMITTED ERROR IN UNDUPLY
- (b) TESTIMONY OF PSYCHIATRIST
- (c) INEFFECTIVE ASSISTANCE
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) _____
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? YES
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. INEFFECTIVE ASSISTANCE
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. S.C. COURT OF APPEAL
- ii. _____
- iii. _____
- iv. _____

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MARCO KITCHENS

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S.C. COURT
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(c) the disposition thereof:

i. DENIED Court of Appeals

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. MAY 14, 2007

ii. _____

iii. _____

iv. _____

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

i. Decide This Case Without oral Argument Pursuant of Rule 215
SCRIP.

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?

YES

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

(a) which grounds have been presented:

i. INEFFECTIVE ASSISTANCE OF ATTORNEY

ii. _____

iii. _____

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

i. FINAL ANDERS BRIEF OF APPELLANT'S ATTORNEY

ii. _____

iii. _____

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MARC KITCHENS

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CLERK
COUNTY

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) TRIAL COURT ERROR in unduly Testimony of State psychia
 (b) Mrs. Quimby Told Me To Plead Guilty To Murder
 (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? _____
 (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 "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 i. Ms. Karen Quimby Public Defender 258 North Church Street
Ms. Karen Quimby " " Spartanburg, S.C. 29306
 ii. Mr. Joseph L. SAVITZ III P.O. box 11589 Columbia S.C.
29211-1589

iii. _____

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

i. ARRAIGNMENT And Plea

ii. SENTENCING

iii. APPEAL

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 MARC KITCHENS

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

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

NONE

STATE OF SOUTH CAROLINA)

County of

SPARTANBURG

VERIFICATION

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

Harold Greer Jr

SWORN to and subscribed before me this 05
day of February, 2009.

JENNIFER C FRANKLIN (L.S.)
Notary Public

My Commission Expires: 01-31-2010

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HARC KITCHENS

FILED
CLERK OF COURT
JENNIFER C FRANKLIN

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

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

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

Harold Greer Jr
Applicant

SWORN or affirmed to and subscribed before me this

05 day of February, 2005.

Jeannette C. Franklin
Notary Public

My Commission Expires: 01-31-2010

FILED
CLERK OF COURT
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MARC KITCHENS

2/5/09

I need To Have Some Time With My
LAWYER. Before My Court Day
THANK you

My Family Need To be Contact

Sister: LORaine Miller

Spartanburg S.C. 29303

My Daughter: Felicia C. Columbia S.C.

My Sons: RASHAD T. CARSON

SW ATLANTA, GA. 30311

MARICO Smith DUNCAN S.C.

JAMAR Irby

GREENVILLE S.C. 29617

THANK you.

MARC KITCHENS

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CLERK OF COURT
ANDRE COUNTY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
	)	2009-CP-42-1216
	)	
Harold Lee Greer, Jr, #277417,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed March 4, 2009, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the June 2004 term of the Spartanburg County Grand Jury for one (1) count of Murder (04-GS-42-2191). Karen M. Quinbly, Esquire, represented the Applicant. On May 17, 2006, the Applicant pled guilty to Murder, as indicted (04-GS-42-2191). The Honorable Roger L. Couch sentenced him to confinement for a period of thirty (30) years.

The Applicant appealed his plea and sentence. The Court of Appeals dismissed the appeal by Unpublished Order No. 2008-UP-377 filed on July 14, 2008. The Remittitur to the lower court was filed in the Spartanburg County Clerk of Courts Office on August 1, 2008.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina

Department of Corrections, and the guilty plea transcript. Any of the above not so attached will be forwarded upon receipt. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective Assistance of Counsel;
2. Involuntary Guilty Plea; and
3. "Trial Court Committed Error in Failure to Suppress Testimony of Psychiatrist"

III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient.

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

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

IV.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the

competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S.Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

The third allegation of the Applicant is that the Court improperly failed to suppress testimony of the psychologist assigned to examine him. This allegation is not cognizable in the Applicant's post-conviction relief action. The Applicant waived his right to a jury trial. If the Court determines that the Applicant knowingly and voluntarily pled guilty, the plea waives any non-jurisdictional defects and defenses, including evidentiary claims. See Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981); Rivers v. Strickland, 264 S.C. 121, 213 S.E.2d 97 (1975).

Respondent moves therefore, that this allegation be summarily dismissed.

VI.

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

VI.

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

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MICHELLE PARSONS KELLEY
Assistant Attorney General

By: Michelle Parsons Kelley
ATTORNEYS FOR RESPONDENT

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

July 7, 2009.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT

Harold Lee Greer, Jr., 277417,

2009-CP-42-1216

)
) Applicant,

)
) vs.

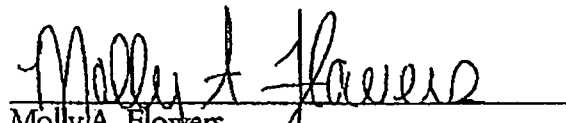
) CERTIFICATE OF SERVICE BY MAIL

)
) State of South Carolina,

)
) Respondent.
)

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

Stanley M. Pack, Jr., Esquire
P.O. Box 891
Spartanburg, SC 29304


Molly A. Flowers
Legal Assistant for the Respondent

DATED this 7th day of July, 2009.

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

Harold Greer, Jr.,)

Applicant,)

v.)

State of South Carolina,)

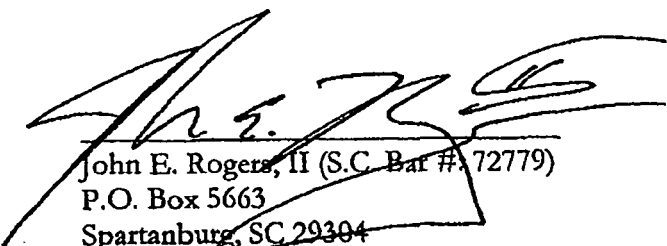
Respondent.)

IN THE COURT OF COMMON PLEAS
Seventh Judicial CircuitAMENDMENT TO POST CONVICTION
RELIEF APPLICATION

CA NO.: 2009-CP-42-01216

Attached hereto and being filed herewith as an Amendment to the original Post Conviction Relief Application in the above-referenced matter, please find an Amendment to the original PCR Application in this case.

The Ward Law Firm, P.A.
Attorneys for Applicant Harold Greer,
Jr.



John E. Rogers, II (S.C. Bar # 72779)
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Spartanburg, SC 29304
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September 19, 2011

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SPARTANBURG COUNTY
2011 SEP 19 PM 1:25
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

Harold Greer, Jr.,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

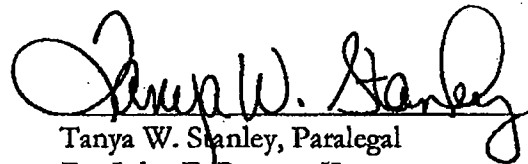
IN THE COURT OF COMMON PLEAS
Seventh Judicial Circuit

CERTIFICATE OF SERVICE

CA NO.: 2009-CP-42-01216

The undersigned hereby certifies that Applicant's Amendment to Post Conviction Relief Application was served upon all attorneys of record on September 19th, 2011 by depositing copies of the same via United States Postal Service, postage affixed to the following address(es):

Suzanne H. White, Esquire
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211-1549


Tanya W. Stanley, Paralegal
For John E. Rogers, II

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8/16/11 1086

STATE of South Carolina
County of Spartanburg

Harold Greer JR
 Applicant

V

STATE of South Carolina
 Respondant

In The Court of
 Common Pleas The
 Seventh Judicial
 Circuit

Amendment To
 ORIGINAL
 2009-CP-42-01216
 Post-Conviction Relief
 Application

STATEMENT of CASE

A Spartanburg County Grand Jury Indicted Applicant For Murder (04-63-42-2191) Applicant Pled Guilty To The Charge During The MARCH 17th 2006 of The Spartanburg County Court of General Sessions before The Honorable Judge Roger L. Couch And Was Sentence to The Term of 30 years In Confinement. This Post-Conviction Relief Application PCR Brief AS Follows.

Question of Law/Issue

WAS TRIAL Counsel Ineffective For Failure To Object, or Withdraw The guilty Plea Process And Continue With Jury Trial?

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Ineffective Assistance of Counsel

According To Federal LAW There Are Two Requirement To Show Counsel Performed Ineffectively As Prescribed by STRICKLAND V. WASHINGTON. First The Applicant Must show Counsel Was deficient. Second. The Applicant Must show but Wasn't For Counsel's Errors These is Reasonable Probability The Result of The Trial would be Different See Harris V. STA. In This Case Applicant Pleaded Guilty To Murder See STATE V. JOHNSON on MARCH 16 2006. Applicant Was Represented at The Time by Assistant public defender. KAREN QUIMBY. Esquire

Applicant TRIAL Counsel Was deficient In That She did Not Motion The Court To Withdraw Plea And Continue With Jury TRIAL Because The Court did Not Satisfy Itself With The Factual basis For The Plea See U.S. V. BROWN Trial Counsel deficient Performance Prejudiced Applicant When Trial Counsel Fail to Object To The Court when The Court Show Partiality by Moving Applicant Objection to State Versu of Fact into Mitigation See Transcript Page 171 Lines 14-15. This Error Violates Applicants Due Rights See STATE V. DUNCAN The Court Must Make A Fair determination That The record Reflect The Factual Basis of The plea see STATE V. THOMASON "In order To demonstrate The Reasonable Probability Requirement In Accordance to STRICKLAND. Applicant Would like to Enter Into Evidence The Plea Transcript to help Support The Claim Suber V. STATE

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In Plea Transcript The State Solicitor Willingham Presented The Factual Basis For The Plea In Accordance To Rule 11 See Page 167 Lin 12-25 Page 165 Lines 1-25 And Page 169 Lines 1-14 when ask by The Court "Do you agree That what he Told Me Was True" Page 171 Lin 2 Applicant Replied by saying "No Sir Not All of It" Page 171 Lin The Court Responded by saying, "All Right tell me how, how you disag Page 171 Line 4 Applicant Replied One Part about He [Solicitor Willingham] said That I [Applicant] went into the got up And went into The Kitchen to get A Knife. I was Thinking about About At That Time Stabbing my Daddy That was That was Not The Case. The Case Was That we had had been having Some Words And he's Arguing At Me. So He had Threatened me Four Times Three or Four Times That he Would ----- Page 171 Lines 6-13. Applicant Presented Evidence of Self-Defence To The Court Therefore highlighting Prejudiced Resulting From The Charge of Murder. By Stating "Like I said He [Solicitor Willingham] Said I picked up The butcher Knife That was For My Pratection" Page 172 Lines 11-12. Inside This Murder Plea it is Clear That Applicant Raised An Objection to The Essential Ingredient To Prove Murder which is Malice. A For Thought STATE V. Thomason See also STATE V. Allen

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Trial Counsel was deficient when Advising Applicant "We
 I--- Mr Greer What The Judge is asking is if you Agree
 Substantially with what Mr. Willingham has SAID About That
 Might Not Ever tinyitty bitty detail. But Substantially with
 detail. But We're Concerned with is Those Couple of Minutes
 Page 172 Lines 2-6 Trial Counsel deficient Performance Prejudi
 Applicant by Shifting The burden of Proof to The defendant.
 If A Defendant does Not Agree with The States Factual basis
 * Then it is up to The State to Prove what Facts The defendant
 disagree with. STATE V Ballenger The Result of The Preceding
 would have been different if Trial Counsel with drew Plea
 based off InCorrect Factual basis to Support Plea. Have The STATE
 To Prove beyond A reasonable doubt of Malice A For Thought.

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5 of 6

References of LAW

1. STATE V. JOHNSON-291 S.C. 127, 352 S.E. 2d 480
Murder is The unlawful Killing of Another With Malice AForThoug Express or Implied.
2. U.S. V. BROWN-C.A. MD (1973) 481 F.2d 1035. If The Court Cannot Satisfy Itself That There is Factual Basis For guilty Plea, Appropriate Precedure is To refuse To Accept The Plea And go W Trial of The Case.
3. STATE V. DUNCAN-238 S.E. 2d 205, 269 S.C. 510 (1977)
Due Process requires That Accused be given fair Trial before An Impartial Judge And an prejudiced Jury In AN Atmosphere of Judicial Calm.
4. STATE V. THOMASON-584 S.E. 2d 143, 355 S.C. 278 (2003)
All That is required before A plea Can be Accepted is That defende Understand Nature And Crucial elements of Charge(s), Consequoces of The Plea And Constitutional Rights he is Waving And That The record reflect Factual basis For The Plea.
5. Suber V. STATE-640 S.E. 2d 884, 321 S.C. 545 (2007)
Indetermining guilty Plea Issues raised In on Application For Post Conviction relief. It is Proper to Conside The guilty Plea Transcr if as Well as Evidence at The Post-Conviction Relief Hearing.

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References of LAW

6086

6. STATE V. HERVEY - 220 S.C. 506, 68 S.E. 2d 409. Malice is A Essential Ingredient of Murder.
7. STATE V. THOMASON - 534 S.E. 2d 708, 341, S.C. 524. A guilty Plea Admits All Elements of The offence Charged Leaves open For Review only The Sufficiency of The Indictment And Wave All other Defences.
8. STATE V. ALLEN - 200 S.E. 2d 604, 261 S.C. A guilty Plea is An Admission or A Confession of guilt And is As Conclusive A Verdict of A Jury. I Admits All Matters of Fact Elements of The Accusations.
9. STATE V. BALLINGER - 454 S.E. 2d 355, 317 S.C. 364 The State is Required To Prove Every Prong or Element of Crime For which Accused is Charged

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M. Hope Blackley
Clerk of Court

Please Clock And STAMP This Amendment To
ORIGINAL 2009-CP-42-01216
Post-Conviction Relief Application
And Send Me A Copy. I Have Sent MR. John E. Rogers
A Copy Too. THANK you The Same I Mailed This One!

P.S.

This is the only Address I have To MR. John E. Rogers
If There is Another One Please Sent It Thank you

ATT. John E. Rogers
110 Stone Avenue
Greenville, S.C. 29609

He have not Try to Help Me at All on My Case.!

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SPARTANBURG COUNTY
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Questions For My Lawyer To ask
Mrs. Quimby? 9/19/11

1. ~~I~~ Was not Arraignment on These Charge(s).
2. ~~I~~ She did not Take me before A Judge For A Bond Hearing?
3. ~~I~~ Did She Tell Me To Plead Guilty So Many Time
4. ~~I~~ She did not get A Second Examination?
5. ~~I~~ she did not Explain To Me That The 30 year Sentenced would be Day For Day. The Only Time I heard That was In Court That Day.
Page 183 Lines 4-5. I had Already Plead Guilty?
6. At What Time did you Talk To Him About The 30 year Sentence? That It Was Day For Day?
7. (Examination) Was your Only Concern Was To Make Sure That He Was Not Insane And Could Stand Trial.
8. ~~I~~ Did you Call This A Crime of Heated Passion And Not go on With A Trial Page 182 Lines 10-14 (TRANSCRIPT)

Greer V. State

Mr John B. Rogers II

11/1/11

To: Mr Rogers II

RE: Harold Greer Jr V. STATE of South Carolina

CA No: 2009-CP-42-1216

Subject: Response to The letter I Sent you ON 10/24/11

Sir I believe I Miss Under stood That
Order (Form 4) I said: I would like to have A
Notice of Appeal Filed on My behalf, The (But only
Part is The Part I did not understand About A
Proposed Order. So Please Go on With The Appeal
Sir. On That Order. Thank you!

I understand The Order Now! [File The Appeal.]

Sincerely

Mr Harold Greer Jr #277417

P.S.

I said [But only AFTER A Proposed Order has been Properly
Written.] For get About That Part Mr. Rogers.

Thank you Sir.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

COURT OF GENERAL SESSIONS
2009-CP-42-01216

HAROLD LEE GREER, JR.,

-vs-

THE STATE of SOUTH CAROLINA,
Defendant.

TRANSCRIPT OF RECORD

September 21, 2011
Spartanburg, South Carolina

Ordered: March 17, 2012

Delivered: May 18, 2012

B E F O R E:

THE HONORABLE J. MARK HAYES, II, Presiding Judge.

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

MS. SUZANNE H. WHITE, Esquire
Assistant Attorney General Appearing for the State

MR. JOHN E. ROGERS, JR., Esquire
Attorney Appearing for the Applicant

Pamela Faucette
Circuit Court Reporter

I N D E X

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E X H I B I T S

State's Exhibits:	Marked:	Received:
(None)		
Defendant's Exhibits:	Marked:	Received:
(None)		
Court's Exhibits:	Marked:	Received:
(None)		

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Reporter's Note: This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker.

Harold L. Greer, Jr. PCR - September 21, 2011

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September 21, 2011

10:32 A.M.

(Brief pause while Mr. Greer is brought into the courtroom.)

(Off-the-Record Comments)

THE COURT: Yes, ma'am?

MS. WHITE: Your Honor, this is the case of *Harold Lee Greer, Jr. vs. The State of South Carolina*. It's case number 2009-CP-42-1216. He's represented today by Mr. John Rogers.

Mr. Greer was originally indicted in June of '04 on the charge of murder. After beginning with trial, and several pre-trial motions, which were ruled against the Applicant's favor, he ultimately pled guilty to murder and received a sentence of thirty (30) years.

He was represented at that time by Karen Hatcher. He has filed this application following the appeal, which was affirmed and a remitter, alleging ineffective assistance of counsel, involuntary guilty plea.

And he did allege a trial Court error, which obviously the State would move to dismiss as a direct appeal issue.

But he filed this application March 4th of two thousand and nine (2009).

We've attempted a couple of hearings on this because of the difficulty with Ms. Hatcher living out-of-state.

Harold L. Greer, Jr. PCR - September 21, 2011

Page 4

1 And, then, when she would be in-state, we would have some
2 issues with -- with coordinating schedules and -- and
3 things like that.

4 So, we're finally able to have both parties here and
5 present for a hearing. And I will turn it over to Mr.
6 Rogers at this time.

7 MR. ROGERS: Thank you, Your Honor. I'm John
8 Rogers representing Harold Lee Greer. Our position that
9 we're going to put forward today is that his trial
10 counsel was ineffective.

11 And but, for the ineffective assistance of counsel,
12 he would not have pled guilty to the charge of murder.

13 We have to prove two things: First, that trial
14 counsel was deficient in her representation of Mr. Greer.
15 And two, but for the deficient representation, Mr. Greer
16 would not have plead guilty but would have instead
17 insisted on going forward with his trial.

18 And the main issues that we have are Mr. Greer had
19 some good defenses to the murder charge, one being that
20 it was not in cold blood or premeditated; that it was a
21 crime of passion as his trial attorney actually said
22 during the guilty plea.

23 And that it was in self defense. He had another
24 good defense, an absolute defense, of self defense.

25 So, he had a great defense that the State could not

HAROLD LEE GREER - DIRECT by MR. ROGERS

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1 satisfy the elements of the murder charge, which we'll go
2 through and it was discussed in the guilty plea that he
3 did not agree with the State's case.

4 He was not informed of his self-defense absolute
5 defense by his trial counsel. And he had good grounds,
6 for the self defense, defense as well.

7 So, we'll first call Mr. Greer to the stand as our
8 witness.

9 THE COURT: Sir, just come around up here.

10 (The witness complied with the Court's request.)

11 THE COURT: Place your left hand on the Bible and
12 raise your right hand and let me swear you in if you
13 would.

14 (Whereupon,

15 HAROLD LEE GREER, JR.

16 first being duly sworn, testified as follows:)

17 (Off-the-Record Comments)

18 DIRECT EXAMINATION by MR. ROGERS:

10:35 A.M.

19 Q. If you would, state your full name for the record.

20 A. Harold Greer, Jr.

21 Q. Mr. Greer, what is the highest level of education
22 you've completed?

23 A. Tenth (10th) grade.

24 Q. And what kind of jobs have you worked during your
25 lifetime?

HAROLD LEE GREER - DIRECT by MR. ROGERS

Page 6

1 A. I did forklift work. I know how to weld. And I was
2 a truck driver.

3 Q. The date of the death of your father is February 21,
4 two thousand, four (2004); is that correct?

5 A. Yes, sir.

6 Q. All right. And tell Judge Hayes what happened and
7 about the ten (10) months before the death of your father.
8 Tell me -- tell the judge what you were going through and kind
9 of the situation where you were living at the time.

10 A. Prior to the time I was -- I had been incarcerated.
11 And I -- I had lost my mother. And she had, had like an
12 insurance policy for twenty-five thousand dollars (\$25,000).
13 And it was for me and my sister.

14 And somehow I didn't get to get none of the money
15 which my momma meant for me to have, so, when I got out of
16 prison, that I would be able to get my own place and live.

17 And I had to go back and live with my father. So,
18 during that time, we was -- we was -- we was doing okay. And,
19 I -- I got a job with -- with U.S. Trucking Company.

20 And I drove a truck for about three (3) months. And
21 some problems come up and I had to quit the job.

22 But, then, prior to that -- after that happened, I
23 had to -- I had to stay with -- with my father.

24 And we just -- he just had been threatening me
25 before then that -- telling me that he would kill me. And I

HAROLD LEE GREER - DIRECT by MR. ROGERS

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1 didn't believe him because I didn't ever do nothing for him to
2 harm me. Or I didn't do nothing for me to harm him.

3 But, then, I -- I don't know. On the -- on the
4 night of this, when this was supposed to have happened, I came
5 in from looking for a job. And my father wasn't at home.

6 So, I came on in the house. I had some food. I put
7 it up. And, then, I went into my -- my bedroom to fix me -- I
8 went back into the kitchen and fixed me something to eat.

9 When I came back from fixing my food, I went in my
10 room and my father came in. And, when he came in, there was
11 something I had left out in the kitchen and something where he
12 started arguing at me and fussing at me about it.

13 And, like I say, I had been out of work for like
14 five (5) months. And I was all confused. I didn't know why I
15 couldn't get no job. And I was just all confused.

16 I had lost my mother. And my -- like I say, my
17 mother had an insurance policy and I didn't get to get none of
18 the money.

19 And, then, my sister was having problems with her
20 husband. And somehow she ended up with the money and -- and
21 spent it all, eighteen thousand dollars (\$18,000), in three
22 (3) months. And I didn't get not nothing.

23 So, after that, sir...

24 (Brief Pause)

25 Q. Mr. Greer, let me just try to recap to get where we

HAROLD LEE GREER - DIRECT by MR. ROGERS

Page 8

1 are. You had about ten (10) months from when you got out of
2 jail till the night in question when your father died; is that
3 correct?

4 A. Yes, sir.

5 Q. Okay. And, during that period, you had a hard time
6 finding a job and you were living with your father during that
7 time?

8 A. Yes, sir.

9 Q. Okay. And, on the evening in question, just walk us
10 through your -- when your father got home and after you said
11 you had eaten some food and your father got home later that
12 evening and tell us about what happened between you and your
13 father that evening.

14 A. Like I say, we was -- he -- he started arguing at
15 me. And he threatened me; threatened to kill me. So, I just
16 went on in my bedroom.

17 And, then, he was still arguing. I got up and I
18 went back to the kitchen. And I got a butcher knife.

19 And I took it back to the bedroom with me. And I
20 was just watching t.v. and just sitting there and he's still
21 saying stuff, arguing and fussing at me.

22 And, as he's arguing and fussing at me, I'm just --
23 I'm just sitting there. And, all of a sudden, I just -- I
24 don't know what; something just come over me.

25 And I just picked up a brick and walked in and hit

HAROLD LEE GREER - DIRECT by MR. ROGERS

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1 him in the head with it. And I drug him out to the garage.

2 And I laid him in the garage on his back. And I
3 went back in the house. And I seen blood on me, so, I changed
4 my clothes. And I left.

5 But I didn't remember none of this till the next
6 day. I didn't remember none of it, but it come to me I had
7 did something because I woke up somewhere where I didn't even
8 know how I got there.

9 So, I got to where it started coming back to me:
10 "You done did something. You done did something. You done
11 hurt your daddy or something."

12 So, I just started walking. And I walked to Dodge
13 Street (phonetic) to my family's house.

14 And I called -- got on the phone and called 911 and
15 told them, "I think I done hurt my father; I don't know. But
16 I think I done did something to my father."

17 And I told them where I was living at in Wellford.
18 And they sent the Wellford Police to pick me up. And I told
19 them, "I think I done did something. Will you take me to the
20 Detention Center?"

21 And that's -- that's about what I did.

22 Q. At the time you stuck your father with the block,
23 was he threatening to kill you?

24 A. Yes. And he with me -- and he had got up to go in
25 his bedroom because he had a shotgun and a pistol. I know he

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

HAROLD LEE GREER - DIRECT by MR. ROGERS

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1 did.

2 And he always kept a -- a sharp knife in a little
3 case on his belt that will cut hair off your arm. It was that
4 sharp. And he kept it all the time everywhere he go.

5 Q. And did you feel like he was going to get one of his
6 guns to use against you based upon what he was telling you
7 when you hit him?

8 A. Yes, sir, I did.

9 Q. Did you tell Ms. Quimby, your attorney, about all of
10 this; everything you've told the Court about why you got the
11 block and why you struck your father?

12 A. Yes, sir.

13 Q. Okay. Do you remember during...

14 (Brief Pause)

15 Q. When you started your trial in this case, and then,
16 you pled guilty after the trial had started; is that correct?

17 A. Yes, sir.

18 Q. Do you recall your discussion during the -- the
19 guilty plea with the Court, talking to the Court during your
20 guilty plea?

21 Do you remember the State's attorney, the
22 prosecutor, talking about the facts of the case and, then, the
23 -- Judge Couch asked you do you agree with the facts of the
24 case as the solicitor or the prosecutor presented it? Do you
25 remember that?

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HAROLD LEE GREER - DIRECT by MR. ROGERS

Page 11

1 A. Yeah.

2 Q. Do you remember disagreeing with the facts as the
3 prosecutor laid them out?

4 A. Yes, sir.

5 MR. ROGERS: Permission to approach the witness,
6 Your Honor.

7 THE COURT: (Nods affirmatively.)

8 Q. I'm going to direct you to Page 171 of the record on
9 appeal.

10 (The witness complied with the request.)

11 Q. And I'm going to read this. And, then, you tell me
12 if I'm correct.

13 On Page 171, starting at Line 2, "Do you agree with
14 what he told me is true," said the Court. And you -- you
15 reply, "No, sir, not all of that -- not all of it."

16 "The Court: All right. Tell me how you disagree
17 with what he told me." You reply, "One part about what he
18 said I went into the -- got up and went into the kitchen to
19 get a knife, and I was thinking about at the time stabbing my
20 father, that was -- that was not the case.

21 "The case were we had been having verbal words. And
22 he was arguing at me. So, I'm -- I've done been threatened
23 four (4) times -- three or four times that he had told me."
24 Do you recall saying that to the Court?

25 A. Yes, sir.

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

HAROLD LEE GREER - DIRECT by MR. ROGERS

Page 12

1 Q. Was that true?

2 A. Yes, sir.

3 (Brief Pause)

4 Q. And do you recall on the next page, Page 172, going
5 further with your disagreements with the prosecutor?

6 A. (No Response)

7 Q. On Page 172, Lines 8 and 9, you say, "Like I say, he
8 said I picked up the butcher knife. That was just for my
9 protection."

10 A. Yes, sir.

11 Q. Did you tell the Court that because that was true?

12 A. Yes, sir.

13 (Brief Pause)

14 Q. Did you tell your trial attorney, Ms. Quimby, that
15 you were acting in self defense at the time you struck your
16 father with the block?

17 A. Yes, sir.

18 Q. Okay. Did your -- did you talk to Ms. Quimby about
19 all the facts and circumstances about your father's death,
20 everything I've talked about with the Court today?

21 A. Yes, sir.

22 Q. Okay. Did Ms. Quimby ever talk to you about the --
23 the possible absolute defense that you had to the -- the crime
24 of murder or self defense?

25 Did she ever tell you could use self defense based

HAROLD LEE GREER - DIRECT by MR. ROGERS

Page 13

1 on what you told her? And that, if you could prove that you
2 acted in self defense, that you would not be guilty of murder?

3 A. No, sir.

4 Q. Did she tell you that?

5 A. No, sir.

6 Q. Did Ms. Quimby tell you that, to prove the crime of
7 murder, that the State had to prove that -- that the murder
8 was premeditated? That it was not a crime of passion? Did
9 she tell you that?

10 A. No, sir.

11 Q. Did she tell you, if the State failed to prove
12 premeditation, that the State could not get a conviction
13 against you for murder?

14 A. No, sir.

15 (Brief Pause)

16 Q. And did she tell you about the element of murder of
17 malice, malice aforethought? Did she have any discussions
18 with you about that and malice being an essential element of
19 the crime of murder?

20 A. She mentioned some stuff about that, but I didn't
21 really understand it.

22 Q. Did she tell you that you had viable defenses to
23 the element of murder of malice, meaning that you had defenses
24 where you may very well be able to prove that malice was not
25 an element associated with this crime or potential crime?

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

HAROLD LEE GREER - DIRECT by MR. ROGERS

Page 14

1 A. No, sir, not that I know of.

2 Q. If Ms. Quimby had of told you -- had told you,
3 before you pled guilty, that you had a viable defense of self
4 defense, that you all could argue to the jury based upon the
5 facts and, if she would have told you that they would have had
6 to prove some form of premeditation to have you found guilty
7 of the crime of murder, would you have pled guilty?

8 A. No, sir.

9 Q. Would you have gone forward with a jury trial?

10 A. Yes, sir.

11 Q. Is there anything else you would like to tell the
12 Court?

13 A. Well, I just want to say that I loved my father. He
14 -- he meant the world to me. And I tried everything I could
15 to please him.

16 He was a brick mason. And he taught me how to do
17 the job that he did. And, my mother, she was a seamstress.
18 And she taught me to do the job she did.

19 So, I could do both things that my mother and father
20 could do. But somehow through the years I just -- I just
21 couldn't -- couldn't please him.

22 Somehow, I don't know how everything I tried, when I
23 first became a truck driver, when I came home, I stopped my --
24 my truck on Carver Street (phonetic) and I run to the house.
25 And I was living with my father at the time.

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1 And I was just so glad to see him and -- and he see
2 me in a -- driving a truck. But somehow I didn't get that --
3 that father's love.

4 You know, "I'm trying to -- I'm doing what I can to
5 -- to make it, Daddy," you know? And he just -- and I told
6 him to come on and -- and get in the truck with me, so, I can
7 go drop a trailer.

8 And he -- he got up and come out of the house. And
9 he got in the truck with me. And I went and dropped the
10 trailer off. And I thought he was proud of me.

11 I went in the National Guard when I quit school.
12 And I stayed in the National Guard fourteen (14) years hoping
13 I could make my father proud of me.

14 But somehow I guess it was from things that happened
15 in the past; the way my mother treated me. And she would do
16 special things I guess because I was her first son, her first
17 kid.

18 And she told me she loved her first kid just a
19 little bit more than the second one. And I understood that.

20 But I don't know. I -- I tried everything I could
21 to -- to please my father. I loved him. And Lord knows I
22 hate...

23 (Witness becomes emotional.)

24 A. ...I hate what happened to my father. And, if I
25 could bring him back, I would. And I wish that he had took my

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1 life instead of me taking his. That's all.

2 MR. ROGERS: Thank you, Mr. Greer. That's all I
3 have.

4 THE COURT: Yes, ma'am?

5 (The witness stands up.)

6 MR. ROGERS: Mr. Greer, you'll have to wait. She
7 -- she gets the opportunity to ask questions as well.

8 THE WITNESS: All right. All right.

9 MS. WHITE: Thank you, Mr. Greer.

10 CROSS EXAMINATION by MS. WHITE:

10:46 A.M.

11 Q. Obviously, this was a tough trial for you. And it
12 started off as a trial, didn't it?

13 A. Yes, ma'am.

14 Q. Okay. And, in fact, you and your attorney went
15 through some motions. She did -- and had requested that they
16 do a mental competency evaluation on you, didn't they?

17 A. Yes, ma'am.

18 Q. And they found you competent to stand trial?

19 A. Yes, ma'am. They say ---

20 Q. Okay. And they also did a -- an exam on you on --
21 to whether or not you were responsible for the acts. They did
22 another test as to whether or not -- I guess that the simple
23 way to explain it, if you were insane at the time or if you
24 had an insanity defense, to the -- to the crime; is that
25 right?

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1 A. Yes, ma'am.

2 Q. Okay. And neither one of those were -- were found
3 in your favor; is that right?

4 A. That's right. But the only thing I see was they was
5 -- they just took me just to see was I incompetent to stand
6 trial [sic].

7 It didn't -- it doesn't -- it seemed that was all
8 Ms. Quimby was -- was worried about; you know, making sure
9 that, that was it, you know? And after that, then, I'm going
10 to go on and do what I need to do.

11 Q. But she was worried about whether or not you could
12 stand trial. She was worried, after meeting with you and some
13 conversations that -- that you might not be competent to stand
14 trial; is that right?

15 A. Yeah, I guess so.

16 Q. Okay. And, in regards to the issues of your father,
17 you had -- had lived there you said for about ten (10) months
18 prior?

19 A. Yes, ma'am.

20 Q. Okay. And at some point, you had a job during that
21 time but you had lost that and had -- had, had some other
22 issues that had occurred with the loss of your mother and some
23 -- some financial issues?

24 A. Yes, ma'am.

25 Q. Okay. Now that evening you said you had been

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1 threatened by your father. You had been in your room for a
2 time period and you had come out and gone back in.

3 And I now you testified that your father had been up
4 at one point and gone in his room. At the time in which he --
5 you had hit him with the brick, he was sitting in the den
6 watching t.v.; is that correct?

7 A. Yes, ma'am.

8 Q. Okay. And -- and you testified that -- that you,
9 then, took him into the garage after you had hit him; is that
10 right?

11 A. Yes, ma'am.

12 Q. Now didn't the State testify or I guess make a
13 statement at the guilty plea that -- that not only was he hit
14 by the brick after that, but that another knife was used to
15 stab him in the chest a couple of times while he was in the
16 garage?

17 A. Yes, ma'am. And that's the part that I don't
18 remember.

19 Q. Okay. So, when -- when they were going over what
20 actually happened, they said that -- that the head injury
21 wouldn't have been actually immediately fatal.

22 It was the -- the knife wounds to the chest and --
23 and that -- the bleeding and the chest wounds that are
24 probably -- and the loss of blood is what led to his death?

25 A. Yes, ma'am.

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1 Q. Okay. And that occurred once he was knocked
2 unconscious by the brick and dragged into the -- the garage;
3 is that right?

4 A. Yes, ma'am.

5 Q. And that's the part you say you don't remember?

6 A. Yes, ma'am.

7 Q. Okay. So, at that point for self defense, your
8 father wasn't able to attack you at that point, was he?

9 A. (No Response)

10 Q. Physically he wasn't able to attack you because he
11 was -- he had been knocked unconscious?

12 A. Yeah, he was knocked unconscious at that point.

13 Q. Okay. So, did you talk with your attorney about the
14 fact that, that would make it difficult to allege self
15 defense?

16 A. No, ma'am.

17 Q. Okay. So, you didn't talk about the fact that --
18 that the fact that ---

19 A. Are you talking about Ms. Quimby?

20 Q. Yes, sir. The -- did you and Ms. Quimby talk about
21 the fact that because he was unconscious at the time that he
22 was stabbed that, that would make it difficult to allege that
23 you were -- it was self defense?

24 A. She didn't -- she didn't talk to me about that.

25 Q. Okay. And -- and, when you disagreed with the

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1 solicitor going over the facts during the guilty plea, you did
2 agree, though, with the Court when the Court said, "You agree
3 that you agree you killed that father -- your father that
4 night?" And you did say, "Yes, sir"?

5 A. Yeah, I said "Yes, sir."

6 Q. Okay. And -- and, at that point, the judge asked
7 you, if you were giving him honest answers and if those were
8 your answers at the guilty plea.

9 And you said, "Yes, sir," that you were answering
10 truthfully; is that correct?

11 A. Yeah. And the only reason why I did say that is
12 because it was my father and it hurted me so bad to -- it
13 didn't make no difference then.

14 I didn't -- I didn't care no more; whatever -- if I
15 had did it or if I hadn't done it, it didn't make me no
16 difference. I just went ahead and said whatever, so -- so I
17 could go ahead and get on with my life.

18 Q. Okay. And Ms. -- Ms. Quimby, at the time, she spoke
19 on your behalf at the -- at the guilty plea pretty strongly,
20 didn't she? Do you recall that?

21 A. I don't think she spoke as strongly as she could
22 have.

23 Q. Okay. I'm going to read a few pages and I want to
24 ask if you recall some of the statements she made from the
25 transcript.

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1 She started off by saying that you made ---

2 THE COURT: What page?

3 MS. WHITE: Oh, I'm sorry, Your Honor. Page 174
4 starting off with statements by Ms. Quimby during
5 mitigation for sentencing.

6 Q. (By Ms. White) She started off with saying that you
7 had always given a very consistent statement and that you had
8 been the one who told everything that had happened that night.

9 And, then, she said that you had given mitigation --
10 excuse me -- that there was mitigation that might not quite
11 rise to the level of what would excuse or justify, but you --
12 but she also said that there were things that led to your
13 state of mind at the time from things that had built up.

14 And she was leading up to the fact of the things
15 that were building up between you and your father, right?

16 A. Yes, ma'am.

17 Q. And -- and she says that there was not always a good
18 relationship with you and your father, but you were always
19 very close with your mother. And that you [sic] had passed
20 away a few years before this but your world had kind of
21 crumbled at that point?

22 A. Yes, ma'am.

23 Q. And she said that you felt like your dad had never
24 loved you, but that, you know, he had allowed you to stay
25 there.

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1 She talked a little bit about what a difficult time
2 you had staying there; the fact that your father was very
3 controlling regarding everything from food and -- you know, in
4 the kitchen, phone restrictions.

5 You talked -- she talked about the fact that your
6 personal life with your trucking, your job situation; the fact
7 that you had lost your job.

8 She talked about the fact that your father had
9 threatened you on a number of times; that he owned guns. And
10 she told about the pistol and the shotgun and that other
11 family members even would acknowledge that they would even --
12 known about the guns and had been threatened; explicit threats
13 even.

14 So, she spoke and told the Court about all those
15 things. Would you -- do you recall that?

16 A. I recall that.

17 Q. Okay. So, she was trying to -- to let the Court
18 know that, even though you were pleading guilty, that all
19 these things had led up to what happened that night; do you
20 agree with that?

21 A. But I had pleaded guilty already when she -- when
22 she said all those things.

23 Q. Right. But this was to try to get you the best
24 sentence she could. Do you agree with that?

25 A. No, ma'am, because if -- the best sentence I -- I

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1 got was -- was thirty (30) years; day-for-day, which I didn't
2 even know that the thirty (30) years was day-for-day.

3 If I had knew that, I would have went on with my
4 trial. I was forty-five (45) years old.

5 So, which wouldn't have made any difference, if I
6 had went on and through the trial, I wouldn't have -- I
7 wouldn't have -- they wouldn't have found me guilty. I know
8 they wouldn't because I wasn't guilty.

9 But by me going on and pleading guilty, it was
10 because I loved my daddy. That's why I pleaded guilty.
11 And I didn't want nobody else to -- to -- to get charged with
12 that because I didn't now what I had done.

13 I know I hadn't stabbed him.

14 Q. So, your testimony is you disagree that you stabbed
15 your father?

16 A. Yes, ma'am.

17 Q. So, even though you admitted that you were guilty
18 and ---

19 A. Well, I did -- I admitted it because, when they told
20 me that my father was dead, and I'm thinking that the brick --
21 it was the brick that killed him.

22 When they took me to the -- to the -- the County
23 jail, and the guy come in there and told me that my father was
24 dead, I cried like a baby because it hurted me so bad.

25 But, then, I've been locked up seven (7) years and I

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1 can't remember stabbing him through his heart with no butcher
2 knife.

3 And, when I took him to the garage, he was laying down on
4 his back. But they got on the -- in the transcript, when they
5 found him, he was laying face down in a puddle of blood.

6 And I know I didn't leave him -- well, I -- I -- I
7 -- when it come back to me, I knew that I left him there on
8 his back.

9 Q. Well, you did just testify earlier that you forgot
10 everything and just woke up the next morning ---

11 A. Right.

12 Q. --- thinking you had hurt your father.

13 A. Right. This is the next day.

14 Q. So, you don't think maybe you forgot what happened
15 during that night?

16 A. I believe after seven (7) years I could remember
17 stabbing a butcher knife through his heart.

18 Q. Okay.

19 MS. WHITE: Okay. That's all the questions I have
20 at this time, Your Honor.

21 MR. ROGERS: Just briefly, Your Honor.

22 REDIRECT EXAMINATION by MR. ROGERS:

11:01 A.M.

23 Q. Have you ever made any admission about stabbing your
24 father? Have you ever told anybody that you stabbed your
25 father?

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1 A. Huh-uh (negative).

2 Q. And did you stab your father that night?

3 A. No, I can't remember stabbing my father that night.

4 Q. Okay. And, from the very beginning, you've admitted
5 that you hit your father in the head with the block?

6 A. I remember -- I remember hitting him the next day
7 with the block.

8 Q. Right. And, when you said you killed your father,
9 you had assumed that the block blow had killed him?

10 A. Right.

11 Q. Okay. And was your father getting up to go get his
12 -- his guns at the time you hit him with the block?

13 A. No. He wasn't getting up at the time. He had went
14 in his room. And, when he come out of his room, I'm thinking
15 he's fixing to come back to the bedroom where I'm at.

16 Q. Right.

17 A. And I'm -- I'm just sitting there. I ain't got no
18 brick or nothing in my hand. I'm just sitting there. And I'm
19 waiting on him -- or no butcher knife.

20 But I had went and got the knife out of the kitchen
21 for my protection. So, the knife was laying down and I guess,
22 if he had come in there with a shotgun or a gun, I wouldn't
23 even had a chance to use the butcher knife.

24 So, I didn't -- I didn't -- I didn't do that. I
25 didn't use no butcher knife.

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1 Q. So, you thought he had gotten his gun from the
2 bedroom?

3 A. Yeah, I thought he had got it. But he went back and
4 sat down and still arguing and fussing at me though.

5 Q. Still making threats that he was going to kill you?

6 A. Right.

7 Q. And you believed that those threats were true -

8 A. Right.

9 Q. --- and he was really going to do that?

10 A. Right.

11 Q. And he had a long history of threatening you?

12 A. He had threatened me many times for no reason.

13 Q. And he threatened your life many times before?

14 A. Right. And I have came home and been in my room and
15 my father would be cooking. And he would go to sleep while he
16 cooking. And I would be in -- in the bedroom and I
17 (demonstrates) -- I smell smoke.

18 And, when I open up my door, the whole house smoked
19 up. Now, if I didn't love him, I could have went out the
20 window. And left him in there and let the smoke kill him.

21 This happened two or three times within them five (5)
22 months. But I didn't have no excuse to do nothing like that.

23 Q. And did your father practice witchcraft and voodoo?

24 A. Yes, he did.

25 Q. And did that scare you as well?

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1 A. Yes, it did.

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

3 THE WITNESS: But, again, though, I was -- I was
4 trapped, Your Honor. I didn't have nowhere to do.

5 I didn't have no other family to go live with. I
6 didn't have no job. So, you just can't go and -- and ask
7 somebody, "Look, I need to -- I need to stay with you
8 because some problems happened in that home and I don't
9 know how they're going to be."

10 But I didn't have no one I could go to. And I felt
11 like I was trapped there. So, I stayed to myself.

12 I stayed -- I had a room when -- when I come in the
13 house I speak to my daddy and I go in my room and I
14 watched my t.v.

15 When I go out, I tell my daddy, "I'm fixing to go
16 somewhere; I love you. I'll be back." But I was just --
17 I was trapped, Your Honor. I didn't have nowhere to go.

18 Even my probation officer, Mr. Deal, I told him
19 about that. He said, "Well, why don't you try to go to a
20 -- a boarding house or something?"

21 But, then, I said, "Why? I don't bother him. You
22 know, I come in and go to -- to myself. And that was it."

23 THE COURT: Thank you, sir.

24 THE WITNESS: Thank you, sir.

25 (The witness stepped down from the witness

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1 stand.)

2 MR. ROGERS: Your Honor, Mr. Greer rests.

3 MS. WHITE: The State would call Karen Quimby
4 Hatcher to the stand.

5 (Off-the-Record Comments)

6 (The witness stepped forward to be sworn.)

7 (Whereupon,

8 KAREN QUIMBY HATCHER, ESQUIRE

9 having first been duly sworn, testified as follows:)

10 (Off-the-Record Comments)

11 DIRECT EXAMINATION by MS. WHITE:

11:06 A.M.

12 Q. If you don't mind, please, state your name for the
13 record.

14 A. Karen Quimby Hatcher.

15 Q. So, at this time -- Mr. Rogers referred to you and
16 in the record you're referred to as Ms. Quimby; is that right?

17 A. Yes. I've gotten married since then.

18 Q. Okay. And can you, please, tell us how you were
19 appointed to or assigned to this case originally?

20 A. Sure. I was employed at the public defenders'
21 office at that time. And the cases were assigned by our court
22 coordinator.

23 Q. And Mr. Greer was indicted in June of '04 and went
24 to trial or plead guilty in May of '06, so, about two years.
25 How long did you have the case; do you recall?

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1 A. I would have gotten the case not long after it
2 occurred, after -- after the public defenders office got it.

3 Q. And, during your talks, or your I guess initial
4 meetings with him or discussions with him, what were your
5 initial thoughts about the case; how to proceed or -- or what
6 you would need to do for this?

7 A. My initial meetings with Mr. Greer centered on first
8 just getting his side of the story and commun -- talking with
9 him and -- and finding out what he knows about what happened.

10 Some concerns began to develop really early on,
11 even in the first meeting, about possible mental health
12 issues. I felt that he would benefit -- that -- that my
13 representation of him would benefit by getting my client an
14 evaluation.

15 And, so, I approached the solicitor about that. I
16 talked to Mr. Greer about it. And he -- he was fine with
17 that.

18 So, I talked to the solicitor, Donnie Willingham,
19 and we went before Judge Couch and requested a mental health
20 evaluation.

21 And, because of the nature of my concerns about the
22 difficulty in communicating with Mr. Greer and some of his
23 fixed ideas and -- and how early some of his problems began in
24 life, we -- I was concerned about getting him a dual
25 evaluation at DDSN (phonetic) if necessary after the DMH

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1 evaluation.

2 And it -- that was a very long process because
3 that's when -- during the time that Judge Baxley was
4 reorganizing the evaluation process.

5 So, we had an order. And, then, we had to redo the
6 order based on the new procedures.

7 Q. And, when you say a dual evaluation, explain a
8 little bit about what he was going to be evaluated for, both.

9 A. We -- I was looking for an evaluation as to criminal
10 responsibility which looks backwards at the time of the
11 incident. And I was also looking for a competency evaluation
12 as to whether he's competent currently for trial.

13 Q. Okay. And going back a little bit with getting his
14 side of the story, from what he told you then, and -- and from
15 what you've heard today as well, has that -- is that fairly
16 consistent with what you heard then and -- and what the story
17 was the whole time?

18 A. Mr. Greer's story was very consistent up until I
19 believe the day before -- the night before trial.

20 The -- the afternoon before trial, I went to see Mr.
21 Greer at the jail. And that was the very first time that he
22 said, "Oh, I don't know who killed him. I have no idea."

23 So, prior to that one time that he said that, he had
24 been consistent in what he said happened that night. And it
25 started from I believe the first meeting where he did describe

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1 hitting his father with the brick and the subsequent stabbing.

2 He actually believed that he had stabbed his father
3 twice, but didn't think that the force that he used would
4 have been enough to actually penetrate and go all the way
5 through the heart. That was what he couldn't understand.

6 He did not -- there was no issue. I mean, he said,
7 "I stabbed my father one or two times." But he was just
8 concerned because he didn't think that would have killed -- or
9 I'm not sure -- he didn't think it would have gone in far
10 enough to have killed him.

11 Q. So, at that point in your meetings, you were
12 proceeding with the acknowledgment that he was admitting that.
13 Were you going to proceed with a guilty plea or were you still
14 going to try this as a trial?

15 A. At -- at that point, that was not the concern. The
16 concern early on, again, was the mental health evaluation.
17 Following that was when we needed to look at plea or trial.

18 We prepared for trial. And, of course, the -- the
19 trial had effectively begun.

20 Q. What -- when you were preparing for trial, at that
21 point, you had received the evaluations?

22 A. Yes.

23 Q. And, so, you knew that he was found competent for
24 trial?

25 A. Yes.

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1 Q. Did you agree with that finding although
2 unfortunately it was the finding I know, but -

3 A. Right. I -- I still had serious concerns about --
4 about that, but acknowledged that I'm not a doctor and that my
5 concerns -- it -- it could have just -- the judge found that
6 he was competent. And I still had concerns.

7 Q. And he was found criminally responsible as well; is
8 that correct?

9 A. Yes.

10 Q. So, you knew that going in and preparing for trial.
11 What -- in your conversations with him, had you discussed
12 defenses?

13 A. Yes.

14 Q. And tell me what kind of defenses you had talked
15 about with him.

16 A. We talked about -- once he told me his story and
17 what he remembered happening, we talked about obvious
18 defenses, whether self defense applied.

19 He asked specifically about voluntary manslaughter
20 because he knew that, that carried -- he -- he said five (5)
21 years.

22 We talked -- we talked about plea versus trial in
23 general terms because, at that point, it was early on.

24 But we did discuss self defense and the fact that
25 -- the story he told me in the beginning that remained

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1 consistent was that his father was sitting I guess in the
2 living room in a chair I believe with his back to Mr. Greer at
3 the time Mr. Greer approached him with the brick.

4 Mr. Greer also told me, in either the first or
5 second meeting, and it never changed that -- he also told me
6 that the threat was more of an intimation;

7 That there had been threats to kill him or to shoot
8 him with a shotgun. And his father had brought shotguns out
9 at various times over the last several months proceeding this.

10 But he told me on December the 13th of '05 that his
11 dad was still fussing about the fact that he had -- that he
12 did not have a job and that he had left something out in the
13 kitchen.

14 So, Mr. Greer went to fix that problem. He went
15 back to his room. His dad was still fussing. But at that
16 point he was sitting in a chair.

17 Mr. Greer said he was worried about -- he was just
18 listening to his father and that his father threatened him in
19 so many words.

20 And I -- I said, "What do you mean, threatened you?"
21 He said, "Threatened to kill me."

22 But, when I asked what the words he remembered were,
23 it was really, "in so many words." He said, "You're going to
24 make me hurt you. You've got to get a job. You've got to get
25 straight. What do you not -- why are you -- you don't think

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1 I'm your dad any -- any more?"

2 And Mr. Greer said that he took it as a threat to
3 kill him. And, so, he got up, went to the kitchen, and got a
4 butcher knife and went back to his room in case his father
5 came in again. And, "Something came over me."

6 And he described it as a spirit because, as he
7 testified, he very much believes in root work. And he
8 believed that his father was -- was active in that and was
9 trying to harm him.

10 So, that's when he picked up the brick and went and
11 hit his father in the head with it in the living room.

12 And he said that he dragged -- after the brick, he
13 dragged him to the garage and a different butcher knife was
14 out in the garage on the sewing machine.

15 His father reached up for him. And, so, Mr. Greer
16 reached for the knife and stuck him he believed maybe two
17 times and, then, went back into the house.

18 So, that -- that was what I was working with was
19 that information.

20 Q. So, did you -- was self defense in your mind a -- a
21 probable defense to use based on that info?

22 A. Based on that info, no. However, when -- when you
23 get to trial, it depends on what comes out in trial.

24 And, so, that was something that we did discuss.
25 And we discussed the fact that I didn't think it was a

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1 applicable defense for him, but that that's something that's
2 -- we just sort of set aside and, if something comes up in
3 trial, we can use that.

4 We also discussed voluntary manslaughter. We
5 discussed the elements. That was -- we discussed that
6 sometimes the reasons for something, even though they're good
7 reasons, sometimes they don't rise all the way to the level of
8 a legal defense.

9 And that, that would be our goal at trial would be
10 trying to make those circumstances fit the legal definition of
11 voluntary manslaughter.

12 Q. Tell me, did you ever have a chance to work on any
13 negotiations with the State? Were they willing to -- to offer
14 a lesser charge?

15 A. Mister -- if I remember correctly, Mr. Willingham
16 was never willing to negotiate. And he was certainly never
17 willing to negotiate voluntary.

18 (Brief Pause)

19 Q. And obviously there were some -- a few other pre-
20 trial motions. Mr. Greer had made about four or five
21 statements I believe to police once -- obviously, he's the one
22 that called 911 and said, "I think I've hurt my father."
23 You did a *Jackson v. Denno* motion --

24 A. Yes.

25 Q. --- is that correct?

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1 A. Yes.

2 Q. Were any of those statements successfully kept out?

3 (Brief pause while the witness reviews documents.)

4 A. I believe that --

5 Q. I believe ---

6 A. I'm sorry.

7 Q. No, I'm sorry. But I believe that was Page 142 to
8 150 of the record on appeal.

9 A. I'm sorry.

10 THE COURT: What was that page again, please?

11 MS. WHITE: One forty-two (142) to 150, Your Honor.

12 (Brief Pause)

13 MS. WHITE: Well, that's her argument. I guess I
14 should say the -- the motion actually starts on Page 160
15 -- Page 60. So, it's a pretty...

16 A. Right. For...

17 (Brief Pause)

18 A. Unless I find differently in the record, I want to
19 say that Judge Couch took it under advisement and had not
20 ruled on it. But I'm -- I'm not sure. I would to find that
21 in the record.

22 Q. Just a second, 158 -

23 (Brief Pause)

24 Q. Yeah, he took it under advisement when -- and, then,
25 you all went the next morning.

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1 A. Correct.

2 Q. And he had chosen to plead guilty at that time?

3 A. Yes.

4 Q. Okay. Tell me what happened. You also did make
5 some motions to keep out any mentions of illegal drug use?

6 A. Yes.

7 Q. And that was related to what; do you recall?

8 A. That was related to testimony that the solicitor's
9 office would be trying to elicit from I believe a Mr.
10 Littlejohn or -- I -- I'm not certain about the -- the State's
11 witness.

12 But that later that evening or sometime late that
13 evening, Mr. Greer -- this person would testify that Mr. Greer
14 had come to their house or a nearby house and smoked crack
15 cocaine.

16 And we were trying to keep that out because, from
17 the timing of it, we believed that it was -- it was an after
18 event. We -- we just didn't think -- we wanted to keep that
19 out.

20 Q. Okay. And you also filed a -- a motion to suppress
21 evidence. I believe they searched the home when they found
22 his father ---

23 A. Correct.

24 Q. --- is that correct? And what were you trying to
25 keep out from that?

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1 A. The murder weapons, all of the evidence against Mr.
2 Greer. The police went in. The whole argument was based on
3 the State saying that they -- the police initially went in
4 under exigent circumstances to see if there was any aid that
5 could be given to Mr. Greer, Sr.

6 But the -- the incident reports and the testimony
7 indicated to me that it was more of a go secure the crime
8 scene type thing. And they knew they were dealing with a
9 deceased person.

10 And, so, there -- there was a lot of argument about
11 that. So, the exigent circumstances, we were trying to fight
12 that.

13 Q. Okay. And, in fact, they had -- did they -- at the
14 time, did you know had they done fingerprinting? Did they
15 have DNA evidence, anything like that, against your client at
16 that point?

17 A. Prior to them going in the home?

18 Q. Other than that, they had his statements at that
19 point?

20 A. Correct, his verbal statements to Chief Jim Greer
21 (phonetic) in the -- in the car.

22 Q. And, then, other than that, that would have been the
23 only evidence, then, they would have had?

24 A. I believe -- Chief Greer called for Spartanburg
25 County to come assist. He was the only officer on duty in I

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1 believe it was Wellford.

2 So, Spartanburg County came. And I know that Mr.
3 Greer made similar statements to a county officer or two, but
4 I -- I do not recall whether it was simultaneously with the
5 officers going in to do that check or -- or not.

6 Q. Okay. Tell me just real quick too, did -- when you
7 talked with him about pleading, what changed between the night
8 after you had made your pretrial motions and the -- the next
9 day when you came in and decided to plead guilty -- or that he
10 had decided to plead guilty?

11 What -- what discussion did you have that night?

12 A. Let me see...

13 (Pause while the witness reviews documents.)

14 A. I went to see Mr. Greer at the jail after that first
15 day of trial. He had wanted me to arrange a visit with his
16 daughter Felicia Carson (phonetic). And Ms. -- Ms. Carson
17 wanted me to arrange that visit as well.

18 So, I did that. And I'm not sure whether her visit
19 was before or after I talked to him, but I did arrange that
20 visit.

21 And, then, when he and I were talking, I -- I did
22 explain about Judge Couch taking our motions under advisement.
23 He wanted to know when the trial would be over, whether it
24 would be Wednesday or Thursday.

25 I told him that was -- it would actually depend on

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1 -- it was subject to us having defense evidence, witnesses to
2 put up, and what -- where the defense went with that.

3 Mr. Greer wanted very much to testify at his trial.
4 I know that I believed that, that would be a bad idea for Mr.
5 Greer as far as setting up any defenses.

6 It would have been my strategy to call some of the
7 family members rather than Mr. Greer to set up some of the
8 prior threats that they witnessed rather than Mr. Greer
9 testifying.

10 And, with all due respect to Mr. Greer, he -- I was
11 afraid that, just as he had done in all of our previous
12 meetings, I was afraid that we would start out following a
13 path to a defense and that Mr. Greer's rambling would
14 negatively affect that.

15 And, so, I gave him my opinion that I didn't think
16 he should testify and -- but I told him that decision was
17 entirely up to him but that I'm supposed to give him my
18 opinion. And he -- and I knew that he wanted to testify.

19 We did talk about the range of -- of sentencing were
20 he to be found guilty. We talked about the fact that he could
21 still go to trial. He could also plead.

22 That was completely -- those -- those were decisions
23 that were his, the ability to testify and the choice to plead
24 or go to trial -- finish the trial.

25 Mr. Greer was adamant that his testimony in the

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1 trial -- he wanted to set the scope of that and have it
2 include things like he believed his father and his sister to
3 have colluded to kill his mother.

4 And that his father was putting poison or something
5 or put the root on the KoolAid because he would only -- Mister
6 -- Mr. Greer, Sr. would only fix red KoolAid and Mr. Greer
7 thought that was suspicious and proof that he was trying to
8 kill him.

9 There were things like the insurance policy that Mr.
10 Greer already mentioned. There was just a lot of things that
11 I was worried would get in the way of the jury's ability to
12 assess Mr. Greer's defense in terms of an actual defense.

13 We talked about the fact that his -- most of his
14 family would be there the next day, including his -- most of
15 his children.

16 We just kind of left it at that. And we were still
17 going to trial as far as I knew.

18 And, then, he -- and, then, we got to court the next
19 morning. Mr. Willingham and I had had a meeting in chambers
20 with Judge Couch. We still didn't know what his rulings on
21 the motions would be.

22 I came back -- we came back out. I spoke with Mr.
23 Greer about plea versus trial. And he said that he wanted to
24 talk with his son.

25 I got special permission from Judge Couch to allow

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1 his son to go back in the jail room with us. And his son --
2 is it Rico; Rico Smith (phonetic). His son participated in
3 that discussion.

4 And Mr. Greer and his son were able to talk at
5 pretty good length about what his options were and what he
6 wanted to do;

7 And the fact that his sister -- that Mr. Greer's
8 sister was, on this second day, sitting on our side of the
9 courtroom; the fact that his son Rico came to see him and that
10 his daughter, Felicia, was on her way and trying to be here on
11 time for day two.

12 That also contributed to his telling me that he
13 would be okay with the plea. He wanted to do a plea. He
14 wanted thirty (30) years and, of course, that's what I would
15 have argued for and -- and did argue for.

16 He understood that a plea would be waiving any
17 defenses that we could have raised, any challenges to any of
18 the State's evidence, any challenges to the State's witnesses.

19 We discussed all of those matters.

20 Q. Okay. He did mention that he didn't know he was
21 going to be serving, you know, thirty (30) day-per-day. I did
22 notice that you mentioned, on Page 183, that he understood the
23 sentence was anywhere from thirty (30) to life; no parole.

24 It's not eighty-five percent (85%); that it's a day-
25 per-day. He understands that.

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1 Did you -- had you spoken with him about that when
2 you were discussing the sentencing range?

3 A. Yes.

4 Q. Okay. And did you feel like -- in your
5 conversations with him, did he have questions? Did you -- did
6 he appear to understand?

7 A. He appeared to understand that, although throughout
8 my representation of him, he was very consistent that he
9 understood it was thirty (30) to life. But, that didn't
10 matter to me him because he wanted the death penalty or five
11 (5) years.

12 And I explained to him that the death penalty was
13 not available to him and that's actually a good thing. And
14 that the five (5) years would come from the voluntary
15 manslaughter and that was not being offered, but that, that
16 was something we could aim for at the trial.

17 Q. And even knowing that he chose to go ahead and plead
18 guilty and take the thirty (30) years if he were -- if he
19 were --

20 A. If he were given thirty (30) years, yes.

21 Q. Okay.

22 A. And we knew that the family, the rest of the family,
23 who was also Mr. Greer Sr.'s family did not oppose the thirty
24 (30) years and that his children were asking the Court to
25 consider thirty (30) years. And Mr. Willingham stayed silent

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1 on the sentencing.

2 MS. WHITE: Thank you. That's all I have at this time.

3 CROSS EXAMINATION by MR. ROGERS: 11:31 A.M.

4 Q. Ms. Hatcher, when did you receive your license to
5 practice law?

6 A. Nineteen, ninety-seven (1997).

7 Q. And how many murder trials had you done by the time
8 of this trial?

9 A. (No Response)

10 Q. Mr. Greer told me you told him you had done one
11 other murder trial; is that correct?

12 A. No, that's not true. It was more than one. I -- I
13 cannot remember the -- the number.

14 I think my first one was in either two thousand
15 (2000) or two thousand, one (2001). I would say four -- four
16 or five.

17 I had also participated in two capital cases in two
18 thousand, four (2004) and was lead counsel on a third capital
19 case in two thousand, four (2004).

20 Q. And when did you have your first meeting with Mr.
21 Greer?

22 A. My first meeting where I have any notes of would
23 have been several months after he was arrested primarily
24 because he was arrested at the beginning of two thousand --
25 near the beginning of two thousand, four (2004) and that was

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1 the year of all three of those capital cases going to trial.

2 I do remember sending our investigator a number of
3 times just letting him know, "You still have a public
4 defender. She's coming. Is there anything you want -- you
5 know, is there anything you need to pass to her? Is there any
6 information that you need for her to know?"

7 Q. So, how long was it, from the time you were
8 appointed to represent Mr. Greer, and the first time you met
9 with him?

10 A. I'm sorry. I -- I forgot to actually answer your
11 question before. It looks like my notes -- I have notes of
12 October 6th.

13 Q. About nine or ten months after you were appointed to
14 represent him?

15 A. About eight (8).

16 Q. Is that standard?

17 A. No. Again, it was primarily due to my being
18 involved in three death penalty cases that year.

19 Q. How many times did you meet with Mr. Greer before
20 trial?

21 (Brief pause while the witness reviews documents.)

22 A. At least seven (7) that I have notes of. There --
23 there may have been other times that we talked that I didn't
24 take notes. And, then, I was present at both of his
25 evaluations.

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1 Q. You met with him in person seven (7) times before
2 trial?

3 A. Seven (7) at least. Those are the ones I have
4 written notes of.

5 Q. Okay. And did you have witnesses at trial that
6 would testify about Mr. Greer's father threatening him and
7 potentially threatening to kill him?

8 A. Yes.

9 Q. Did you think those witnesses were credible?

10 A. Yes, it was his son and his daughter. And I ---

11 Q. And they would testify at trial that the father had
12 threatened previously to kill Mr. Greer?

13 A. Previously meaning several months or longer prior to
14 this incident, yes.

15 Q. And they would also testify that Mr. Greer's father
16 kept guns at his house?

17 A. Yes.

18 Q. And used the guns when he was making threats?

19 A. Yes. Well, used the -- not always that he had a gun
20 but possibly -- but that oftentimes he would threaten with the
21 implication of, "I'm going to go get my shotgun."

22 Sometimes he had it and sometimes he did go and get
23 it and just stand there with it. And sometimes he'd just
24 said. But, yes, both of those witnesses would have testified
25 to that.

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1 Q. And Mr. Greer told you that his father had
2 threatened to kill him before he struck the blow to his
3 father's head that evening?

4 A. He told me that he took his father's words to be a
5 threat. But the words that he told me his father said I'm not
6 sure that -- that it would be reasonable to assume that, that
7 was a threat on a person's life.

8 Q. But he -- he definitely, from what Mr. Greer told
9 you, threatened to inflict bodily harm upon Mr. Greer, his
10 father did?

11 A. On that night?

12 Q. Yes.

13 A. Not the words that Mr. Greer told me that his father
14 said.

15 Q. His father said he was going to hurt him, didn't he?

16 A. His father said something about, "You're going to
17 make me hurt you." It was not -- I -- I -- I did not believe
18 that, that was a legal threat. But it was intimidation.

19 I mean, again, there -- there are things that rise
20 to the level of a -- a legal defense or a legal definition of
21 something. And, then, there are things that -- that are
22 evidence of it, but don't rise all the way to that level.

23 Q. Did you discuss the potential defense of self
24 defense with Mr. Greer?

25 A. Yes.

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1 Q. And did you tell him that, that was a viable defense
2 that you could put forward at trial?

3 A. I told him that based, on the facts that he had told
4 me and based on discovery that I had received and we had
5 reviewed, it was -- it was not my feeling that, that was a
6 good defense for him.

7 But that we would keep that in mind and we could use
8 it at trial if facts started looking that way.

9 Q. And what was the discovery you received that made
10 you think that self defense was not a viable option at trial?

11 A. The fact that Mr. Greer had given statements that
12 his father had his back to him and did not have a gun.

13 (Brief Pause)

14 Q. And do you believe that this was a premeditated
15 crime on Mr. Greer's part?

16 A. I don't know that it's -- I don't know that -- that
17 I made a personal judgment on that. Do I believe it was
18 premeditated?

19 Q. Right, from your investigation of the crime, do you
20 think this was a premeditated crime or do you think this was
21 something more of a crime of the heat of passion, something
22 like voluntary manslaughter?

23 A. I think -- in Mr. Greer's mind, I think he felt
24 pushed and provoked over a period of time. And I feel like
25 this day was the day when one pushing or one -- one of the

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1 button pushing incidents was enough for him.

2 But I don't feel like it was any -- he did not have
3 any -- he didn't have any imminent threat to him. It's -- Mr.
4 Greer and I discussed what the State would have to prove for
5 malice aforethought.

6 And I explained to him that it can mean that you
7 thought about it for a long time; that you planned it. You
8 thought how you were going to do it and when.

9 But -- but there's also case law that says that
10 malice aforethought can occur in a split second, the second
11 right before something happens.

12 So, I'm -- I'm not sure...

13 Q. Do you recall, on Page 182 of the trial transcript,
14 during the guilty plea, on -- you telling the Court on Lines
15 10 through 12, "I honestly believe that this came out of a
16 heat of passion. I don't think there was any planning that
17 went into it"? Do you recall telling the Court that?

18 A. I -- I told the Court that, yes.

19 Q. And did you really believe that when you're telling
20 the Court that during the guilty plea?

21 A. Well, I -- the -- the answer would be in the
22 explanation that follows ---

23 Q. Okay.

24 A. --- in the transcript, which is what I've just
25 testified to. I -- I don't think he sat down and made a big

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1 plan about it.

2 I think that he did snap in his mind. But, again,
3 it was over pressure that had been building for a long time
4 that he consistently described to me.

5 Q. Ms. Hatcher, you represented your client in a murder
6 guilty plea and you told the Court, "I don't think there was
7 any planning that went into it."

8 A. Correct.

9 Q. If that statement were true, if you personally as
10 his attorney didn't think there was any planning that went
11 into it, malice aforethought would not be satisfied as an
12 element of murder, would it?

13 A. He chose to plead guilty. But, to answer your
14 question, as I just testified there's case law in South
15 Carolina that says malice aforethought does not have to be a
16 well-thought-out plan. It -- it can occur in a split-second,
17 "This is what I'm going to do."

18 And it can occur as he's saying, "Hey, let me pick
19 up this brick because I've had enough."

20 Q. So, would you agree with -- with me that the
21 statement I just read, "I honestly believe that this came out
22 of heat of passion; I don't think there was any planning that
23 went into it," does that described murder or -- or does that
24 describe voluntary manslaughter?

25 A. But, if you take those sentences, those two

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1 sentences alone and separate them out from everything else,
2 that would tend to describe voluntary manslaughter.

3 Q. And did you explain to Mr. Greer that the potential
4 sentence that he would receive for voluntary manslaughter was
5 something much less than the sentence he would receive for
6 murder guilty plea?

7 A. Yes.

8 (Brief Pause)

9 Q. And would you agree with me that, if an attorney
10 felt that the elements of the crime that the State could prove
11 against their client would only be sufficient to satisfy the
12 elements of voluntary manslaughter, it would not be prudent
13 for the attorney to advise their client to plead guilty to
14 murder?

15 (Brief Pause)

16 A. It is -- it's my belief that I can explain things to
17 my client. I can -- I can go over all of those things with
18 him; the decision to ultimately plead or go to trial rests
19 with my client, not with me.

20 I have a duty. And I -- I -- I did follow through
21 with my duty to explain those things to him. And were Mr.
22 Greer to have decided, "I still want to go through with the
23 trial," we sure would have been doing everything in that trial
24 to get a voluntary manslaughter charge.

25 Q. Ms. Quimby, I direct your attention to Page 171 of

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1 the record on appeal. Do you recall, when the Court was
2 questioning my client about the facts, as the solicitor told
3 the Court the alleged facts of the murder, that my client
4 disagreed with the facts that the solicitor laid out?

5 Lines 2 through 13, the Court stated: "Do you agree
6 with what the solicitor..." -- he is referring to -- "...told
7 me is true?" My client said, "No, sir, not all of it."

8 "The Court: Tell me how you disagree with what he
9 told me." "One part about he said that I went into -- got up
10 from the kitchen and got a knife. I was thinking about at the
11 time of stabbing my father, that was not the case."

12 "Basically from the verbal words he was arguing at
13 me. I done been threatened four times -- three or four times.
14 And that's why I got up to get the knife."

15 Do you recall my client objecting to the facts as
16 the solicitor was alleging them at -- during the guilty plea?

17 A. Yes.

18 Q. Okay. And on the next page, on Page 172, do you
19 recall my client, during the guilty plea on Lines 8 and 9
20 saying, "Like I say, he said I picked up a butcher knife; that
21 was for my protection." Do you recall my client telling the
22 Court that?

23 A. Yes.

24 Q. Okay.

25 (Brief Pause)

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1 Q. So, my client, during the guilty plea, had trouble
2 with the elements of the crime that he was pleading guilty to?
3 He expressed those to the Court during the guilty plea?

4 (Brief Pause)

5 A. He had trouble with one part of the recitation of
6 the facts by the solicitor. When he -- when Judge Couch asked
7 him how he disagreed with it, what Mr. Greer -- and -- and I
8 know this from my prior discussions with Mr. Greer -- I know
9 that when he says, "So, I -- I done been threatened four times
10 -- three or four times, that he had told me that he was..." --
11 I know from talking to Mr. Greer that means over a course of
12 several months.

13 And I also know that the part that he disagreed with
14 was specifically about his motive for getting the -- the first
15 butcher knife.

16 And, again, as I've already testified, that does not
17 -- well, that does not have to have -- the solicitor was
18 trying to make that the -- the malice aforethought, was going
19 to get that first butcher knife.

20 The malice aforethought does not have to happen
21 then. And -- and he may have well have not -- it may not have
22 occurred to him that, that would be used to kill his father.
23 It could have been just in case his dad went and got a gun.

24 That doesn't affect the fact that a second weapon
25 was picked up later when Mr. Greer, Sr. was in another room

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1 with his back turned. And I knew that from talking with Mr.
2 Greer.

3 And, so, I knew where his -- where Mr. Greer's --
4 where his uncomfortableness with the set of facts came from
5 was that one specific part where Mr. Willingham assigned the
6 premeditation in going to get that first butcher knife.

7 Q. Ms. Hatcher, on Page 177, Lines 16 through 23, do
8 you recall telling the Court at the guilty plea about my
9 client's father? "His father consistently berated him
10 basically calling him worthless.

11 "He had threatened Mr. Greer's life on a number of
12 occasions. He was known to keep a gun, actually two guns.
13 There was a pistol and like a shotgun or a rifle or something.

14 "And he -- and had we finished up the trial, you
15 would have heard evidence that -- Your Honor, from family
16 members who have known by reputation that Mr. Greer's father
17 kept a gun in the house."

18 And on the next page, Page 178, you continue, on
19 Lines 8 through 12, "Sometimes these are threats... -- you're
20 talking about the father's threats to Mr. Greer --
21 "...sometimes they were explicit threats.

22 "Sometimes they were veiled threats. Sometimes they
23 were just intim -- intimidations," I think is what that is.

24 A. Intimations.

25 Q. Intimations, yes. "But, when you're holding a gun,

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1 it makes a different light because the daughter has actually
2 witnessed that to occur on one occasion."

3 So, you told the -- the Court all about the
4 threatening nature of the father at the guilty plea. And you
5 believed that was an important fact about this case and about
6 the elements of the case and about the defenses that would go
7 forward at trial?

8 A. Of course.

9 Q. And you think there was a -- a decent likelihood, if
10 you were to have tried this case, that voluntary manslaughter
11 would have been the outcome?

12 A. I know what part of the -- the transcript you're
13 referring to. And I -- I think I probably would have phrased
14 that as I was hopeful that we could at least get the charge.

15 I can't speculate about what the jury would have
16 done with it, but I was hopeful that we could have gotten the
17 charge with that testimony.

18 Q. But you thought there was a -- a decent probability
19 of a voluntary manslaughter outcome at trial?

20 A. I was hoping that -- that that would be the case.

21 MR. ROGERS: No further questions, Your Honor.

22 THE COURT: Redirect limited to what he went into?

23 MS. WHITE: Just briefly.

24 REDIRECT EXAMINATION by MS. WHITE:

11:48 A.M.

25 Q. Just to follow up, the -- the first butcher knife

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1 that -- that we're talking about, there was no question that
2 he had gotten one and just had it in his bedroom for
3 protection as he said; is that right?

4 A. Correct.

5 Q. The -- the knife that was actually used to kill his
6 father, when he stabbed him in the garage, that was a -- a
7 different knife that was taken from another place in the
8 house?

9 A. It was not taken from -- well, when Mr. Greer pulled
10 Mr. Greer, Sr. into the garage, there was a sewing machine
11 adjacent to that. And the butcher knife was sitting on that
12 sewing machine. And that's the one that he used.

13 Q. Okay. So, that -- when he's contesting what the
14 solicitor says about getting the butcher knife for and
15 thinking about killing his father, he's contesting that
16 because that first butcher knife he took into the room -- in
17 the bedroom with him and kept that there for protection; is
18 that right? Or at least he said that was what he had gotten
19 the knife for?

20 A. Correct.

21 Q. Okay.

22 (Brief Pause)

23 Q. And once, again, you did talk with Mr. Greer about
24 the poss -- potential sentences for both voluntary
25 manslaughter and murder and the option he had. And he is --

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1 is he the one that made the choice to plead guilty that day to
2 murder rather than proceed to trial?

3 A. Yes.

4 MS. WHITE: Okay. Thank you. No further questions,
5 Your Honor.

6 MR. ROGERS: Just one thing brief -- briefly, Your
7 Honor.

8 THE COURT: Limited to what she brought up.

9 MR. ROGERS: Yes, sir.

10 (Brief Pause)

11 RECROSS EXAMINATION by MR. ROGERS:

11:50 A.M.

12 Q. The butcher knife that she brought back up, was
13 there any evidence the State had whatsoever to tie my client
14 to the butcher knife or the stabbing?

15 A. I'll need to look because -- for me to do that.

16 (Brief pause while the witness reviews documents.)

17 A. There was DNA taken I know. And I am looking to
18 see...

19 (Brief Pause)

20 A. And as of... Lt's see...

21 (Brief Pause)

22 A. I know that DNA was taken from the crime scene and
23 turned over to SLED. And it was -- and I know that blood was
24 taken from various locations, including the -- the bloody
25 clothes that Mr. Greer had told the officers that he had

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1 discarded in the home -- I think some in the garage and some
2 in the home.

3 And for some reason I'm just not able to recall the
4 -- the results of that SLED check.

5 (Pause while the witness reviews documents.)

6 A. I have located the toxicology report. This is the
7 DNA report (indicating). And it looks like they did not take
8 a standard from this Mr. Greer, just a standard from his
9 father.

10 And they compared it to all of the swabbings and
11 cuttings from the other evidence. And it looks like the DNA
12 profile matched Mr. Greer, Sr. and that the -- there was a D
13 -- a DNA profile developed from -- I think from some socks
14 that was a mixture.

15 But, again, it does not look like Mr. Greer, Jr.
16 ever gave a standard, a blood sample.

17 Q. So, no evidence in your record that the State had
18 that would link my client to the stabbing that occurred after
19 the original hit with the block?

20 A. Other than all the statements he gave saying that he
21 did.

22 Q. He gave a statement saying that he committed the
23 stabbing to the State?

24 A. Wait a minute.

25 (Brief Pause)

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1 A. Hold on a minute. Let me just check the file.

2 (Pause while the witness reviews documents.)

3 A. Investigator Darren Dukes (phonetic) in his report
4 said that Mr. Greer did describe dragging his father from the
5 couch out into the garage.

6 And, when he got to the garage, his father was still
7 moving, so, he picked up a butcher knife that was laying on a
8 sewing machine table and stabbed his father with it.

9 "He stated that he believed that he hit his father
10 with the brick two to three times and stabbed him a couple of
11 times."

12 That was to Investigator Dukes. And Investigator
13 Dukes would have been able to testify to...

14 (Pause while the witness reviews documents.)

15 A. That's all I...

16 (Brief Pause)

17 THE COURT: If -- if Applicant's counsel -- this is
18 on cross examination. Is there a particular statement
19 that you wish to have the witness identify and say that
20 there is nothing of that nature in the statement? That
21 might speed the process along.

22 Q. Do you know of anything in any other statements?

23 THE COURT: What I mean is you're asking her to
24 review a very thick file.

25 MR. ROGERS: Yes, sir.

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1 THE COURT: And, so, if you have any particular
2 statements that you would like to identify and have her
3 to look at as opposed to her going through a voluminous
4 file just digging for information ---

5 MR. ROGERS: Yes, sir.

6 THE COURT: --- why don't you point her to those
7 things?

8 MR. ROGERS: I don't think anything -- I'll let it
9 rest at that. I don't think there is anything else in
10 there that she needs to look at. I didn't see anything.
11 So, I can leave the question as is.

12 A. Actually, Your Honor, in Mr. Greer's statements that
13 he gave to Darren Dukes includes: "He was sitting on the
14 couch. I walked up behind him and hit him in the head with
15 the brick. I think I hit him two or three times.

16 "Then, I pulled him out in the garage. He was still
17 moving. There was a knife laying on the sewing machine. I
18 picked it up and I stabbed him.

19 "I think I stabbed him two times. After that, I
20 walked back in the house." That is from one of his
21 statements.

22 (Brief Pause)

23 MR. ROGERS: That's all we have, Your Honor.

24 MS. WHITE: The State has no other witnesses, Your
25 Honor.

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1 THE COURT: Thank you, ma'am. You may be step
2 down.

3 (witness complied with the Court's request.)

4 THE COURT: Anything in reply?

5 MR. ROGERS: No, sir.

6 THE COURT: All right. Mr. Greer, do you
7 understand that -- that, if I grant your application, if
8 I find that you've met your burden of proof, that you
9 will go back and start over?

10 Thus you could be subjected to, if they find you
11 guilty again -- I mean, excuse me -- if a jury finds you
12 guilty of murder or you decide to plead again to murder,
13 that you could receive a life sentence?

14 MR. GREER: Yes, sir.

15 THE COURT: And you -- and understanding that you
16 still wish to proceed with the application?

17 MR. GREER: Yes, sir.

18 THE COURT: All right. All right, I'll take a look
19 at it.

20 MR. ROGERS: Thank you, Your Honor.

21 MR. GREER: Thank you.

22 (Whereupon, the proceeding concluded at 12:02 p.m.)
23
24
25

CERTIFICATION

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REPORTER'S CERTIFICATE

I, the undersigned **PAMELA FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 61, were transcribed by me and represent a complete and accurate transcription of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

May 17, 2012



Pamela S. Faucette
Official Court Reporter
Seventh Judicial Circuit

1913

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Harold Lee Greer, Jr., #277417,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2009-CP-42-1216

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 4, 2009. The Respondent made its Return on or about July 7, 2009. An evidentiary hearing into the matter was convened on September 21, 2011, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by John E. Rogers II, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Also testifying was Karen Quimby Hatcher, Esquire. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, the Return, and the guilty plea transcript.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the June 2004 term of the Spartanburg County Grand Jury for murder (04-GS-42-2191). Karen Quimby Hatcher, Esquire, represented the Applicant. On May 17, 2006, the

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Applicant pled guilty to murder, as indicted (04-GS-42-2191). The Honorable Roger L. Couch sentenced him to confinement for a period of thirty (30) years.

The Applicant appealed his plea and sentence. The South Carolina Court of Appeals dismissed the appeal. State v. Greer, Unpublished Order No. 2008-UP-377 (filed July 14, 2008). The Remittitur was returned on August 1, 2008.

ALLEGATIONS

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

1. Ineffective Assistance of Counsel;
2. Involuntary Guilty Plea; and
3. "Trial Court Committed Error in Failure to Suppress Testimony of Psychiatrist"

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2006).

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Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel and his guilty plea was involuntary as a result. 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 S.E.2d 733, 735 (1997) (citing Strickland).

Involuntary Guilty Plea

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the Applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (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 presented at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

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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).

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).

This Court finds that the Applicant has failed to meet his burden of proof as to the allegations that Counsel was ineffective and led to Applicant's involuntary guilty plea in this matter. This Court finds Counsel's testimony to be very credible as to her representation of Applicant and finds that Applicant's testimony lacked credibility. In particular, the fact that Applicant testified at the PCR hearing that he did not know who had stabbed his father, when the trial judge had already ruled upon the admissibility of certain statements in which it was acknowledged that the Applicant hit his father in the head while his father was in a non-combative sitting position, drug his body to the garage, then stabbed his father with a knife when he noticed that his father was still moving, makes it difficult for this Court to find Applicant's testimony credible. Although the facts of the case as presented by both the Applicant and

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Counsel present a sympathetic case for Applicant in relation to his relationship with his father and the emotions that still exist for Applicant as to that relationship, this Court does not find that claim that the killing of his father was equivalent to voluntary manslaughter or self-defense. There was evidence that had the matter gone to trial, there would have been a possibility that the jury would have been charged with both charges; however, depending on the facts presented at trial, it is just has likely that those charges would not have been presented to the jury.

This Court finds that Counsel met with the Applicant, provided discovery materials, reviewed the elements of the charge, reviewed potential defenses, and reviewed all options with the Applicant. It is clear through testimony that Counsel was very well prepared and had completed substantial research in preparation for the case if it were to proceed to trial. Counsel had met with and prepared witnesses in preparation for trial as well. In addition, Counsel requested and received a mental competency evaluation of the Applicant, which found that he was both criminally responsible and competent for trial or plea. Although Counsel made statements during mitigation arguments that could reflect an argument for involuntary manslaughter, given the evidence in the record which could have been argued at trial for premeditation, Counsel was wise to make the argument she did on Applicant's behalf. The fact that the Applicant received a sentence of thirty years reflects the success of Counsel's argument. Although the sentence was more than the Applicant had hoped for, the sentence given by the judge was within the statutory range as set by the legislature.

Counsel also testified that she had attempted to negotiate with the State, but they were unwilling to offer a lesser charge for trial or plea. Counsel testified that she met with the Applicant and he met with his children and made the decision voluntarily to plead guilty based on their conversations regarding the potential penalties, defenses and options he faced.

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M. HOPE L. KILLEY

This Court finds that the Applicant has failed to meet this burden of proof and therefore, this claim is denied and dismissed.

Trial Court Error

The Applicant also claimed in his application that the trial court committed error when it failed to suppress the testimony of a psychiatrist. The Applicant failed to present any testimony or evidence in support of this claim. Therefore, this claim is denied and dismissed.

Summary

This Court finds in regards to the allegations of ineffective assistance of counsel and involuntary guilty plea, the Applicant's testimony is not credible, while also finding Counsel's testimony is credible. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in her representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his

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

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (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 South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 17th day of January 2012.

J. Mark Hayes II
Presiding Judge

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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT (H701004)

At a Court of General Sessions, convened on JUN 1 2004, the
Grand Jurors of Spartanburg County present upon their oath:

MURDER

The defendant, Harold Greer, Jr. did in Spartanburg County on or about February 21, 2004, feloniously, willfully, and with malice aforethought, kill one Harold Greer, Sr, by hitting the victim in the head and stabbing him, and that the victim died as a proximate result thereof, all in violation of §16-3-0010, 0020, *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.

A CERTIFIED COPY

Maic Kitcher

ASSISTANT SOLICITOR

CLERK OF COURT
SPARTANBURG COUNTY

Prinda Buep.c.
DATED 5-1-06

WITNESSES

D. DUKES, SEIBG. CO. SHERIFF'S DEPT.

1. SEARCHED INDEX

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

FINE CARD MADE

8. TRAFFIC VIOLATIONS COPY

Computer

Computer

ARREST WARRANT NUMBER

H701004

ACTION OF GRAND JURY

True Bill

Vonda W. Smith

Foreperson of Grand Jury

Date: 6-10-04

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. **04-615-42-0171**

The State of South Carolina

County of Spartanburg

TREY GOWDY, SOLICITOR

COURT OF GENERAL SESSIONS

JUN 14 2004

TERM

THE STATE

vs.

HAROLD GREER, JR.

Indictment for

MURDER

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

2004 JUN 15 P.M.
MARC HICKS

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Marc Hicks

CLERK OF COURT

SPARTANBURG COUNTY

BY *Marc Hicks* D.C.

DATED 5-19-04