

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Williamsburg County

R. Ferrell Cothran, Jr., Circuit Court Judge

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S.C. Supreme Court

GERLINE PRESSLEY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001582

APPENDIX

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1 the law and I do not favor one side over the other. And
2 in the end, obviously it's your job to determine the
3 effect and the weight and the value of any evidence that
4 has been introduced.

5 Now, ladies and gentlemen, there is an
6 indictment in the case that charges these defendants with
7 offenses. I have been over that with you before, and I
8 remind you that if someone is arrested or charged or
9 indicted for any crime, that is not evidence in and of
10 itself that the person did commit the crime.

11 The defendants have entered pleas of not guilty,
12 and the State has the sole burden of proving guilt beyond
13 a reasonable doubt. Neither defendant in this case, and
14 no defendant in any case, ever assumes the burden of
15 proving or disproving anything. And I will remind you,
16 and say it a few more times during the course of this
17 charge, that the defendants don't have the burden of
18 proving or disproving anything.

19 Now, with regard to these charges, I will go in
20 the order they are on the indictment.

21 There is a count of attempted murder against
22 Jerline Pressley, and there is a count of possession of a
23 weapon during the commission of a violent crime against
24 Jerline Pressley. And there is a count of assault and
25 battery in the 2nd degree against Alberta Pressley.

1 As I mentioned to you at the beginning, your
2 deliberations on your verdicts, indeed, with regard to
3 these two defendants are to be separate in the sense that
4 your verdict as to one defendant does not control your
5 verdict as to the other. You can find both defendants
6 guilty, both defendants are not guilty, or one defendant
7 guilty and the other not guilty. That will depend upon
8 your view of the facts in accordance with the law as I've
9 charged it to you.

10 Now, as I go further during the course of this
11 trial, I will be discussing certain legal principles with
12 you, and these include but they're certainly not limited
13 to things such as the credibility of witnesses, the
14 presumption of innocence. I will talk to you about
15 reasonable doubt. I will talk to you about expert witness
16 testimony. I will talk to you about the specifics or the
17 elements of the crime of attempted murder, assault and
18 battery in the 2nd degree, and so forth and so on.

19 I will repeat myself, I promise you that, and
20 that is not because I've lost my place or I don't know
21 what I'm talking about, hopefully it will simply be
22 because these legal principles are intertwined with each
23 other. Because if you talk about one or Point A, on down
24 the line Point A is going to have something to do with
25 Points L, M, N, O and P, so please bear with me. And I

1 And I don't expect you to sit back and memorize
2 these legal principles, but just receive this information
3 as the law that you are to apply in this particular case.

4 Now, with regard to credibility, you are the
5 only people in the world who can make those
6 determinations.. As I mentioned to you, it's your job and
7 your job alone to determine who you believe. You can
8 believe every word of what a witness says and disbelieve
9 every word or believe parts and reject the rest. You can
10 believe many witnesses over one, you can believe one over
11 many. What you don't do is count up the number of
12 witnesses and say okay, four said this, three said the
13 opposite, four is more than three, I must go with the
14 four. That is not the way we do it. You go with the
15 witnesses that you believe are telling you the truth in
16 that regard.

17 Now, ladies and gentlemen, you can take into
18 account with regard to credibility things such as the
19 witness's demeanor; in other words, was the witness
20 hesitant or straightforward in answering questions on the
21 witness stand. You can take into account whether or not a
22 witness has exhibited to you an interest or a bias or
23 prejudice or other motive to give certain testimony in
24 this case. You can also take into account whether or not
25 the witness's testimony has been strengthened or weakened

1 by other evidence that's in the record, and you can also
2 take into account whether or not a witness may have said
3 something the same or different on a prior occasion. And
4 again, anything else that you think is appropriate you can
5 take into account with regard to believability.

6 Now, ladies and gentlemen, I've talked to you
7 about exhibits, testimony, and stipulations. Those are
8 ways that evidence comes in. Let me change gears just a
9 little bit.

10 There are two types of evidence that typically
11 come in during a trial. These are called direct evidence
12 and circumstantial evidence.

13 Now, direct evidence is the testimony of a
14 person who claims to have actual knowledge of a fact, such
15 as an eye witness. Direct evidence is evidence that
16 immediately establishes the main fact to be proved. The
17 example that I always use is if you have a witness who
18 says, I saw the dog cross the street. That's direct
19 evidence, the witness claims to have seen that. If you
20 believe the witness, you can conclude that the dog could
21 cross the road. That's just a very fundamental example of
22 direct evidence.

23 Circumstantial evidence, on the other hand, is
24 proof of a chain of facts and circumstances that indicate
25 the existence of a fact. It's evidence that immediately

1 establishes collateral facts from which the main fact may
2 be inferred. So it's based on inference and not on
3 personal knowledge or observation. In other words, I did
4 see A, B, C, and therefore I infer even though I didn't
5 really see it, that D did happen. That is an example of
6 circumstantial evidence.

7 Now, the law makes no distinction at all between
8 the weight or value that you are to give to either direct
9 evidence or circumstantial evidence, nor is a greater
10 degree of certainty required of circumstantial evidence
11 than of direct evidence. In other words, you weigh all
12 the evidence, direct and circumstantial, and after
13 weighing all this evidence with regard to the defendant
14 and the charge that you're considering at that time, if
15 you are not convinced of the guilt of the defendant beyond
16 a reasonable doubt, you must find that defendant not
17 guilty.

18 If, on the other hand, after weighing all the
19 evidence, if you are convinced of the guilt of the
20 defendant beyond a reasonable doubt as to the charge
21 you're considering at that time, you must find the
22 defendant guilty.

23 Now, ladies and gentlemen, just to back pedal a
24 moment, the Rules of Evidence as I mentioned to you I
25 believe yesterday, ordinarily do not permit witnesses to

1 give opinions or state conclusions. There is an exception
2 in the rules for what we call expert witnesses. If
3 someone is qualified by education or training or
4 experience, those witnesses can give opinions and the
5 reasons for those. That does not mean you're bound by the
6 opinion, and you give that opinion the weight that you
7 believe it is entitled to.

8 Now, ladies and gentlemen, as I mentioned to
9 you, the defendants have pled not guilty to the charges.
10 And as I mentioned, the plea puts the burden on the State
11 to prove a defendant's guilt beyond a reasonable doubt.
12 And that's because a person who is charged with a criminal
13 offense is never required to prove himself or herself not
14 guilty. Never required to prove himself innocent. It's a
15 very important rule of law that a defendant in a criminal
16 case, no matter what the charge, is always presumed to be
17 innocent of the crime for which the indictment has been
18 issued unless guilt has been proven by evidence satisfying
19 you of guilt beyond a reasonable doubt.

20 Now, the presumption of innocence will not end
21 when you stand up in just a few minutes and go to your
22 jury room and begin your deliberations. The presumption
23 of innocence remains with the defendants and it
24 accompanies the defendants throughout the trial and
25 throughout your deliberations unless and until you reach a

1 verdict of guilt based on evidence satisfying you of guilt
2 beyond a reasonable doubt.

3 So simply put, the presumption of innocence is
4 not a casual phrase that we casually toss around. The
5 presumption of innocence is a substantial right to which
6 every defendant is entitled.

7 Now, ladies and gentlemen, I've used the words
8 "reasonable doubt" so far probably close to ten times, so
9 I'm going to talk to you specifically about what that is.

10 A reasonable doubt in the law is the kind of
11 doubt that would cause a reasonable person to hesitate to
12 take action. The State has the burden of proving a
13 defendant guilty beyond a reasonable doubt.

14 Some of you may have been on a jury in a civil
15 case, and in most civil cases the burden of proof is
16 typically on a plaintiff by what we call the greater
17 weight of the evidence. And if you imagine a set of
18 scales that are even, a person who has the burden of proof
19 by the greater weight must tip those scales ever so
20 slightly in his or her favor.

21 In criminal cases, the State's proof must be
22 more powerful than simply tipping the scales. The State's
23 proof must be proof beyond a reasonable doubt. Proof
24 beyond a reasonable doubt is proof that leaves you firmly
25 convinced of the defendant's guilt.

1 Now, obviously there are very few things on this
2 earth that we know with absolute certainty, and the law in
3 criminal cases, the law does not require the State to
4 present proof that overcomes every possible doubt, but it
5 does require the State to present proof that overcomes
6 reasonable doubt.

7 If based on your consideration of the evidence
8 you are firmly convinced of the defendant's guilt or a
9 defendant's guilt as to the crime you're considering at
10 that time, you find the defendant guilty. If, on the
11 other hand, you are not firmly convinced of guilt beyond a
12 reasonable doubt, you must give the defendant the benefit
13 of the doubt and find her not guilty.

14 Now, ladies and gentlemen, I instruct you, and I
15 emphasize to you, that the fact that one of the defendants
16 in this case did not testify is not a factor to be
17 considered by you at all in any way in your deliberations
18 as to whether or not either or both defendant is guilty or
19 not guilty; in other words, you don't think about it, you
20 don't talk about it, and it does not enter into your
21 decision making in any way whatsoever.

22 Now, a defendant does have the Constitutional
23 right to remain silent, and the assertion of that right
24 should not be considered by you at all in your
25 deliberations. And I instruct and I remind you and I

1 re-emphasize that the fact that a defendant did not
2 testify is not to be discussed or enter into your
3 decisions at all.

4 By the same token, the fact that a defendant did
5 take the witness stand does not mean that that particular
6 defendant who did testify has assumed or taken on any
7 burden of proving or disproving anything and that is
8 because the State has the sole burden of proof in this
9 case.

10 All right. I'm going to get very specific now
11 and talk about the offenses in the indictment that the
12 State claims. I'm going to go over these in the order
13 they are in the indictment. I'm not attaching any
14 importance to one over the other.

15 The defendant Jerline Pressley is charged with
16 attempted murder. In order to prove this crime, the State
17 must have proven to you beyond a reasonable doubt that
18 Jerline Pressley attempted to kill another person with
19 malice aforethought, either express or implied.

20 Malice is hatred, ill will, or hostility towards
21 another person. It is the intentional doing of a wrongful
22 act without just cause or excuse and with an intent to
23 inflict an injury or under circumstances that the law
24 would infer an evil intent.

25 The term "malice aforethought" does not require

1 that malice exist for any particular time before the act
2 is committed, but malice must exist in the mind of the
3 defendant just before and at the time the act is
4 committed. Therefore, there has to be a combination of
5 the previous evil intent and the act itself.

6 Now, malice aforethought can be express or
7 inferred, and these two terms "express" and "inferred"
8 don't mean different kinds of malice but simply the manner
9 in which the malice may be proven or shown to exist.
10 That's either by direct evidence or by circumstantial
11 evidence as I explained to you previously.

12 Express malice may be shown when a person speaks
13 words which express hatred or ill will for another or when
14 the person prepared beforehand to do the act, which was
15 later accomplished.

16 Malice may be inferred from conduct showing a
17 total disregard for human life. Inferred malice may also
18 arise when an act is done with a deadly weapon, and a
19 deadly weapon is defined as an article, instrument or
20 substance which is likely to cause death or great bodily
21 harm. And the following are examples of instruments which
22 may be deadly weapons: A pistol, a shotgun, a rifle, a
23 dagger, a knife, a slingshot, metal knuckles, gasoline,
24 fire bomb, or Molotov cocktail.

25 Now, ladies and gentlemen, if facts are proved

1 beyond a reasonable doubt sufficient to raise an inference
2 of malice to your satisfaction, that inference is simply
3 an evidentiary fact to be taken into consideration by you,
4 if at all, along with the other evidence in this case, and
5 you may give that evidence the weight you believe it
6 should receive.

7 I further charge you, ladies and gentlemen, that
8 a specific intent to kill is not an element of attempted
9 murder, but there must be a general intent to commit
10 serious bodily injury, and the word "intent" means
11 intending the result which actually occurs and not
12 accidentally or involuntary. An intent may be shown by
13 acts and conduct of a defendant and other circumstances
14 from which you may naturally and reasonably infer intent.

15 Evidence of the character of the assault, the
16 character of the instrument used, the manner in which it
17 was used, the purpose to be accomplished, and resulting
18 wounds or injuries may be considered in determining the
19 intent with which any assault or attempted murder was
20 committed.

21 Now, intent may also be inferred when it is
22 demonstrated that the defendant voluntarily and willfully
23 committed the act, the natural tendency of which is to
24 take or destroy another person's life.

25 Now, ladies and gentlemen, the defendant Jerline

1 Pressley is also charged with possession of a weapon
2 during the commission of a violent crime. If you find
3 Jerline Pressley not guilty of attempted murder, on the
4 verdict form, Madam Forelady and ladies and gentlemen, you
5 would not even get to this particular charge.

6 Again, the defendant Jerline Pressley is charged
7 with possession of a weapon during the commission of a
8 violent crime. The State must prove beyond a reasonable
9 doubt that the defendant Jerline Pressley was in
10 possession of a deadly weapon during the commission of a
11 violent crime. A firearm means, in the context of a
12 deadly weapon, means any machine gun, rifle, revolver,
13 pistol, or other weapon which is designed to expel a
14 projectile.

15 Now, ladies and gentlemen, in order to find
16 Jerline Pressley guilty of possession of a weapon during
17 the commission of a violent crime, you must first find her
18 guilty of committing a violent crime. And I charge you
19 that attempted murder under the laws of this state is a
20 violent crime.

21 All right. Now, ladies and gentlemen, with
22 regard to the charge against Alberta Pressley, she is
23 charged with committing the offense of assault and battery
24 in the 2nd degree. And I charge you that a person commits
25 the assault and battery in the 2nd degree if that person

1 unlawfully injures another person or offers or attempts to
2 injure another person with the present ability to do so
3 and either moderate bodily injury to the other person
4 results or moderate bodily injury to the other person
5 could have resulted.

6 I further charge that you moderate bodily injury
7 means physical injury requiring treatment to an organ
8 system of the body other than the skin, muscles, and
9 connective tissues of the body except when there is
10 penetration of the skin, muscles, and connective tissues
11 that require surgical repair of a complex nature or when
12 treatment of the injuries would require the use of
13 regional or general anesthesia.

14 Now, ladies and gentlemen, on your verdict form
15 there are some instructions with regard to Alberta
16 Pressley. If you determine that the State has met its
17 burden of proof with regard to the offense of assault and
18 battery in the 2nd degree, you would stop and deliberate
19 no further, simply put a check in the guilty blank and go
20 no further. If you determine that the State has not
21 proven beyond a reasonable doubt that the defendant
22 Alberta Pressley is guilty of assault and battery in the
23 2nd degree, you must undertake to consider what we call a
24 lesser offense of assault and battery in the 2nd degree
25 and that is assault and battery in the 3rd degree. A

1 person commits the offense of assault and battery in the
2 3rd degree if that person unlawfully injures another
3 person or offered or attempts to injure another person
4 with the present ability to do so.

5 Now, ladies and gentlemen, in order -- with
6 regard to these assault and battery offenses that I just
7 mentioned to you, the State has to prove those elements
8 that I charged you beyond a reasonable doubt in the manner
9 that I previously described to you.

10 Now, in order to establish criminal liability,
11 ladies and gentlemen, the State must always prove the
12 element of criminal intent.

13 Now, ladies and gentlemen, criminal intent must
14 be proven beyond a reasonable doubt. It's always a matter
15 that must be determined by a jury from the circumstances
16 surrounding the situation.

17 There is no way to prove intent to a
18 mathematical certainty. There is no way that medical
19 science can yet dissect a person's brain and determine
20 what, if anything, that person intended to do at any given
21 time. So the law says that criminal intent may be
22 inferred from circumstances shown to have existed. And
23 it's not necessary to establish intent by direct evidence,
24 but it can be established by circumstantial evidence in
25 the same way as any facts, by taking into account the

1 actions of the parties and all the facts and circumstances
2 of the case. Criminal intent, which again must be proven
3 by the State, is a mental state, it's a conscious
4 wrongdoing, so it's up to you to determine what, if
5 anything, a defendant intended to do based on the
6 circumstances shown to have existed.

7 Now, that gets me to the verdict form and I will
8 be finished. I believe I will be finished.

9 There is a verdict form for Alberta Pressley,
10 and there is a verdict form for Jerline Pressley. You
11 don't have to consider either defendant before you
12 consider the other. You can take these up in the order of
13 defendants that you choose. I will just go over Alberta
14 Pressley's verdict form first.

15 It says, number one, as to the charge of assault
16 and battery in the 2nd degree, we, the jury, unanimously
17 find the defendant, and then two choices, not guilty,
18 guilty. And it says if you have found the defendant
19 guilty, then stop deliberations. If you have found the
20 defendant not guilty of assault and battery in the 2nd
21 degree, go to question two, which is as to the lesser
22 offense of assault and battery in the 3rd degree, we, the
23 jury, unanimously find the defendant, and again those two
24 choices, not guilty, guilty. Once you've made your
25 decisions, Madam Forelady, you sign the verdict form and

1 you date it.

2 Now, you heard me use the word "unanimous."

3 With regard to all these charges, your verdicts must be
4 unanimous; that means everybody has to agree. This is not
5 seven to five, eight to four, or even eleven to one.
6 Everybody must agree on what the verdict is.

7 Now, with regard to Jerline Pressley, it has two
8 inquiries. As to the charge of the attempted murder, we,
9 the jury, unanimously find the defendant, and you have two
10 choices, not guilty, guilty. Number two, as to the charge
11 of possession of a weapon during the commission of a
12 violent crime, we, the jury, unanimously find the
13 defendant not guilty, guilty.

14 As I previously told you, if you found her
15 guilty of attempted murder, you do consider the possession
16 of a weapon charge. If you find her not guilty of
17 attempted murder, you don't even get to question number
18 two. And again, Madam Forelady, there is a place for you
19 to sign and date the verdict form.

20 Now, if you have any questions during the course
21 of your deliberations, there will be a notepad available
22 for you. The law dictates how I can respond, and,
23 frankly, if I can respond to your questions. I will do my
24 best to accommodate you, but I have to confine my
25 responses to what the law is. If you would kindly try to

1 confine your questions to the evidence that is in the
2 record and the law as I've charged it to you, that would
3 safeguard us receiving questions that are actually
4 involved with the evidence that has been introduced and
5 the law as I've charged it to you.

6 I am not concerned about what your verdicts are
7 going to be because I trust that you will adhere to your
8 oath and you will do your best to make sure that you
9 fulfill that oath.

10 I do want to make sure that you understand, and
11 I will close with this, that both the State and the
12 defendants expect, and they are entitled to, a fair and
13 impartial trial. And the only way that you can do that is
14 to give these charges and these issues the discussion and
15 the deliberation that they deserve, and I do trust that
16 you will reach verdicts which do speak the truth.

17 Now, what I'm going to do now, ladies and
18 gentlemen, is allow you to go to your jury room. Don't
19 begin talking about the case right yet because under the
20 rules, the lawyers get to tell me if they think I left
21 something out or if I said something incorrectly. And
22 also, I want to make sure that all the exhibits are in
23 order so that they'll be ready to go back there with you.

24 The two alternates can have a seat out in the
25 hall outside the jury room until I have you come back,

1 probably around the other way, and your signal to
2 deliberate will be when the bailiff comes to the door with
3 the verdict forms and with the exhibits and he tells you
4 that you can begin your deliberations.

5 Thank you.

6 (The jury left open court.)

7 THE COURT: Mr. Grayson, you can have that
8 alternate step outside the jury room.

9 All right. Any objections or additions from
10 the State?

11 MS. BARR: No, Your Honor.

12 THE COURT: Any from the defendants other than
13 my denial of your request to charge self-defense and
14 defense of others?

15 MR. CARRAWAY: None from Jerline Pressley.

16 MR. KENT: Not on behalf of Alberta Pressley,
17 Judge.

18 THE COURT: Okay. Are all the exhibits in
19 order?

20 THE COURT REPORTER: They were, Judge, but I
21 will check them again.

22 THE COURT: I've been here before and you've had
23 surgical gloves available for the jury. I don't know if
24 you have a box of them in the courtroom or not.

25 All right. If the defendants would note that I

1 don't know what time the doors of this building are
2 closed, I would prefer -- and I guess I'll order them to
3 stay within this building, but if the lawyers leave the
4 building, make sure we have your cell number and make sure
5 the doors are not going to lock behind you.

6 MR. KENT: One question, Judge, and I don't know
7 about Mr. Carraway, but I went through the evidence. The
8 only question I would have, and I'm fairly positive,
9 Defense Exhibit No. 1, which was a copy of the civil
10 lawsuit, that was the evidence that I was introducing when
11 we had Amanda on the stand, she has it for ID. I'm fairly
12 positive I moved it into evidence at the time that she was
13 testifying because there's a question between me and Kim
14 whether or not I was moving evidence in.

15 MS. BARR: He did.

16 THE COURT: Defendant's 1, 2, and 3 are in.

17 MR. KENT: The last page of three only.

18 THE COURT: The last page of three, that's
19 right.

20 (WHEREUPON, Defendant's Exhibit No. 3 was
21 admitted into evidence.)

22 THE COURT: All the other exhibits you all are
23 square on?

24 MR. KENT: I've looked at everything else. I'm
25 fine with everything.

1 THE COURT: If all the exhibits are in order,
2 the jury can begin deliberations. It's ten minutes till.

3 If you would, tell the jury if anybody does need
4 to leave the room to use the phone, or for any reason,
5 that they've got to get my permission and they have to
6 stop their deliberations if somebody leaves.

7 If they want to smoke, they have to get my
8 permission. If they do go out to smoke, they will have
9 to -- everybody else will have to stop talking.

10 THE BAILIFF: Yes, sir.

11 THE COURT: We'll deal with that as the request
12 comes up.

13 (WHEREUPON, the jury began deliberations at
14 approximately 4:50 p.m.)

15 (WHEREUPON, the jury had a question and ceased
16 deliberations at approximately 5:47 p.m.)

17 THE COURT: Okay. The jury has a question, and
18 it is: What is the definition of 2nd degree and 3rd
19 degree assault and battery?

20 What's the State's position on how I should
21 respond?

22 MS. BARR: Do we just re-read the law to them?

23 THE COURT: Okay. Mr. Carraway, you don't care?

24 MR. CARRAWAY: I don't care.

25 THE COURT: Mr. Kent?

1 MR. KENT: That's interesting. The question
2 just says what is the definition of 2nd and 3rd degree
3 burglary?

4 THE COURT: Assault and battery.

5 MR. KENT: Yeah, I'm fine with it.

6 THE COURT: I will read it verbatim: What is
7 the definition of a 2nd degree and 3rd degree assault and
8 battery?

9 Evidently they need me to recharge them on those
10 two. So I'll do that.

11 I will certainly tell them that with regard to
12 these offenses, the State has to prove these beyond a
13 reasonable doubt, and then I'll go over the specific parts
14 of the statute.

15 All right. You can bring in the jury.

16 (The jury came into open court.)

17 THE COURT: Okay. Ladies and gentlemen, I do
18 have your questions, and I'll read this back to you. It
19 says: What is the definition of a 2nd degree and 3rd
20 degree assault and battery? And what I'm going to do is
21 I'm going to recharge you the law on those two particular
22 things that you inquired about, but I will remind you, and
23 I do charge you that with regard to these offenses, the
24 State does have the burden of proving the defendant's
25 guilt beyond a reasonable doubt in the manner that I

1 previously charged.

2 And I charge you that a person commits the
3 offense of assault and battery in the 2nd degree if the
4 person unlawfully injures another person or offers or
5 attempts to injure another person with the present ability
6 to do so and either moderate bodily injury to the other
7 person results or moderate bodily injury to the other
8 person could have resulted.

9 And moderate bodily injury within the context of
10 this offense means physical injury requiring treatment to
11 an organ system of the body other than the skin, muscles,
12 and connective tissues of the body except when there is
13 penetration of the skin, muscles, and connective tissues
14 that require surgical repair of a complex nature or when
15 treatment of the injuries would requires the use of
16 regional or general anesthesia.

17 Now, that is what the State has to prove beyond
18 a reasonable doubt with regard to assault and battery in
19 the 2nd degree.

20 And as I charge you, and as the verdict form
21 indicates, if you believe the State has met its burden of
22 proof as to that offense, you would find the defendant
23 Alberta Pressley guilty. If you find that the State has
24 not met its burden of proof as to the charge of 2nd
25 degree -- or assault and battery in the 2nd degree, you

1 would consider the lesser included offense of assault and
2 battery in the 3rd degree. And that, ladies and
3 gentlemen, is also defined as previously did for you, a
4 person commits the offense of assault and battery in the
5 3rd degree if the person unlawfully injures another person
6 or offers or attempts to injure another person with the
7 present ability to do so.

8 Now, I believe that is the answer to your
9 question of what the definition of those two things.

10 If you would like any further comment -- and I
11 will remind you, let me state this again to be complete.
12 In order to establish guilt beyond a reasonable doubt as
13 to either of those two, as it is with any criminal
14 offense, the State also has to prove beyond a reasonable
15 doubt the element of criminal intent. You didn't
16 specifically ask about that, but that is a mental state,
17 it's a conscious wrongdoing, and that again has to be
18 proven by the State beyond a reasonable doubt. The reason
19 that I reference that is that it is also one of the
20 elements of assault and battery in the 2nd degree, assault
21 and battery in the 3rd degree, it's an element of any
22 criminal offense, so it is included within the definition.

23 All right. Ladies and gentlemen, if you need
24 any further clarification or instructions, just let us
25 know. If you have verdicts, let us know, and we'll

1 continue to wait.

2 All right. Thank you.

3 (The jury left open court and resumed
4 deliberations.)

5 THE COURT: Any objections?

6 MR. KENT: No objection, Judge.

7 THE COURT: Thank you.

8 (WHEREUPON, The Court's Exhibit No. 5 was marked
9 for purposes of the record.)

10 (A break was taken while the jury resumed
11 deliberating.)

12 (WHEREUPON, at 6:05 p.m., the jury reached a
13 verdict and entered the courtroom.)

14 THE COURT: Are the verdicts unanimous?

15 THE FOREPERSON: Yes, sir.

16 THE COURT: You can hand the forms to the
17 bailiff and I'll publish those.

18 All right. If the defendants could please
19 stand.

20 (Whereupon the verdicts of the jury is published
21 as follows:)

22 VERDICT

23 THE COURT: All right. First I'll review the
24 verdict form.

25 In the State of South Carolina versus Jerline

1 Pressley, Case No. 2010-GS-45-231, as to the charge of
2 attempted murder, we, the jury, unanimously find the
3 defendant guilty.

4 No. 2, as to the charge of possession of a
5 weapon during the commission of a violent crime, we, the
6 jury, unanimously find the defendant guilty. That is
7 signed by Denetria Gibson, Foreperson, dated today's date,
8 May 16.

9 The verdict, State of South Carolina versus
10 Alberta Pressley, same indictment number, as to the charge
11 of assault and battery in the 2nd degree, we, the jury,
12 unanimously find the defendant not guilty.

13 As to the lesser offense of assault and battery
14 in the 3rd degree, we, the jury, unanimously find the
15 defendant guilty, and that is signed by Denetria Gibson,
16 Foreperson, dated today's date, May 16, 2012.

17 All right. Ladies and gentlemen of the jury, as
18 I have published these verdicts, if these were your
19 verdicts and are still your verdicts, please signify that
20 by raising your right hand.

21 All right. The record will show that all 12
22 jurors did raise their right hands.

23 All right. Thank you. You can have a seat.

24 Mr. Carraway, is there anything from the
25 defendant, Jerline Pressley, before I release the jury as

1 far as polling or anything else is concerned?

2 MR. CARRAWAY: Yes, Your Honor. We ask that the
3 jury be polled.

4 THE COURT: Mr. Kent?

5 MR. KENT: I'm still talking to my client.

6 THE COURT: Okay.

7 (Pause.)

8 MR. KENT: We request the jury be polled on
9 behalf of Alberta Pressley.

10 THE COURT: All right. Ladies and gentlemen,
11 here's what we're going to do. When I call your name, if
12 you would please stand. I'll asking you two questions:
13 Was this your verdict as to Jerline Pressley, and you will
14 answer that question yes or no, and is it still your
15 verdict, and you answer that question yes or no.

16 All right. Alfred W. Belcher, as to Jerline
17 Pressley, was this your verdict?

18 THE JUROR: Yes, sir.

19 THE COURT: In both instances?

20 THE JUROR: Yes, sir.

21 THE COURT: And is it still your verdict?

22 THE JUROR: Yes, sir.

23 THE COURT: All right. You can have a seat.

24 Thank you.

25 Casey B. Strickland, were these your verdicts as

1 to Jerline Pressley?

2 THE JUROR: Yes, sir.

3 THE COURT: Are they still your verdicts?

4 THE JUROR: Yes, sir.

5 THE COURT: Thank you.

6 Rebecca Epps, were these your verdicts?

7 THE JUROR: Yes, sir.

8 THE COURT: And are they still your verdicts?

9 THE JUROR: Yes, sir.

10 THE COURT: Thank you.

11 Connie Wilson, were these your verdicts?

12 THE JUROR: Yes, sir.

13 THE COURT: And are they still your verdicts?

14 THE JUROR: Yes, sir.

15 THE COURT: Necole Binyard, were these your
16 verdicts?

17 THE JUROR: Yes, sir.

18 THE COURT: And are they still your verdicts?

19 THE JUROR: Yes, sir.

20 THE COURT: Jamable Graham, were these your
21 verdicts?

22 THE JUROR: Yes, sir.

23 THE COURT: And are they still your verdicts?

24 THE JUROR: Yes, sir.

25 THE COURT: Thank you.

1 Chloe Goude, were these your verdicts?

2 THE JUROR: Yes, sir.

3 THE COURT: And are they still your verdicts?

4 THE JUROR: Yes, sir.

5 THE COURT: Thank you.

6 Kimberly Cooper, were these your verdicts?

7 THE JUROR: Yes, sir.

8 THE COURT: And are they still your verdicts?

9 THE JUROR: Yes, sir.

10 THE COURT: Thank you.

11 Kyree Mcknight, were these your verdicts?

12 THE JUROR: Yes, sir.

13 THE COURT: And are they still your verdicts?

14 THE JUROR: Yes, sir.

15 THE COURT: Thank you.

16 Youndia Randolph, were these your verdicts?

17 THE JUROR: Yes, sir.

18 THE COURT: And are they still your verdicts?

19 THE JUROR: Yes, sir.

20 THE COURT: Thank you.

21 Nathaniel Mccray, were these your verdicts?

22 THE JUROR: Yes, sir.

23 THE COURT: And are they still your verdicts?

24 THE JUROR: Yes, sir.

25 THE COURT: Thank you.

1 Denetria Y. Gibson, were these your verdicts?

2 THE JUROR: Yes, sir.

3 THE COURT: And are they still your verdicts?

4 THE JUROR: Yes, sir.

5 THE COURT: Thank you.

6 I believe that does address all the jurors, and
7 all have confirmed their verdicts in the manner that they
8 responded.

9 Anything else, Mr. Carraway, before the jury's
10 released?

11 MR. CARRAWAY: No, Your Honor.

12 THE COURT: All right. Ladies and gentlemen,
13 your service in this case is over. We may be picking
14 another jury in the morning at 9:30, so I'm going to ask
15 you to be back at that time in that auditorium right
16 across the hall. And thank you for your participation in
17 this case as jurors.

18 Now, I want to give you one final instruction.

19 After your service this week is over, you can
20 talk about this case all you want, but my preference is
21 and my instruction to you, quite frankly, is that you not
22 discuss it with anyone else except amongst yourselves
23 until your jury service for the week is over.

24 And even then, when you do depart, whether it's
25 tomorrow or some other time when your jury service is

1 over, try to refrain from talking about this case with
2 anyone else on the courthouse grounds. That will get you
3 on about your business and keep somebody from trying to
4 talk to you about the case.

5 There's nothing wrong with somebody doing that
6 except when you tell them you don't want to talk about it.
7 If you tell them you don't want to talk about it and they
8 still persist, simply get their name, contact the Clerk of
9 Court's office, and I will deal with any situation like
10 that.

11 All right. Thank you very much.

12 (WHEREUPON, the jury was excused.)

13 THE COURT: All right. Ms. Barr, is the State
14 -- or, excuse me, Mr. Carraway, is the defendant in need
15 of some time to file post-trial motions, or would you like
16 to state those today or tomorrow? What would you like to
17 do?

18 MR. CARRAWAY: We'll state those on the record.

19 THE COURT: Today?

20 MR. CARRAWAY: Yes.

21 THE COURT: Okay. I'll be glad to hear from
22 you.

23 MR. CARRAWAY: All right. I would like to ask
24 for a directed verdict here based on the insufficiency of
25 the evidence, and if you can't do that, I'd ask in the

1 alternative, ask for a new trial.

2 THE COURT: Based on the failure to give the
3 self-defense charge?

4 MR. CARRAWAY: Yes, Your Honor.

5 THE COURT: All right. Any other specific
6 grounds in that regard?

7 MR. CARRAWAY: None, Your Honor.

8 THE COURT: All right. Ms. Barr.

9 MS. BARR: Your Honor, we would submit that
10 there was substantial evidence in the record to support
11 the finding of the jury, direct and circumstantial
12 evidence, and we would respectfully request that the
13 motion be denied. Obviously, the victim testified and the
14 defendant found him -- or the jury found him to be
15 credible, and so we would submit that there's sufficient
16 evidence in the record to support the verdict.

17 THE COURT: All right. I am going to research
18 that a little bit further, Mr. Carraway, about the
19 self-defense. I'm not going to grant or deny your motion
20 for a new trial at this time. I'm certainly not going to
21 grant a motion for a directed verdict. I don't think that
22 technically exists in the criminal law, but an arrested
23 judgment, I --

24 MR. CARRAWAY: Yes, but notwithstanding the
25 verdict.

1 THE COURT: Okay. Mr. Kent, do you have any
2 motions?

3 MR. KENT: I do, Judge.

4 And I know that's it strange and I'm not one to
5 gild the lilly, I understand the jury's verdict, that they
6 basically have found her guilty of a misdemeanor of simple
7 assault and battery. However, I keep coming back to the
8 directed verdict motion I keep making -- or that I've
9 made, and the jury seemed to agree, actually, with the
10 directed verdict motion I've made, and had the directed
11 verdict motion I made been granted, even though the jury
12 technically just granted it, it would not even have been a
13 conviction for a simple assault and battery. What they
14 have basically said is there was not enough evidence for
15 an assault and battery 2nd degree, but they've found her
16 guilty of simple assault and battery.

17 I still stand for the fact that they have not
18 put any evidence in the record whatsoever about assault
19 and battery 2nd.

20 THE COURT: Which is the only indicted offense?

21 MR. KENT: Which is the only indicted offense.
22 They basically were able to back-door themselves into a
23 simple assault and battery because we had to, in an
24 abundance of caution for my client, request a simple
25 assault and battery -- it's almost error for a defense

1 attorney not to request a simple assault and battery, and
2 I think I had to as a strategy decision.

3 But, Judge, even now listening to the jury, all
4 of the evidence that has been given, all of the evidence
5 presented, they still have not -- I mean, it's not there.
6 The jury even agreed there wasn't enough there for --

7 THE COURT: If I grant your motion for a new
8 trial, it would be on all of the --

9 MR. KENT: Well, Judge, actually --

10 THE COURT: Oh, excuse me, you're asking for --

11 MR. KENT: To grant my directed verdict motion.

12 THE COURT: Okay. Well, all right, and do you
13 also include in that my refusal to charge defense of
14 others?

15 MR. KENT: Yes, sir, Judge. And, actually, the
16 defense of others, that would have given them the defense
17 that she was defending someone else.

18 And as we mentioned, just on the record, Judge,
19 the uniqueness of that defense of others statute, I don't
20 understand -- I don't understand the logic and the
21 analysis because if we were to go with that theory, what
22 realistically would have had to happen is Alberta would
23 have had to come there and actually question the two
24 individuals at the time, hey, which one of you was the
25 primary actor, are you acting in self-defense, I need to

1 know that before I step in and try to help you out. That
2 doesn't make any logical sense.

3 So I think if that was charged or the directed
4 verdict was granted -- and I understand that she is only
5 looking at a 30-day misdemeanor at this point in time, but
6 my belief is that had the directed verdict been granted,
7 or the defense of others charge been granted so the jury
8 would have had a reason to cut her loose, they would have.
9 For that reason, I would ask for both of those, Judge.

10 THE COURT: Okay. Ms. Barr.

11 MS. BARR: Judge, I would simple reiterate my
12 previous arguments.

13 Obviously, the jury in this case -- my belief is
14 that they could have found the defendant Alberta Pressley
15 guilty of assault and battery in the 2nd degree just as
16 easy as they found her guilty of assault and battery in
17 the 3rd degree. It is clear from their verdict that they
18 felt she was guilty of assault. There was evidence in the
19 record to support a finding that moderate bodily injury to
20 the victim could have resulted, and, Judge, I would
21 respectfully submit to the Court that it's not the Court's
22 role to substitute its judgment for that of the jury.

23 And so, Your Honor, given that statute as it
24 relates particularly to the defense of others, clearly --
25 not the statute but the case law, the authority clearly

1 require that -- in my view, that defense is only available
2 if the person involved in the initial altercation had a
3 right to self-defense.

4 Judge, we can, as lawyers, disagree on the
5 propriety of that law, but it is the law that we have. We
6 have to -- we have an oath to abide by the law as it
7 exists, and so I would just simply reiterate the arguments
8 that I previously made.

9 I'd ask the Court not to substitute its judgment
10 for that of the jury and certainly not set aside the
11 verdict of assault and battery in the 3rd degree.

12 THE COURT: All right. Now, Mr. Kent, I believe
13 I'll be denying your motion. The only qualifier is that
14 I'll think about the defense of others because I'll have
15 to think about that in conjunction with what I'm doing
16 with Mr. Carraway's motion for a new trial on the
17 self-defense.

18 Otherwise, does the State care to go to
19 sentencing or would you like to do that tomorrow, Ms.
20 Barr, or tonight?

21 MS. BARR: Judge, we can do that tonight.

22 THE COURT: All right.

23 MS. BARR: If Your Honor please. Whatever the
24 Court pleases.

25 THE COURT: That's fine, fine with me.

1 Y'all can have a seat.

2 MR. KENT: Thank you, Judge.

3 THE COURT: The sentencing range for attempted
4 murder is what, please, ma'am?

5 MS. BARR: I think it's up to 30 years, Your
6 Honor.

7 THE COURT: All right. Anybody have that
8 statute handy?

9 MS. BARR: 16-3-29.

10 THE COURT: 16-3-29.

11 MS. BARR: Not more than 30.

12 THE COURT: Okay. And it is a most serious, 85
13 percent?

14 MS. BARR: Yes, sir.

15 THE COURT: All right. I'll be glad to hear
16 from you, Ms. Barr, and, of course, from Mr. Pressley if
17 he would like to tell me anything.

18 MS. BARR: Your Honor, I asked Mr. Pressley
19 whether or not he wanted to address the Court regarding
20 sentencing, and he declined to do so.

21 Your Honor, of course, this is not like a guilty
22 plea in terms of all of the facts not being before the
23 Court. Your Honor has had the benefit of hearing all of
24 the facts as they relate to both defendants, and, Judge,
25 we're satisfied that the Court will do what's appropriate,

1 what's just.

2 You know their criminal records already.
3 Alberta Pressley does not have a prior criminal record.
4 The only conviction that Jerline Pressley has is a
5 shoplifting in, I believe, in 2002.

6 The facts of the case, the extent of the
7 injuries are egregious, the facts are disturbing, but,
8 Judge, we'll just leave sentencing in your hands.

9 THE COURT: All right. Anything else, Ms. Barr?

10 MS. BARR: No, sir.

11 THE COURT: Mr. Carraway?

12 MR. CARRAWAY: Nothing, Your Honor. I think
13 you've heard all the facts, or heard all the evidence.

14 THE COURT: All right. Would you counsel your
15 client not to -- well, is there anything she would like to
16 tell me?

17 MR. CARRAWAY: Do you want to tell the judge
18 anything?

19 THE COURT: Yes, ma'am.

20 DEFENDANT JERLINE PRESSLEY: Can I get
21 probation?

22 THE COURT: I'm not going to respond directly to
23 that, but I seriously doubt it.

24 You know, this carries from zero to 30 years in
25 prison.

1 Is there anything else you would like to tell
2 me?

3 DEFENDANT JERLINE PRESSLEY: This is just so
4 long a time and I have grandkids to take care of.

5 THE COURT: Well, who else is home to take care
6 of them?

7 DEFENDANT JERLINE PRESSLEY: Nobody.

8 THE COURT: Where are they now?

9 DEFENDANT JERLINE PRESSLEY: With my niece.

10 THE COURT: How old are they?

11 DEFENDANT JERLINE PRESSLEY: Three.

12 THE COURT: Do you understand that you could be
13 in prison for a long, long time?

14 DEFENDANT JERLINE PRESSLEY: I know.

15 THE COURT: Okay. Thank you, ma'am.

16 Mr. Kent.

17 MR. KENT: Thank you, Judge.

18 I have talked to Ms. Pressley, Alberta, about
19 saying anything. I don't think she has any desire, not
20 negatively, toward the Court whatsoever. I've explained
21 to her what she's looking at.

22 THE COURT: She's facing up to 30 days.

23 MR. KENT: She's facing 30 days. She
24 understands that.

25 Based upon all of the motions that we've made,

1 you've heard the testimony in the trial, she's spent one
2 day in jail, I would ask the Court for leniency and give
3 her time served. She's spent a day in jail, Judge.

4 And I know I belabored the point about the
5 directed verdict motion. I strongly believe that the law
6 is on her side in this situation.

7 You've heard the facts of the case. I think she
8 did have a valid defense of others claim. I understand
9 the Court's ruling, I'm not disagreeing with the Court's
10 ruling, but I'm saying for sentencing purposes, based upon
11 the fact that the jury has found her guilty of a
12 misdemeanor, in this case a lesser included, basically
13 they said the State did not prove their case as far as
14 what they were trying to prove.

15 I'd ask for a one-day time served sentence,
16 Judge.

17 She has no prior record. She hasn't been in
18 trouble before. She has no forays with the law
19 whatsoever. And even from the defendant's own mouth, from
20 the victim's own mouth, this wasn't her fight. She wasn't
21 involved in the fight out there. Of course, they were
22 tried together, but everyone agrees this wasn't her fight.
23 She was out there unfortunately trying to break it up.

24 For that reason, Your Honor, I'd ask for a
25 one-day time served.

1 THE COURT: All right. Anything else? Anything
2 your client would like to tell me, Mr. Kent?

3 MR. KENT: No, sir, Judge.

4 THE COURT: All right. Ms. Barr, anything else?

5 MS. BARR: No, sir, Your Honor.

6 THE COURT: All right. I will go ahead and
7 sentence -- quite frankly, I want to think about Jerline
8 Pressley. She's not going to get probation, she's going
9 to get some substantial time. I want her held in the
10 county detention center overnight.

11 Alberta Pressley, you're committed to the county
12 detention center for a period of 20 days. You'll get
13 credit for the time you've served, and that will conclude
14 my sentencing with regard to Ms. Pressley, Alberta
15 Pressley. And she'll begin that sentence --

16 MR. KENT: Judge, is there any way she could
17 begin the sentence tomorrow so she -- it's a 20-day
18 sentence.

19 THE COURT: Here's what I will do. I want you
20 to listen carefully.

21 You be at this courthouse by noon tomorrow.

22 DEFENDANT ALBERTA PRESSLEY: Okay.

23 THE COURT: If you are not, you're disobeying a
24 direct order from this Court that will subject you up to
25 six months contempt of court sentence for disregarding my

1 order.

2 DEFENDANT ALBERTA PRESSLEY: Okay, sir.

3 THE COURT: Is that clear?

4 DEFENDANT ALBERTA PRESSLEY: Yes, sir.

5 THE COURT: Does that accommodate her enough,
6 Mr. Kent?

7 MR. KENT: It would, Judge. And not to gild the
8 lilly, if during the evening I chose to appeal this
9 sentence with my client, would you be willing to grant an
10 appeal bond if we presented one tomorrow?

11 THE COURT: That's only if there's a ten-year or
12 more sentence, isn't it?

13 MR. KENT: She's still looking at active time,
14 Judge, and she still would have, I think, appealable
15 issues. That's something that at least if I could have
16 until noon tomorrow to research it. Either way she's
17 going to be here, but if I could have until noon tomorrow.
18 She's looking at active time, and we may want to appeal
19 it.

20 THE COURT: Then there's another order. No
21 contact, direct or indirect, with Thomas Pressley.

22 DEFENDANT ALBERTA PRESSLEY: Oh, I haven't seen
23 him since --

24 THE COURT: And let's let it stay that way.

25 DEFENDANT ALBERTA PRESSLEY: Yes, sir.

1 THE COURT: Direct or indirect means not you,
2 and you better not suggest or ask anybody to do it.

3 DEFENDANT ALBERTA PRESSLEY: All right.

4 THE COURT: All right. She needs to be in this
5 courtroom tomorrow by noon.

6 MR. KENT: And you'll entertain my motion --

7 THE COURT: For an appeal bond?

8 MR. KENT: For an appeal bond at that point in
9 time so she can appeal the sentence, Judge.

10 THE COURT: Okay. Thank you.

11 And Jerline Pressley will be held in the
12 detention center tonight.

13 (The proceedings were concluded for the day and
14 reconvened on May 17, 2012.)

15 THE COURT: We're back on the record in the
16 matter of the State of South Carolina versus Jerline
17 Pressley, 2010-231.

18 Anything before I sentence Ms. Pressley? And,
19 first of all, rule on her post-trial motions?

20 Anything, Ms. Barr?

21 MS. BARR: Regarding post-trial motions, Judge?

22 THE COURT: No, the sentencing at this point.

23 MS. BARR: Judge, just very briefly.

24 When I went home last night and I took the case
25 home with me, I remembered having a conversation and it

1 was concerning a civil lawsuit, and it had one person who
2 died in a motor vehicle accident and another person who
3 survived in that same motor vehicle accident, and, of
4 course, Judge, it's a civil case and the question was one
5 of damages. And we had a discussion about the wrongful
6 death case was more valuable than the case where the
7 person survived but was seriously injured. And in that
8 instance, the person who survived and was seriously
9 injured was disabled, and, of course, my thought process
10 on that was because he said you look at what you take when
11 you commit an act.

12 When a life is gone -- obviously life is
13 precious and nothing could replace it. But when you look
14 at the person who survived, they think differently.

15 When I hear Mr. Pressley talk about how he was
16 in a coma for nearly two months and how his insides -- he
17 talked about how huge his stomach was, and the other day
18 on a break I said, you know, do you want anything to eat
19 or anything to drink and he said no, because his
20 intestines even two years later -- we look at what he said
21 and look at what we leave a person with. And so he's left
22 with the worst of the worst and the best of the best.

23 We've seen persons, good people. We've seen
24 persons who have a record a mile long and just will
25 continue to disobey the law. And what's troubling in the

1 case for me is that maybe somebody's who's high or
2 somebody who's been drinking or, you know, somebody who
3 goes in and robs somebody never intending to hurt anybody,
4 they just want to get the money and the property, and
5 somebody dies as a result of that incident.

6 I believe, and I think the evidence supported
7 it, it was somebody laid in wait for him to come home, and
8 when he gets home, he's two seconds away from walking to
9 his house and he's blasted. She acknowledged that she
10 unloaded every single bullet up until she ran out. And
11 even after she ran out, she came and started attacking him
12 with the gun.

13 When it's all said and done and when passions
14 have kind of cooled a little bit and Ms. Pressley's in the
15 custody of Williamsburg County Sheriff's Office, I would
16 have to look at her statement to see when it started, but
17 we know the shooting happened about 7 o'clock. I think
18 he's in ICU, she's asked, how would you feel if he died,
19 and she said "good." The reality of what happened hadn't
20 set in yet.

21 When we go through that trial and
22 Ms. Pressley -- and I don't know her personally, I don't
23 pretend to -- but we go through this trial, Ms. Pressley's
24 convicted, Your Honor asked her would she want to say
25 anything prior to sentencing, and the first words out of

1 her mouth without hesitation, "Can I get probation?" Not
2 I'm sorry this happened, I thank the Lord my brother's
3 still alive, I wish this had never went done, and I find
4 this incredibly troubling.

5 THE COURT: Does Mr. Pressley want to say
6 anything today?

7 MR. PRESSLEY: No, sir.

8 THE COURT: All right. If you would like.

9 MR. PRESSLEY: No, sir.

10 THE COURT: All right. Ms. Barr, do you have a
11 copy handy of 16-23-490, the possession of a weapon count?

12 Mr. Carraway, anything before I sentence?

13 MR. CARRAWAY: Yes, sir, I do.

14 THE COURT: All right.

15 MR. CARRAWAY: Yes, sir, I do have something to
16 say.

17 It's just astonishing to me to hear only one
18 side of this from the Solicitor's office. I mean, it's
19 just stunning.

20 Now, I've lived on my property -- I grew up on
21 my land, at my house, or whatever, there. And I'm
22 attached to my land, to my house, just like somebody else
23 would be. And if I felt like for whatever reason what
24 happened here is -- for one thing, they wonder how did
25 this brother get this land anyway?

1 They said, My mother, when I came back here in
2 1990 and I asked to move onto this land, or whatever, she
3 owned the land at that time and she told me you can move
4 your mobile home onto this land, or whatever. The way he
5 got this land was, I suggest to you, he's the one that
6 ended up with the money or whatever out of this. Mom
7 owned the land, put the land up, now what he did was -- I
8 can look at things from both sides unlike the Solicitor's
9 office. What he did on this land is he worked this land
10 for about 40 years. He's the one that worked this land.
11 I don't think anybody else helped him farm it, or
12 whatever. I think he ran this farming operation here on
13 this land, and I think probably they may have only lived
14 on 70 acres and he worked very, very hard making a living.

15 And it's not easily making a living farming, or
16 whatever. I can tell you that. There's a lot of failed
17 farmers, and it's not easy to do. And at some point what
18 happened, I would guarantee you what happened,
19 Mr. Sigmond's only been here about 20 or maybe 25 years.
20 He went -- Mr. Sigmond lives on adjoining property. He
21 owns all -- so much property out there, or whatever, and
22 he perhaps wanted some -- needed a loan or needed to buy a
23 tractor or to do something and he borrowed a bit of money
24 from Mr. Sigmond, or whatever, to keep his farming
25 operation going.

1 Sometimes you go to banks. We know how banks
2 go, they keep lending money on failed farm operations and
3 people keep losing money.

4 But apparently he had succeeded in being a
5 successful farmer. I think that's what he's still doing,
6 I think he has another job, but he worked hard. And I
7 don't begrudge him that. But the way they looked at it
8 here was how in the world did he end up with this anyway?

9 He ended up with it because he paid off -- momma
10 signed it over to him because he worked it, or whatever,
11 which is not that -- which is not wrong, and he paid off a
12 mortgage. I would suggest he's the one who borrowed the
13 money from Mr. Sigmond to keep this. He didn't blow this
14 money, I believe he did this to keep his farming operation
15 going on. But that's the way they looked at it.

16 I didn't hear anything from the Solicitor's
17 office about that, about how living on a piece of property
18 for your whole life and momma giving it to you and then
19 somehow -- and we all know there can be arguments between
20 brothers and sisters and there can be hard feelings that
21 people can be sorry, or whatever, here, and there can be
22 reasons for somebody to be put off. He didn't need a real
23 to put them off, but he got this land -- for what reason
24 did he get this land other than he borrowed money and then
25 paid off a loan, and that way mom signed all this land

1 over to him, or whatever, here.

2 Now, how did that happen without mom -- here's
3 the other thing that didn't come out. The day Mom died,
4 that's day Alberta Pressley got her eviction notice. She
5 got her eviction notice on the day that Momma was buried.
6 That's what she'll tell you.

7 So that's the way they looked at this, that
8 Momma said we could come back here and live on this, or
9 whatever, and she signed this over, or whatever, and her
10 understanding was is that he would let her stay on this
11 land, or whatever, here.

12 And here he's coming and -- to them, for no
13 reason, he is evicting us off of where we've all lived for
14 all these years, or whatever, here. Why is he doing this,
15 or whatever? We've got 97 acres. Isn't there somewhere
16 else we can be? We feel attached to this land, we've
17 lived on it all our lives, we love this land as much as he
18 does, we've always are stayed here. She moved away for a
19 little while, but then she moved back. We've always
20 stayed here, and now this is unjust for him -- he may own
21 it, but why is he moving us off of this, and why is he
22 making us leave here, or whatever?

23 He might can legally do that, but this is three
24 sisters. He wanted all of them gone, all of them off of
25 there.

1 Now maybe one, you've got somebody that has done
2 something -- there have been people that have done things
3 in your life that, you know, I'm not going to forgive, or
4 whatever. No, that's not ever going to happen. Don't
5 come to me about anything, and I'm not forgiving it, or
6 whatever. But I never heard that any of these girls did
7 anything like that, or whatever.

8 For what reason? And he didn't give any reason.
9 I said him what, what -- I asked him, I said, What is this
10 argument about here? What are you -- is there something
11 else going on here? He said, No, it's just about this
12 land, and what I understood him to basically say is that
13 they wouldn't help me pay that -- none of them but James
14 would come in and help me pay off that mortgage, or
15 whatever, and it's all about this little bit of tax money
16 here, or whatever. That's what it was about.

17 And that's what -- and this went on and on and
18 on. And I don't know why cooler heads couldn't have
19 prevailed somewhere. I'm sure they would have been
20 agreeable of him coming to them with something reasonable
21 here, or whatever. I mean, all they're doing is wanting
22 to keep a mobile home on a quarter acre of 97 acres of
23 land where they've lived all their lives, and they don't
24 understand how he got this and how he gets the right to
25 push them off of this land, or whatever, here.

1 He legally certainly because Momma signed it
2 over to him, but why did Momma sign all of it over to him,
3 or whatever, here? He's the one that borrowed that money.
4 He's the one that got that money from the farming
5 operation. He's the one that did that.

6 And Momma let us move back on here. She said we
7 could come back on here. And I'm sure Momma wouldn't
8 approve of him evicting us off of here, or whatever. And
9 that's the way they thought.

10 I didn't hear one iota of this. And I mean,
11 I've been in on this deal since the very start, and I have
12 a far different view of having any sympathy towards this
13 guy about anything, or whatever. He got shot, and that
14 might not have legally been right, or whatever, but boy, I
15 tell you, I hadn't loss a moment of worrying about his
16 condition, I can tell you, not one bit.

17 And for them to act like, oh, well, this is just
18 horrible the way this has happened, or whatever, I just
19 cannot figure out over a two-year period here of trying to
20 evict these girls and get them off of there, why if -- I'm
21 sure they would have been -- how is there any
22 unreasonableness on their part of trying to work something
23 out?

24 He never said on the the stand here, I tried to
25 do something with them. I tried to work this out, or do

1 something, or move them, or give them an alternative, but
2 no, they wanted to stay right where they were and they
3 weren't going to pay me a dime. I didn't hear any of
4 that, or whatever.

5 So this is -- it may be legally right, but it's
6 patently unfair, clearly unfair what he was doing to these
7 girls, or whatever, here by making them move and to go to
8 all that expense, or whatever. It's unfair.

9 And he gave no reason for it at all. He may not
10 legally need to have a reason, but they certainly didn't
11 feel good about that, or whatever. And they felt that --
12 and how -- and it went on and on. It wasn't a short thing
13 here, or whatever.

14 Is there someplace we can move on to this? I
15 understand this. Is there some other place we can move
16 here other than having to move -- go to the expense of
17 moving our mobile homes and then pay rent somewhere else
18 and not be able to live and stay on the land that we've
19 always stayed on, which has been our home, or whatever,
20 out here.

21 And she said, He and I got along good. She said
22 we used to get along good. And he never said anything
23 other than this ridiculous little deal here.

24 Now, how can we say this is all their fault here
25 about this land dispute here? They weren't asking for

1 anything other than they wanted to try -- they just wanted
2 to stay where they were for the short years they've got
3 left here or whatever. That's all they wanted here. But
4 he's the one that was completely unreasonable in my
5 estimation.

6 I've never heard of such a thing here, to where
7 you can't -- he gave no reason, or whatever. Sure, I can
8 have a reason. Tell me a reason here why -- all he had to
9 say was they know why, they know why I'm pushing them off,
10 or whatever. They know why I don't want them here. This
11 is three different sisters here, and all of them are gone
12 right now, or whatever.

13 So as far as me having any sympathy for him,
14 I've got zero, none, zilch, zero. I don't feel sorry for
15 him one bit. I never have felt sorry for him.

16 Legally if this jury found that she did lay in
17 wait out there and shoot him, or whatever, and if that
18 happened, that makes her guilty in the eyes of the law and
19 you've got to punish her as --

20 THE COURT: Let's just assume -- let me
21 interrupt you.

22 We don't know what the jury decided. We don't
23 know if the jury concluded she ambushed him, we don't know
24 whether or not the jury thought that she disarmed him and
25 unnecessarily shot him.

1 MR. CARRAWAY: Right.

2 THE COURT: All right. Are you telling me that
3 if she was lying in wait to ambush him, morally that's
4 okay?

5 MR. CARRAWAY: No, I'm not.

6 THE COURT: All right. That's what I'm --

7 MR. CARRAWAY: I'm not saying morally that's
8 okay.

9 THE COURT: You said you had zero, zilch, none,
10 sympathy for him.

11 MR. CARRAWAY: None. None.

12 THE COURT: Even if that happened?

13 MR. CARRAWAY: None. I don't have any, no.

14 THE COURT: Okay.

15 MR. CARRAWAY: I don't have any for him. I've
16 not felt any for him since they came into my office a year
17 and a half ago.

18 THE COURT: Even if she was waiting on him?

19 MR. CARRAWAY: Even if she was waiting on him.
20 That's morally wrong, but I don't feel sorry for him
21 because he knew -- he knew that tensions were rising here
22 and he pushed this situation to where something like this
23 could happen, or whatever.

24 He knew -- he was close enough to these girls --
25 he lived 25 feet away from these girls. He could feel the

1 tension rising there. He knew the levels that it was
2 rising to here. He could feel all of that, or whatever,
3 here, so no, I don't -- but I know she's got to be
4 punished here, but I have not felt one bit of sorry for
5 him, not one bit about this because this was outrageous
6 for him to be pushing them off of this property.

7 He legally could do it, and she is wrong for
8 what she did here, but this is a person that I don't know
9 that has ever done anything -- other than this shoplifting
10 deal, I haven't heard anybody say that she's ever been out
11 there -- you know, there's always some people in the
12 neighborhood that you can't get along with and that's
13 always arguing with people, or whatever. I haven't heard
14 anything like this, other than if this hadn't come up in
15 her life here, this thing, this was very traumatic for her
16 and it was difficult for her to handle, and for her sister
17 to handle, and I'm sure it was difficult for her other
18 sister to handle, and they went along with this for two
19 years, that we're going to have to leave here, or
20 whatever. We're going to actually -- not only -- we're
21 not just living someplace at a trailer park or somebody --
22 the manager of a trailer park's telling us we got to go.
23 No, this is our home here, or whatever. And that's what
24 they went over for two years.

25 They couldn't understand why -- and he said it

1 was all about money, or whatever, which is -- it's just --
2 it's just incomprehensible to me how unless he said we
3 haven't -- he didn't say -- he said this is the only
4 problem we had about this land. And she said she used to
5 get along good with him, or whatever. And it's tragic
6 there. And this was just something -- it's wrong, but
7 it's something she could not handle here.

8 And when it came up to two weeks before -- I
9 think Ms. Barr said it was seven or ten -- two weeks
10 before, or whatever, and that she knew that within a few
11 days, or whatever, or in a very short period of time
12 somebody was going to come out, the sheriff's department
13 or somebody was going to come out and move her, and I
14 think what they do is they actually physically move the
15 mobile home is what they do, and move her house, her home,
16 which I think she said she had had since about 1990, or
17 whatever, they were going to move this, or whatever, and
18 it was just -- she was wrong in what she did, she's
19 morally wrong in what she did, and to go this far, but
20 this -- she just snapped and broke, and this was just
21 something she could not handle here, to move off of this
22 property here and a way from here, that she just could not
23 see where this was right.

24 It's not right. Legally it is right, but it's
25 not -- in her mind it's not right, and I don't think it's

1 right, and he didn't give a reason. And he might not
2 legally have to give a reason, but it's not right, and he
3 didn't give any reason, or a reason, well, okay, I see why
4 you're doing this, or whatever. Just over this money or
5 whatever, just seems -- it just seems just crazy to me, or
6 whatever, that nothing could be worked out here.

7 And that's what happened. This lady was pushed
8 too far and just could not handle the situation here. I
9 think that's what the jury's found here, or whatever, and
10 that was the State's theory of the case, that's what he
11 said happened here.

12 THE COURT: All right.

13 MR. CARRAWAY: And whatever they found, or
14 whatever, but you know, I've told his side of it. I've
15 told both sides. He did work hard on this property all
16 these years, and he made -- it's not easy making a living
17 farming, and he did that. And he's done that, and he's
18 still farming there. If he wasn't, he'd be doing
19 something else and they would have sold all that land off,
20 so he's to be commended for that. That's an everyday
21 thing in there. Many, many -- 75 percent of farmers don't
22 make, and he has made it, and he's to be commended, or
23 whatever, here. But I haven't heard any justification for
24 how he treated his sisters here, or whatever, and how --
25 they're all gone. He followed through on that. I mean,

1 he went -- he didn't just ask them to leave, he went on
2 and they're all gone now from the family property for
3 whatever reason, and for no reason that they can figure
4 here, or whatever.

5 So there's good sides to him, there's probably
6 other good things, this may be the only bad thing in my
7 mind he's ever done, or whatever, but here, this is
8 incomprehensible to me how he could do this, or whatever,
9 to these girls here, to his sisters.

10 He's given no reason for it. He doesn't need
11 one, or whatever, but he hasn't given one. So this is all
12 I really know about him. I'm giving him credit for this
13 farming. I don't know about that, but all I know about
14 him is how he treated his sisters here, or whatever, and
15 he could feel that these girls living this close -- he's
16 not living somewhere else. He's living within 25 feet of
17 one of them. He could feel these tensions rising and he
18 did nothing to -- okay, what can we do here, can I move
19 you someplace else on this property, or do whatever, none
20 of that was done here, and she just snapped and could not
21 handle this I believe is what happened here, Your Honor.

22 THE COURT: All right. Anything that
23 Ms. Pressley wants to tell me?

24 Ms. Pressley, anything you want to say?

25 All right. I've already sentenced Alberta

1 Pressley, and that sentence stands, and I believe she's in
2 the courtroom now.

3 MR. CARRAWAY: Let me -- would any of you all
4 like to say something?

5 If they can't speak, there's two gentlemen that
6 come here today --

7 THE COURT: All right.

8 MR. CARRAWAY: And may Alberta speak on behalf
9 of her sister, or is that improper?

10 THE COURT: It's certainly fine with me. I
11 don't know if her attorney would have any -- is Mr. Kent
12 planning on being here before noon today?

13 MS. ALBERTA PRESSLEY: Yes, he said he's going
14 to meet me here at 12. So I just come so I can be here.

15 THE COURT: Ma'am?

16 MS. ALBERTA PRESSLEY: I said he told me to be
17 here at 12 like you said, so that I came early, but I'm
18 still going to wait for him.

19 THE COURT: Okay. I hesitate to invite her to
20 say anything to me because anything she says can be used
21 against her if there's any hereafter on her case. So I'm
22 not going to encourage her to, nor am I going to
23 discourage her to, but I would certainly think that
24 Mr. Kent would like to have a say in that. So I'm just
25 going to hear from whoever wants to talk.

1 Okay. Anybody want to tell me anything?

2 Your name, sir?

3 MR. NESMITH: Marvin Nesmith.

4 THE COURT: All right. Yes, sir.

5 MR. NESMITH: Ever since I knowed them, all of
6 them was just polite and good neighbors, whatever, you
7 know. If I asked them to help me do something in the
8 field, or whatever, they would be willing to do it, and it
9 was just a shocker to me that this came up. And like the
10 attorney just said, you know, if they would have talked to
11 each other, this probably would have been omitted.

12 THE COURT: Thank you, sir.

13 Anybody else?

14 All right. You know, it's certainly difficult
15 in any case to sentence someone, especially when they have
16 a remarkable lack of criminal history, but there are
17 obviously instances where the first real mistake somebody
18 makes is a horrible mistake.

19 The range of sentencing for attempted murder is
20 zero to 30 years. The defendant will have to serve
21 85 percent of that sentence before being eligible for
22 release on community supervision.

23 Mr. Carraway has repeatedly said that he doesn't
24 have any sympathy for Mr. Pressley. Whatever the
25 difficulties were between these folks certainly didn't --

1 or they would certainly pale in comparison, and any
2 immoral conduct on his part pales in comparison to
3 somebody shooting him at least six times.

4 I don't know whether the jury concluded that she
5 was waiting on him in the bushes to ambush him, it's what
6 he said. I don't know whether the jury believed her story
7 that he got angry, came out of the bushes with the rifle
8 and she got it away from him and then she shot him those
9 six times as he are tried to go in the house purportedly
10 to get a gun and come back out.

11 With regard to your post-trial motion for a new
12 trial for my refusal to charge self-defense, the only case
13 that I could find in South Carolina -- there may be
14 others, but I looked and couldn't find them -- State
15 versus Light, which is 378 S.C. 641 and 664 SE2nd 465,
16 it's a 2008 Supreme Court decision where that court
17 reversed the Court of Appeals' determination that a
18 self-defense charge was not warranted. The South Carolina
19 Supreme Court said in that case that they thought it was
20 warranted. The facts are a little bit different, but it
21 did involve a victim who had been disarmed. They were
22 still in close combat with one another when the gun was
23 fired, and the victim, who was the initial aggressor, was
24 killed.

25 In this case, I still think my decision not to

1 charge self-defense was proper because she had disarmed
2 him, they were a good distance away from the house when he
3 turned to go back in, and she could have retreated. And
4 under the law, I believe she did have a duty to retreat.
5 If there's ever an appeal it may be found differently, but
6 I've got to go on what the situation is here now.

7 Ms. Barr's comments were very well taken, that
8 whatever happened didn't deserve someone being shot six
9 times. It's not an easy task, Ms. Pressley, and whatever
10 period of time I sentence you to, nobody's going to know
11 whether it's justice or not. There's two people in this
12 world who know what happened. They're sitting in this
13 courtroom, and they both testified. And the jury had a
14 difficult job in determining what actually happened or
15 what actually was proven by the State beyond a reasonable
16 doubt. The jury's spoken, that's what I've got to go on.

17 On the attempted murder -- please stand,
18 Ms. Pressley -- on the attempted murder, you are committed
19 to the State Department of Corrections for 16 years, and
20 concurrently with that, you are committed to the
21 Department of Corrections on the conviction for possession
22 of a weapon during a violent crime for five years.

23 That concludes the matter. You do have ten days
24 to appeal. I'm sure that you and your lawyer can discuss
25 that.

1 And, Mr. Pressley, good luck to you. And this
2 case is concluded.

3 Thank you.

4 (The proceedings were concluded.)

5 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

6 VOLUME 2 OF 2

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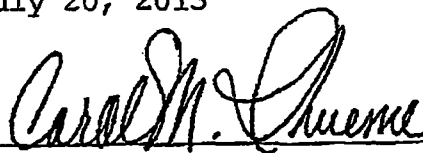
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1 CERTIFICATE OF REPORTER
2
34 STATE OF SOUTH CAROLINA)
5)6 COUNTY OF WILLIAMSBURG)
7

8 I, CAROL M. THUEME, RPR, Official Court Reporter for
9 the 11th Judicial Circuit of the State of South Carolina,
10 do hereby certify that the foregoing is a true, accurate
11 and complete Transcript of Record of the proceedings had
12 and evidence introduced in the trial of the captioned
13 case, relative to appeal, in the Court of General Sessions
14 for Williamsburg County, South Carolina, on the 16-17th
15 days of May, 2012.

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

19 July 20, 2013
2021 
2223 CAROL M. THUEME, RPR
24 Circuit Court Reporter25 As transcribed for
MARGARET SULLIVAN
Circuit Court Reporter

FORM 5

12 CP45 582

STATE OF SOUTH CAROLINA)

County of Williamsburg)Jerline Pressley)

Full name and prison number (if any) of Applicant)

S.C.D.C.#)

350981)

v.)

IN THE COURT OF COMMON PLEAS

A CERTIFIED TRUE COPY

APPLICATION FOR

State of South Carolina

HARON W. STAGGERS

CLERK OF COURT

WILLIAMSBURG COUNTY

POST-CONVICTION RELIEF

FILED
12 OCT 23 AM 11:40
CLERK OF COURT
WILLIAMSBURG COUNTY, S.C.

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Camille Graham Griffin
Correctional Institution.
2. Name and location of Court which imposed sentence General Sessions of
Williamsburg County, Kingstree, S.C. 29556
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Attempted Murder # 2010-GS-45-0231 A/W# MOB2290
 - (b) Possession of a Weapon during a Violent Crime
2010-GS-45-0231 A/W# MOB2292

Questions w/ additional Information

Question #4

Note: The Charges were as follows:
Attempted Murder, Assault and Battery
of a High and Aggravated Nature, Possession
of a Weapon during the Commission of
a Violent Crime.

Question #7

I asked my Attorney, Public defender,
Legrant Carraway, to do an appeal
for me, on Record, in the Courtroom,
on my trial date, in front of Judge
George James. I then sit 10 days
in my county Jail and never heard
from my attorney again. Still haven't.

Question #9

(a) Poor legal representation, so I am
filing for Post Conviction relief.
I thought Mr. Carraway was working
on my behalf. He misled me and
my family.

Question #10 "See Back of Sheet"

(B) my attorney never worked for me.
Never used anything about Self-defence, or
the years I was abused by my Victim.

(c) See attached Sheet

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

- (a) _____
 (b) _____
 (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
 (b) after a plea of not guilty ☒ Jury trial
 (c) after a plea of nolo contendere _____

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

See attached Sheet.

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

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

- i. _____
 ii. _____
 iii. _____

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

- i. _____
 ii. _____
 iii. _____

(c) the date of each such result:

- i. _____
 ii. _____
 iii. _____

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

- i. _____
 ii. _____
 iii. _____

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

- (a) See attached Sheet.
 (b) _____

Question # 11

Sit in the County from June to July and was issued my public defender, Mr. L. Carraway, after 28 days I was released, having only seen him once. I went to Mr. Carraway's office several times. He was always out or didn't have time to see me. Me being ignorant to the law, and not having a knowledge of the mechanics of legal law, was ~~so~~ very trusting that our legal system wouldn't fail me. After all I have never been in trouble with the law before in my life. He refused to talk to me. I went to roll call every 3 months, and when I tried to talk to him, Mr. Carraway brushed me off. At roll call I told him I wasn't guilty because of the abuse my brother, ~~and~~ ^{the} victim, put me through. Mr. Carraway seemed put out because I wanted a jury trial, so I could tell my side of the story, therefore he never approached me with a plea, or educated me about any of my options. He seemed angry that

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) my attorney Coersed me into
~~(b) thinking he was helping me.~~
~~(c) See attached sheet~~
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attached sheet.
 (b) _____
 (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
 ii. _____
 iii. _____
 iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

NO

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

(a) which grounds have been presented:

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

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

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

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

- (a) my lawyer didn't have my best interest at heart.
 (b) I was ignorant to the law
 (c) I was not Educated.

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

- (a) your arraignment and plea? Wasn't offered a Plea.
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

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. La Grant Carraway, Williamsburg
County Public Defenders Office

ii. _____

iii. _____

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

- i. Bond hearing in 2010

- ii. Jury trial in 2012

iii. _____

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

based on my record I would like a
sentence reduction and maybe even
probation - See Attached Sheet

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

NO

STATE OF SOUTH CAROLINA)

County of Williamsburg)

VERIFICATION

I, Jerline Pressley S.C.D.C. # 350981, 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.

Jerline Pressley

SWORN to and subscribed before me this 7th
 day of August, 2012.

Robert R. Barnes (L.S.)
 Notary Public

My Commission Expires: My Commission Expires August 12, 2015

FILED
 12 OCT 23 AM 11:41
 CLERK OF COURT
 WILLIAMS
 KINGSTREE, S.C.

I wanted a Jury trial. Almost like he thought I was punishing him because he now had a Jury trial to attend to. He never talked to me before the trial, until a few minutes each day during the trial. Then he acted, to me, like he wasn't really listening. My attorney even yelled at me at roll call on one occasion. After that, I was scared to talk to him. It brought back memories of my brother's abuse on me since childhood.

Question # 19

I know I did commit a crime. I know I must be punished. I would like a chance to tell my story, background information, and for the court to hear from other members of my community who can attest to my situation, therefore helping them understand why I acted to the situation like I did. I'm now sure, I fall under the Battered Women's Law. I am sorry for what I did, and would like a second chance in life. In Jesus Name, May God Bless, Respectfully

12 CP45 568

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

Jerline Pressley S.C.D.C. #350981, 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.

Jerline Pressley
Applicant

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

Patricia R. Barnes
Notary Public

My Commission Expires: My Commission Expires August 12, 2015

FILED
12 OCT 23 AM 11:41
CLERK OF COURT
WILLIAMS
KINGSTREE, S.C.



12 CP45 302

The South Carolina Court of Appeals

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September 25, 2012

Ms. Jerline Pressley# 350981
Graham Corr. Inst.
4450 Broad River Road
Columbia, SC 29210-4096

Re: Correspondence received August 23, 2012

Dear Ms. Pressley:

You have filed your petition for post conviction relief in the wrong court. You must first file the petition with the Clerk of Court of Williamsburg County who will assign it a case number. We are returning your material to you for your post conviction relief proceedings in the circuit court.

Very truly yours,

V. Claire Allen

DEPUTY CLERK

FILED
12 OCT 23 AM 11:40
CLERK OF COURT
WILLIAMSBURG COUNTY
S.C.

12 CP45 332

August 3, 2012

To whom it may Concern,
 I Jerline Pressley, S.C.D.C. inmate
 number #350981, am writing this letter
 to explain a few things. First off, I
 am no lawyer. Second I am
 ignorant to South Carolina Law, as I
 have never even had a speeding ticket.
 And most important, I am an abused
 woman. All of my life, Thomas R.
 Pressley, my brother and victim, Mentally,
 abused me and other members of
 our family. I feel, like because
 I don't understand the mechanics
 of legal law that I was dealt with
 unfairly. My brother was and still
 is mean. His record speaks for
 itself. I need a lawyer who will
 keep my best interest at heart. I
 pray that whoever processes my
 P.C.B. they will look over any
 mistakes I might have made in
 filling out this form. Thank you
 for your prompt filing of these
 papers.

God Bless, Respectfully.

Jerline Pressley

RECEIVED
 AUG 8 2012
 SOUTH CAROLINA

12 CP45 332

Oct. 15, 2012

To Whom it may Concern,
My name is Terline Pressley.
inmate # 350981, this is my
application for a Post Conviction
Relief. I would like for you to
send me an application for Indigent
defence. The enclosed was sent to
the wrong Court, It was sent to
the Court of Appeals. I'm trying
to go for a P.C.R. Not an appeal.
Thanking you in advance for your
help.

God Bless

Terline Pressley

FILED
12 OCT 23 AM 11:40
CAROL ANN WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2012-CP-45-0562

Jerline Pressley, #350981,

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post-conviction relief filed October 23, 2012,¹ 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 Williamsburg County Clerk of Court. The Applicant was true bill indicted at the October 2010 term of the Williamsburg County Grand Jury for attempted murder; assault and battery of a high and aggravated nature; possession of a weapon during violent crime; and assault and battery—second degree. (2010-GS-45-0231). William LeGrand Carraway, Esquire, represented Applicant. Applicant proceeded to trial and on May 17, 2012, Applicant was found guilty as indicted. The Honorable George C. James, Jr., sentenced Applicant to sixteen years imprisonment for attempted murder and five years imprisonment for possession of a weapon during violent crime; with all sentences to run concurrent. No direct appeal was filed.

Attached herewith and incorporated herein are the records of the Williamsburg County Clerk of Court regarding the subject convictions and the Applicant's records from the South

¹ The application was received by Respondent on January 29, 2013.

Carolina Department of Corrections. The trial transcript has been ordered and 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.

Any claims not specifically enumerated in the post-conviction relief application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his 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.

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.

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

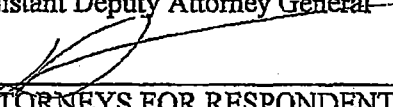
V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held solely on the issue of ineffective assistance of counsel and whether the Applicants plea was involuntary.

Respectfully submitted,

ALAN WILSON
Attorney General

DAVID SPENCER
Assistant Deputy Attorney General

By: 

ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

April 9, 2013

State of South Carolina

Court of Common Pleas

County of Williamsburg

2012-CP-45-00562

Gerline Pressley

-VS-

The State of South Carolina

:
:
:
:
:

TRANSCRIPT OF RECORD

May 27, 2014

Sumter, South Carolina

B E F O R E:

The Honorable R. Ferrell Cothran, Jr., Judge.

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

Charles T. Brooks, III, Esquire
Attorney for the Applicant

Daniel Gourley, Esquire
Attorney for the State

Daphne D. Helms
Circuit Court Reporter

I N D E XWitnessGerline Pressley

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1 **The Court:** We're going to do Pressley first.

2 **Mr. Gourley:** Yes, sir. There should be two packets up
3 there for Ms. Pressley.

4 **The Court:** Okay.

5 **Mr. Gourley:** May it please the Court, Your Honor?

6 **The Court:** Yes, sir.

7 **Mr. Gourley:** This is Gerline Pressley versus the State
8 of South Carolina, docket number 2012-CP-45-0562. She is
9 presently confined in the South Carolina Department of
10 Corrections pursuant to orders of commitment from the
11 Williamsburg County clerk of court. She was true-bill
12 indicted at the October 2010 term of the Williamsburg County
13 grand jury for attempted murder, assault and battery of a
14 high and aggravated nature, possession of a weapon during a
15 violent crime, and assault and battery of the second degree.

16 Mr. Carraway represented -- represented her. She
17 proceeded to trial on May 17th, 2012. She was found guilty
18 as indicted. The Honorable George C. James, Jr., sentenced
19 the applicant to 16 years imprisonment for attempted murder
20 and five years imprisonment for possession of a weapon during
21 a violent crime with all the sentences to run concurrent. No
22 direct appeal was filed.

23 Subsequently, she filed a post-conviction relief
24 application on October 23rd, 2012. It was received by our
25 office on January 29th, 2013. She was being -- alleging she

1 was being held in custody unlawfully based on ineffective
2 assistance of counsel. The State made its return on
3 April 10th, 2013, and she is represented in this matter by
4 Mr. Brooks.

5 **The Court:** Okay. Yes, sir.

6 **Mr. Brooks:** How are you doing this morning, Judge?

7 **The Court:** I'm good.

8 **Mr. Brooks:** Are you ready?

9 **The Court:** I'm ready.

10 **Mr. Brooks:** We call Ms. Pressley to the stand.

11 **The Court:** Okay.

12 Gerline Pressley, after being duly sworn, testified
13 as follows:

14 **The Clerk:** Please state your full name. Spell your
15 last name for the record.

16 **The Witness:** I'm Gerline Pressley, P-R-E-S-S-L-E-Y.

17 Direct Examination

18 By Mr. Brooks:

19 Q. Ms. Pressley?

20 A. Yes, sir.

21 Q. You've got to talk up now. Okay?

22 A. Okay.

23 Q. All right. Because this lady right here, she's got to
24 take this stuff down and she can't take down a huh-uh or
25 head-nodding or anything like that.

1 A. Okay.

2 Q. I know you're nervous. So why don't you go ahead and
3 take a deep breath? And we've talked a little bit about
4 this.

5 A. Uh-huh.

6 Q. Okay?

7 A. Yes, sir.

8 Q. All right. Now, Ms. Pressley, how old are you?

9 A. Fifty-seven as of today.

10 Q. Okay. And up until this thing here, had you been in any
11 trouble before?

12 A. No, sir.

13 Q. Okay. Lived out in the Williamsburg County area pretty
14 much all your life; right?

15 A. Yes, sir.

16 Q. Now, you went to trial and had Mr. Carraway as your
17 public defender. Is that correct?

18 A. Yes, sir.

19 Q. Okay. Now, tell us what this whole incident was about.

20 A. It's about he was trying -- he was threatening me for a
21 long -- Roosevelt was threatening me for a long time.

22 Q. Now, who is Roosevelt?

23 A. My brother, Thomas.

24 Q. Okay. That's what y'all call him?

25 A. No, we call him Big Shot.

- 1 Q. You call him Big Shot.
- 2 A. Yeah.
- 3 Q. Okay. He had been threatening you.
- 4 A. Yes.
- 5 Q. Had he also been threatening other members of the
- 6 family?
- 7 A. Yes, sir.
- 8 Q. Was he a serious concern or problem for you and the rest
- 9 of your family?
- 10 A. He was a problem.
- 11 Q. Okay. Tell us what's the -- what was this all about?
- 12 Let's give the judge some background information and
- 13 everybody here. What was this all about?
- 14 A. I really don't know, but like we walk or try to clean up
- 15 a place, you know, like we live, too, and cleaning around the
- 16 house and, you know, cutting bushes and thing. He always
- 17 ride by and cursing us out and stuff like that, calling us
- 18 out our names and everything.
- 19 Q. Now, when you say us, that wasn't just you.
- 20 A. No.
- 21 Q. Was that Alberta?
- 22 A. And Margie.
- 23 Q. And Margie.
- 24 A. And Larry.
- 25 Q. And Larry.

- 1 A. Yes, sir.
- 2 Q. Those are your sisters, and Larry is your brother.
- 3 A. Yes, sir.
- 4 Q. Okay. And was there a long history of Thomas doing
- 5 that?
- 6 A. Yes, sir.
- 7 Q. Had he ever done anything on these threats to any one of
- 8 y'all, to your knowledge?
- 9 A. Well, the only thing he done is he pulled a gun on my
- 10 brother when he was sitting there at his sister house. I
- 11 was---
- 12 Q. Your brother Larry?
- 13 A. Yeah.
- 14 Q. So he held a gun on Larry before.
- 15 A. Uh-huh.
- 16 Q. You saw that?
- 17 A. And he almost -- no, but he told me about it.
- 18 Q. Okay. All right. What else?
- 19 A. And then he went to Larry house and turned the gas on.
- 20 I smelled the gas, too, when we went there and turned the gas
- 21 on at his house.
- 22 Q. He turned the gas on, trying to kill him?
- 23 A. Yes, sir.
- 24 Q. Okay. You knew about that.
- 25 A. Yes, sir.

1 Q. Had he done anything to you before this incident?

2 A. He was threatening me for the longest. As long as I was
3 giving him money, it was all good.

4 Q. Okay. You were giving him money. Now, what---

5 A. Yeah.

6 Q. What were you giving him money for?

7 A. I really don't know what he wanted the money for, but I
8 paid like \$3,000 down on a house that he had that I move in
9 it and he didn't even tell me that he owed these people
10 money.

11 Q. Okay.

12 A. So after I got in the house, then I got a letter saying
13 they was coming to repossess the house if I didn't pay.

14 Q. Okay.

15 A. And right after that, after I done paid that, he come to
16 me wanting me to borrow \$2500 for him out of the bank, and I
17 turned around and I did that. That's why I don't understand
18 why he would want to kill me for no reason.

19 Q. Okay.

20 A. And it hurt so deeply.

21 Q. Do you think he -- he got mad because you wouldn't give
22 him any more money?

23 A. I don't know.

24 Q. Okay. Now, on this particular day when the shooting
25 occurred---

1 A. Uh-huh.

2 Q. ---what happened?

3 A. I was back there getting some flowers-tree (verbatim)
4 out of the yard, and when I turned around and I look up, he
5 was coming towards me with a gun saying he going to bury me.

6 Q. He came towards you with a gun---

7 A. Yeah.

8 Q. ---and said he going to bury you (verbatim)?

9 A. Yes. He been---

10 Q. Okay.

11 A. ---saying that for a long time.

12 Q. Okay. But on this day he came towards you with a gun
13 saying he's going to bury you.

14 A. Yes.

15 Q. Okay. What else happened after that?

16 A. And so when I look around, I didn't know what to do. So
17 the thing I said: I'm going to just try to take the gun from
18 him because he had some other stuff in his hand. And I said
19 I'm going to just try and see if I can get the gun because if
20 I run, he might shoot me in my back. And so we struggled for
21 the gun and struggled for the gun, and I kicked it and he
22 dropped it and I picked it up and I shot him. I just -- it
23 just happened so fast. I didn't know what I was doing at the
24 time.

25 Q. Was anybody else there?

1 A. No, sir.

2 Q. Okay. Now, was Alberta there shortly thereafter?

3 A. She was in her house. I don't know what she was doing,
4 but when we was tussling and fighting I was hollering and
5 calling her, but she didn't hear until like five minutes
6 afterwards. She look -- she looked out the door and then she
7 come out and try to get him off of me.

8 Q. Okay. All right. So she wasn't there at the specific
9 moment, but she heard y'all tussling or calling -- you
10 calling her out.

11 A. Yes, sir.

12 Q. While y'all were tussling.

13 A. Yes, sir.

14 Q. And she came after that.

15 A. Uh-huh.

16 Q. Okay. Now, that was the incident by which you went to
17 trial on. Is that correct?

18 A. Yes, sir.

19 Q. Okay. Now, did you ever -- did you ever talk with Mr.
20 Carraway about building a defense in this case?

21 A. No.

22 Q. Okay. How long had Mr. Carraway been your lawyer before
23 you went to trial?

24 A. For two years.

25 Q. Were you out on bond or were you in jail the whole time?

- 1 A. I was out on bond.
- 2 Q. Okay. You were out on bond the whole time.
- 3 A. Yes, sir.
- 4 Q. Okay. And do you recall how many times you met with him
- 5 getting ready for trial?
- 6 A. No, but I went to roll call every time we had roll call
- 7 and I tried to talk to him, and he'd brush me off every time.
- 8 Q. Okay.
- 9 A. And so the last time I went to talk to him, he just
- 10 snapped me up so quick, I didn't even have a chance to say
- 11 nothing that I wanted to say to him. So right then I just
- 12 didn't bother with him anymore.
- 13 Q. Okay.
- 14 A. Until the day we had court.
- 15 Q. Until the day they put you in the seat and they started
- 16 your case for trial.
- 17 A. Yes, sir.
- 18 Q. Did you have any of your other family members there?
- 19 A. Yes, sir.
- 20 Q. Now, what other family member you had?
- 21 A. Just Alberta.
- 22 Q. Because she was a defendant in the case.
- 23 A. Yeah.
- 24 Q. Okay. Were there any other family members there, like
- 25 Larry?

1 A. No.

2 Q. Okay. Now, so did you have the opportunity to tell Mr.
3 Carraway what you just told the Court about Thomas, Roosevelt
4 or Big Shot, as you called him, who had a history of
5 threatening you?

6 A. No, he didn't talk to me. He didn't had time, probably.
7 The way I see, he didn't have time to listen to what I had to
8 tell him, but the day before court he wanted me to explain
9 and tell him everything what was going on, which I could not
10 do that, because it was just the one day before court.

11 Q. Okay. All right. How far did you go in school, Ms.
12 Pressley?

13 A. To the eleventh grade.

14 Q. Okay. And what kind of work you had done all your life?

15 A. Well, I work at Tupperware. I work on the beach, like
16 housekeeping, and I work at Tupperware in packing. I work at
17 the electricity plant in Georgetown, fixing light sockets and
18 that's it.

19 Q. That's it?

20 A. Yes, sir, because I was -- you know, I stayed on the job
21 like three or four years and five years and stuff like that
22 before I quit.

23 Q. Now, before this incident you ain't never been in any
24 trouble before.

25 A. No, sir.

1 Q. Okay.

2 A. Never in my life.

3 Q. Okay. Now, if you had your way, you would like to get a
4 new trial in this case. Is that correct?

5 A. Yes, sir.

6 Q. Okay. You know a new trial is kind of a start-over.

7 A. Uh-huh.

8 Q. We talked about that.

9 A. Yes, sir.

10 Q. Okay. Remember now, you can't say uh-huh or huh-uh and
11 all that now. She's got to be able to pick that up. You got
12 to say yes and no; okay?

13 A. Okay. Yes, sir.

14 Q. Okay.. Now, do you know if Thomas had been in trouble
15 before this incident?

16 A. Yes, sir.

17 Q. You knew that.

18 A. Yes, sir.

19 Q. What did you know him to have been in trouble for?

20 A. Accident.

21 **Court Reporter:** You said "accident"?

22 **The Witness:** He had like---

23 **Court Reporter:** I didn't understand.

24 **The Witness:** ---three accident.

25 **Court Reporter:** Okay.

1 By Mr. Brooks:

2 Q. Has he been in trouble with the law before? Criminal.

3 A. Not as I know about.

4 Q. Okay. But he had -- on many occasions had threatened
5 you before.

6 A. Yes, sir.

7 Q. And on this occasion he came with a gun saying he was
8 going to bury you.

9 A. Yes, sir.

10 Q. And this offense occurred June 28, 2010?

11 A. Yes, sir.

12 Q. Okay. Down in Williamsburg County.

13 A. Yes, sir.

14 Q. 96 Abby Lane, was that your place?

15 A. Yes, sir.

16 Q. So he was on your property.

17 A. No, I was -- my house was across the road. My house was
18 right in front of Abby Lane.

19 Q. Okay.

20 A. I was at my mother house.

21 Q. Oh, okay.

22 A. Our mother house.

23 Q. Okay. You were at your mama's house across the street
24 from where you lived.

25 A. Yes, sir.

1 Q. Okay. All right. Anything you want to tell the Court
2 that we haven't said?

3 A. No, sir. The only thing I wanted to say is if I had the
4 chance to take everything back and do something else
5 different besides what I done, I would do it because right
6 now I've had a lot of chances to think that I know I was
7 wrong for what I did, but I just -- I just didn't know what
8 happened and what to do at the time that I did it.

9 Q. Are you talking about when Thomas was approaching you?

10 A. Yes, sir.

11 Q. Saying he was going to kill you?

12 A. Yes, sir.

13 **Mr. Brooks:** Okay. All right. Answer any questions the
14 of the attorney general.

15 Cross-Examination

16 By Mr. Gourley:

17 Q. Hey, Ms. Pressley.

18 A. Yes, sir.

19 Q. Ms. Pressley, do you recall how many -- how many
20 meetings you had with Mr. Carraway before your trial?

21 A. Yes.

22 Q. How many were those?

23 A. None.

24 Q. No meetings?

25 A. Not one.

1 Q. And you were out on bond; right?

2 A. Yes, sir.

3 Q. And you said -- did you ever try to go to his office or
4 anything like that outside of the roll call?

5 A. Yes, sir.

6 Q. And how many times did you try to do that?

7 A. Two or three but he never was there because after roll
8 call he left the building.

9 Q. Okay. And did you ever physically go down to his office
10 and meet with him?

11 A. He wasn't there.

12 Q. Never there.

13 A. Never there.

14 Q. Okay. Did y'all ever go over any type of discovery
15 material or anything like that?

16 A. No, sir.

17 Q. Okay. And did y'all ever discuss any defenses?

18 A. No, sir.

19 Q. Okay. Did you ever give him any type of leads or
20 witnesses to look into?

21 A. No, sir.

22 Q. Okay. Now, Ms. Pressley, you testified during your
23 trial; right?

24 A. Yes, sir.

25 Q. Okay. And you said that you -- during your trial you

1 stated that you and your brother were having some legal
2 issues?

3 A. Yes, sir.

4 Q. And that he wanted you to -- he was basically attempting
5 to evict you off your mother's property; right?

6 A. Yes, sir.

7 Q. Okay. And your mother deeded him the property; right?

8 A. I don't know that.

9 Q. Okay. And you testified that you had lived on this
10 property pretty much your entire life.

11 A. Yes, sir.

12 Q. Okay. And the day of the shooting you were at your
13 mother's house looking for some -- I think it was a tree or
14 something like that---

15 A. Yes, sir.

16 Q. ---that she had given you? And then he pulled up and
17 y'all exchanged some words about you being on the property
18 again?

19 A. Yes, sir.

20 Q. And that he told you not to leave; right?

21 A. Yes, sir.

22 Q. And then you testified that your brother went to the
23 mailbox and he turned around and had a gun in his hand;
24 right?

25 A. Yes, sir.

1 Q. That you managed to knock the gun out of his hand and
2 you picked it up?

3 A. Yes, sir.

4 Q. And then you testified that he went running into his
5 house and you feared he was going to get another gun, so you
6 kept shooting until all the bullets left the gun?

7 A. Yes, sir.

8 Q. So you presented that to the jury. Right, Ms. Pressley?

9 A. Yes, sir.

10 Q. Okay. And you and your brother were the only two people
11 outside during the time of the shooting?

12 A. Yes, sir.

13 Q. And your sisters didn't arrive until after the shooting
14 had occurred; right?

15 A. Yes, sir.

16 Q. And in your application you state that your brother was
17 both abusive and -- physically and mentally abusive to you
18 your entire life; right?

19 A. Yes, sir.

20 Q. And that was the reason why you acted the way you did?

21 A. Yes, sir.

22 Q. Ms. Pressley, during your trial you stated that you and
23 your brother used to get along. Do you remember that?

24 A. Yes, sir.

25 Q. Okay. And your relationship only kind of soured once

1 you got your eviction papers.

2 A. No, sir.

3 Q. No? You don't recall that?

4 A. It happened way before that.

5 Q. Way before that?

6 A. Yes, sir.

7 Q. But if you testified to that at trial, would you dispute
8 it?

9 A. I really -- I really don't know what happened in things
10 that I was saying.

11 Q. Okay. Ms. Pressley, do you remember saying that you
12 love your brother?

13 A. Yes, I do remember that, and I still do.

14 Q. And again, Ms. Pressley, in your application you state
15 that you were guilty of shooting your brother; right?

16 A. Yes.

17 **Mr. Gourley:** I have no further questions, Your Honor.

18 **The Court:** Okay.

19 **Mr. Gourley:** Thank you, Ms. Pressley.

20 **The Witness:** You're welcome.

21 **The Court:** Anything further, Mr. Brooks?

22 Redirect Examination

23 By Mr. Brooks:

24 Q. Ms. Pressley?

25 A. Yes.

1 Q. The claim you have is that Mr. Carraway never explored
2 self-defense. Is that correct?

3 A. Right.

4 Mr. Brooks: Okay. No other questions.

5 The Court: Okay. You can step down. Thank you, ma'am.

6 Mr. Brooks: Your Honor, we would call LeGrand Carraway.

7 The Court: Okay.

8 W. LeGrand Carraway, after being duly sworn,
9 testified as follows:

10 The Clerk: State your full name, and spell your last
11 name for the record.

12 The Witness: William LeGrand Carraway.

13 C-A-R-R-A-W-A-Y.

14 Mr. Brooks: Ready, Judge?

15 The Court: Yes, sir.

16 Direct Examination

17 By Mr. Brooks:

18 Q. Mr. Carraway, how are you doing today?

19 A. I'm good.

20 Q. All right. You were representing Ms. Pressley---

21 A. Yes, I was.

22 Q. ---in this matter? Okay. Court-appointed.

23 A. Yes.

24 Q. Okay. Do you recall how much time you spent talking
25 with her prior to this case?

1 A. No, I don't.

2 Q. And you do recall it went to trial.

3 A. Yes, I do.

4 Q. Okay. Did you ever make a motion to have what is
5 commonly referred to as a Duncan hearing---

6 A. No.

7 Q. ---under the protection of persons and property act?

8 A. No.

9 Q. Are you familiar with the protection of---

10 A. Yes, I am.

11 Q. ---persons and property---

12 A. Yes.

13 Q. Commonly referred to---

14 A. Yes.

15 Q. ---stand your ground.

16 A. Yes.

17 Q. Okay. You acknowledge you did not try to utilize
18 that---

19 A. That's right.

20 Q. ---in her case? Okay. Did you talk to any other
21 members of the family about the victim and whether or not he
22 had actually tried to threaten -- had threatened her or tried
23 to do bodily harm to her?

24 A. On this occasion?

25 Q. Yes.

1 A. Yes.

2 Q. You had talked to other members of the family?

3 A. To Alberta Pressley.

4 Q. Okay.

5 A. Yeah.

6 Q. And what did she tell you?

7 A. Well, she wasn't there for this particular
8 confrontation. It was just Gerline and Thomas.

9 Q. Okay. Did you talk to any other member of the family?

10 A. No. I don't think I ever saw another member of the
11 family.

12 Q. Did Alberta give you a background of Thomas's history of
13 terrorizing and threatening Gerline and the rest of the
14 family?

15 A. Yes, she did.

16 Q. Okay.

17 A. If I may add, there wasn't anybody in the family or
18 there were two or three other people who came to her trial
19 who were familiar with the family, very familiar with the
20 family, were friends of theirs and were from right there in
21 the area and had known them for years and not a one of them
22 had a good word to say about Thomas, not a single one.

23 The whole crux of all of this was Thomas somehow, as
24 happens in situations like this always, he moved in with
25 mama, and after daddy died there was a hundred acres of land

1 and I don't have to tell you the end of the story. Guess
2 what? Thomas -- mama deeded all the land to Thomas. That's
3 a familiar story and that's what happened, and these girls
4 were -- Thomas then was going to -- this was a hundred acres
5 of land, and Alberta and Margie and Gerline lived on maybe a
6 quarter of an acre. Each of them just had a mobile home on
7 there on this 90 acres, and Thomas, once he got mom to sign
8 the land over to him, he went -- he couldn't find a quarter
9 acre on those hundred acres.

10 If he didn't want them there -- now, they all lived
11 fairly within a little enclave, I guess you might say, three
12 or four acres and there were -- there was Alberta, Gerline,
13 and Margie had a house there and mom had a house and I think
14 Thomas lived in a house of his own, but, of course, when
15 daddy died, Thomas wanted to move in with mama then.

16 So we know the end of that story and we know what his
17 motives were there because in the end he ended up with all
18 the property which mama signed it over, which these girls
19 were amazed at because they had lived there for years.

20 Q. Let me ask you: You say these girls. You're talking
21 about Margie---

22 A. Margie---

23 Q. ---Alberta---

24 A. Margie, Alberta, and Gerline.

25 Q. Gerline. Okay. Go ahead.

1 A. So -- and they actually -- he served them with eviction
2 papers. They had a hearing and everything about it, and he
3 was going to go through with this eviction. He wasn't going
4 to move them to any other place on that property. He
5 couldn't find room on that hundred acres for them to move
6 their mobile homes there.

7 He felt like: I want to have my own area here or
8 whatever here, and I believe mama had passed away at that
9 time. I want to have my own area here, and I want these
10 sisters of mine -- they can live here, but I want them to
11 move their mobile -- no, he wanted them completely off of
12 there.

13 So what happened here was this was a day here when this
14 eviction -- the sheriff's department was about to come out to
15 the area there within this week or whatever here to evict not
16 only Gerline but Margie and Alberta, all three. He didn't
17 want any of them there or whatever and wanted them -- they
18 were going to have to pay to move their homes to another
19 place. He wasn't going to help them do any of that or
20 whatever.

21 He admitted on the stand that he -- that relations
22 between them and the sisters had gotten very bad or whatever.
23 He admitted on the stand and I said: Do you admit or deny
24 that you have -- when they have driven up on the property -
25 and keep in mind all of them live pretty close together here

1 - that when they've driven up on the property you have called
2 them B's and W's? And he said I admit that I have and I
3 said, now, tell me what in the world -- how is this something
4 for a brother to be calling his sisters or whatever? What in
5 the world is this about?

6 Q. Let me ask you this now. Didn't he, in fact, terrorize
7 them and threaten to kill them?

8 A. I don't know that he did that. I don't know anything
9 about that. I asked him one time about shooting a gun at a
10 dog or whatever, and he claimed it was an air rifle or
11 whatever. I don't know about him threatening them, but I do
12 know this: This property was a hundred acres, and he paid a
13 mortgage -- I think what happened was he got the money on the
14 mortgage before. He got it from James Sigmon who is a
15 very -- who used to -- who recently passed away. He owned
16 Hobcaw Plantation. And this property they have, as I
17 understand it, is somewhat near Mr. Sigmon's property. It
18 was a hundred acres. And he borrowed something -- some
19 amount of money; Thomas did.

20 He borrowed some money supposedly for farming. As it
21 turned out, as I understand it, he wasn't much of a farmer.
22 He didn't do anything but spend that money. Then he got mama
23 to sign the property over to him and then he borrowed the
24 money I guess to pay Mr. Sigmon back or whatever, \$38,000.

25 So I asked him on the stand -- I said: Let me get this

1 right. This is \$38,000 that you paid for a hundred acres,
2 and Gerline lived on a quarter acre there. Now, that would
3 have come out to about \$800 for her portion here.

4 Part of his complaint was that they didn't help him pay
5 off that mortgage. Part of his complaint was -- is that they
6 didn't pay -- wouldn't pay the taxes on their property or
7 whatever, and I said, well, what were the taxes? He said
8 they were 7 or \$800 a year and I said on -- I said their part
9 would have been less than \$50. Is that not right? I said,
10 did you ever ask them any of that? Well, of course, he
11 didn't do any of that. And I said they could have bought
12 this -- did you ever ask them to pay this part here? Well,
13 no, no. He just wanted them off; he wanted it all.

14 Q. Now -- but didn't -- were you aware that on this
15 particular day that he had come on the property, where
16 Gerline was, with a weapon?

17 A. That was not his story; that was her story.

18 Q. Okay.

19 A. And, of course, I don't know what happened. His story
20 was this: I came home on this particular day and I walked
21 up. I got my mail out of the mailbox and I was walking up
22 the steps to my house, and I was on my porch actually getting
23 ready to go in and I heard a pop and I turned and saw Gerline
24 with a .22 rifle. And I turned and she shot me five or six
25 more times on that step, and then his story was that Alberta

1 came out and they both -- or maybe I moved towards her to try
2 to get the gun away from her because she was shooting at me.
3 And Alberta came out at that point, and they both had me down
4 on the ground and Alberta said: You are going to die today.
5 Not Gerline but Alberta. That's what he said.

6 He told the jury that, and he said: We tussled around,
7 and either I hit one of them with a gun or they hit me with
8 the butt of the gun, but we were down on the ground after I'd
9 been shot all these times or whatever. That was his story.

10 Q. Let me ask you this, Mr. Carraway. Now, Ms. Pressley,
11 Gerline, she was on trial for attempted murder.

12 A. Yes, she was.

13 Q. Okay. Now, in looking in the file, I would presume you
14 didn't hire an investigator---

15 A. Didn't hire an investigator because let me tell you what
16 her story was. She -- this was her story from the beginning,
17 that I was over at mama's house---

18 Q. When you say her, are you talking about Gerline?

19 A. Gerline.

20 Q. Okay.

21 A. That I was over at mama's house and there was a tree
22 that we had planted in mama's yard, and I was there and I
23 think we were going to be evicted or whatever and I was -- I
24 think what she was going to do is this was -- mama had given
25 me this tree or either I gave the tree to mama and I wasn't

1 leaving it there. So I was going -- I assume it was a small
2 tree that she had planted there or whatever. And he came up
3 and said what -- he, being Thomas, came up and said: What
4 are you doing here? And got on her for being in mama's yard
5 and she explained to him -- her story was: I'm going to get
6 this tree. I came here to get this tree. I gave this tree
7 to mama or mama said I could have this tree and I'm going to
8 get this tree.

9 And he said you wait right -- her story was: You wait
10 right here, and he went to the mailbox and he had a rifle in
11 the bushes there and she said he came back with the rifle.
12 And her testimony at trial and what she told me all along
13 was: I said, "God, give me strength to knock this rifle out
14 of his hand," and that's what she testified to and she said,
15 "I was able to do that." And he moved swiftly away from me
16 towards his house and he told me, "I'm going in my house to
17 get a pistol and I'm coming back to kill you."

18 That's what she testified to. That's what she told me
19 all along. That's what she told law enforcement before I
20 ever met her. That was her story there as to what she'd
21 done. She said: I followed him up to the steps or whatever.
22 I followed him there because I wanted to prevent him from
23 going in the house, getting a pistol and coming back out and
24 shooting me. But she did say, I was able to knock the rifle
25 out of his hand and I took the rifle from him, and that's

1 when he moved on.

2 She said -- and she did say that she shot him five or
3 six times with this rifle which was a .22 rifle. She said,
4 "I shot him five or six times." They questioned her about
5 that, and I think what she'd said when she was interviewed
6 and gave a statement shortly thereafter is, "I shot him until
7 there weren't any more bullets in the gun. I fired the gun
8 until there weren't any more bullets." So that was -- her
9 story was that she was defending herself.

10 Q. Okay.

11 A. That was it.

12 Q. Now, let me ask you this though, Mr. Carraway. You do
13 acknowledge that you did not try to use the stand-your-ground
14 under the protection from---

15 A. This was her mama's house where she was.

16 Q. I understand.

17 A. This was her mama's house.

18 Q. I understand, but you do acknowledge that you did not
19 try---

20 A. No.

21 Q. ---to use that---

22 A. Because it didn't fit.

23 Q. Okay. And as far as trying to actually have a hearing
24 that could have precluded her from prosecution, you did not
25 move for that.

1 A. No, because it didn't fit. The facts did not fit that
2 stand-your-ground.

3 Q. Okay.

4 A. Even the facts as taken in the light most favorable to
5 her.

6 Q. Okay. All right. But you do acknowledge that you---

7 A. No.

8 Q. Okay. All right. Did you -- did you ever talk with any
9 other brothers and sisters like Kerry (phonetic) Pressley?

10 A. No. I talked to Alberta Pressley.

11 Q. Okay.

12 A. Yeah.

13 Q. That was the only other family member---

14 A. That's the only other family member I ever saw. I don't
15 recall any other family member coming to me to tell me
16 anything about this. Some may have, but Alberta -- I don't
17 think -- Margie never came out on this particular day, I
18 don't think. She may have been in her house, but Alberta
19 was -- Alberta did not see the shooting, as I understand. I
20 think all parties agreed that she came out after she heard
21 what had gone on out there.

22 Q. Okay.

23 A. And that her story, of course, was she came out and
24 Thomas was on top of Gerline with the gun and she was trying
25 to get him or they were wrestling over the gun or whatever

1 and that she was trying to get him off of Gerline. That was
2 Alberta's story.

3 Alberta -- of course, he stated all of these things
4 about Alberta and they were trying to hit him with the gun
5 and that Alberta said: You're going to die here today. So
6 she actually was a co-defendant in this trial with Gerline---

7 Q. Okay.

8 A. ---for trying to hit him with the butt of the gun. Of
9 course, what she said is: Whatever happened out there, I was
10 defending my sister against -- when I came out, this is what
11 I -- I didn't see what happened. All I did was come out and
12 saw them -- my stronger brother fighting my sister with a gun
13 and I'm out there trying to -- and he seemed to be attacking
14 her is what Alberta said, and she said: I went out to
15 protect my sister, to get him off my sister. So whatever
16 happened out there, that's what I was doing.

17 Q. Okay.

18 A. So her story goes right along with Gerline's story. Her
19 story fits in with what she said. Of course, Thomas told a
20 different story.

21 Q. Now, these ladies, Gerline and Alberta, is it your
22 testimony that they didn't tell you about other family
23 members who had been terrorized and threatened by Thomas?

24 A. No. Whatever -- all they told me about was this thing
25 about him shooting at a dog. It could have been one of their

1 dogs with some kind of a gun or whatever. He claimed it was
2 a B.B. gun or whatever there, but I didn't hear anything else
3 about anything at any other time other than him just being
4 just a jerk about this property or whatever here. And
5 everybody -- everybody I talked to thought this was
6 completely wrong, what he was doing, that there was no reason
7 -- no good reason for him to do it, and nobody liked him.
8 Nobody had a good word to say about him, and everybody was on
9 the side of Gerline, Alberta, and Margie, every single one
10 that I talked to, and I don't know that -- I see a row of
11 them right there, and I would imagine if you ask all of them
12 to stand up and raise their hand as to which one they favor
13 that -- that they thought was right in this -- whether he was
14 right about moving them off this property or whatever, I
15 think all of them will say he was wrong about it because I
16 never had -- I never heard anybody say anything good about
17 Thomas Pressley. Nobody.

18 Q. Okay.

19 A. And these girls had a very difficult time accepting
20 what -- about them being moved off of where... This was not
21 just a piece of property. This was their home from the time
22 -- for just about all their lives, this property was, and
23 where -- and daddy and mama had said they could put their
24 houses here. That's what they said, and now suddenly
25 something comes up and they're getting eviction notices.

1 They knew nothing about that this was somehow being
2 given to him, and here is what he did. He served these
3 eviction papers on them the day after mama was buried.
4 That's another thing he'd done because he knew good and well
5 his mother wouldn't approve of what he had done here because
6 I'm sure he'd probably -- she had probably exacted a promise
7 from him that you continue to allow your brothers and sisters
8 to live on this property, but it is a fact -- it is on the
9 record that he -- it was literally the next day that he had
10 eviction papers served on these ladies. Three sisters.

11 **Mr. Brooks:** No other questions, Judge.

12 **The Court:** Okay.

13 Cross-Examination

14 By Mr. Gourley:

15 Q. Mr. Carraway, how long have you been an attorney?

16 A. Twenty-three years.

17 Q. Is that all in the public defender's office or how long
18 have you been---

19 A. Twenty-two of it was.

20 Q. Twenty-two? And you had previous cases with attempted
21 murder?

22 A. Yes, I have.

23 Q. Do you recall whether you were appointed or retained?

24 A. Appointed.

25 Q. And you don't recall how many times you met with the

1 applicant?

2 A. I do not.

3 Q. Okay. But y'all did have prior discussions about the
4 case?

5 A. It was a -- the facts were well known and we did have
6 prior discussions about the case and I knew what her side of
7 the story was. I knew -- and here's another thing. The
8 whole point behind -- about whether -- would a brother really
9 come up and be angry enough with you about you just getting a
10 tree out of your mother's yard that mama had -- that either
11 you had bought for mama or mama said you could have would --
12 would he be the kind of guy who would go get a gun and be
13 that angry about that? And our whole point was, yes, he
14 would.

15 Anybody that would try to throw them off of this land
16 and not find a quarter of an acre on the edge of this land
17 anywhere for them to put their homes or whatever so they
18 could at least say -- they would have probably liked to have
19 moved somewhere away from him on that land or whatever, but
20 these were girls -- these girls had always worked. These two
21 had always worked or whatever, but they were older at this
22 time and I don't know that they were working at this time,
23 and they just didn't have the money to move -- to pay to move
24 these mobile homes and have them hooked up or whatever.

25 And I asked him on the stand -- I said, "Couldn't

1 something have been worked out here to where you could have
2 found somewhere on this hundred acres, even if you wanted to
3 be by yourself and didn't want to be bothered by anybody else
4 and you wanted your own area -- we're not asking you to move,
5 but couldn't you have given them the option of -- you could
6 have told them: This is where I want y'all to go here.
7 Y'all can have this quarter acre here." But he didn't do any
8 of that. He wanted them to move completely off of it, and
9 these girls - it is a fact - they did have a difficult time,
10 I believe from talking to them, as you can understand not
11 only the expense, but this was their home. These girls had
12 lived there for 20 or 30 years.

13 Q. Right. Mr. Carraway, do you feel you were prepared for
14 trial?

15 A. Yes, I was.

16 Q. Okay. Did y'all discuss any possible defenses?

17 A. Well, self-defense and that's what we argued there and I
18 am a -- I am firmly on the side of Alberta Pressley and
19 Gerline Pressley. I regret what happened out there that day,
20 but this guy knew that this was festering. They lived right
21 there. He knew all of this for -- this went on probably for
22 five or six months from the time mama died and they learned
23 what he had done really behind their back and really behind
24 mama's back because these eviction papers were literally
25 served on these girls the day after mama was in the ground.

1 I really believe it was. It wasn't two days. It was one day
2 afterwards.

3 Q. Uh-huh.

4 A. And they were just -- they -- they had a difficult time
5 with this. I don't know about the hard feelings before, but
6 I do know he admitted that he was calling these girls, his
7 sisters, these names when they would come up. And I mean
8 here these girls were -- they were living right there that
9 close. So you can imagine the tension that was there, and
10 when Judge James -- when we were doing this, I said, "I don't
11 feel sorry for this man one bit." He knew -- this wasn't
12 just a thing that just came up. He knew that this had been
13 festering for a long time here; he knew all of this. What he
14 did may have been legal, but what he did was not right.

15 Q. Right. And you attempted to paint Thomas in as poor a
16 light as possible; right?

17 A. I didn't have to paint him in any light. He---

18 Q. Right.

19 A. That's what he was. He was a -- I didn't hear anybody
20 have -- and there were a couple of guys there at trial who
21 were just friends of the family and had no reason to take --
22 that had known the family for years, known the girls and had
23 known Thomas and none of them had anything good to say about
24 Thomas about anything. This was -- this was typical. This
25 behavior was typical of his character.

1 Q. Did Ms. Pressley ever give you any witnesses to look
2 into?

3 A. Well, there weren't any witnesses as to this. Alberta,
4 she -- she admitted that it was just she and Thomas there,
5 and Alberta came out afterwards and I don't -- Margie was at
6 her house, but I don't know that Margie either heard this,
7 but I don't think Margie came out until after everything was
8 over.

9 Q. Right.

10 A. And I think what happened was they may have gone to
11 Margie's house. Alberta and Gerline may have gone to
12 Margie's house after all of this had happened.

13 Q. And Margie actually testified at trial; right?

14 A. I don't recall whether she did or not.

15 Q. All right.

16 A. But, of course, she didn't see what happened there.

17 Q. Right.

18 A. You know, the whole point was what -- Gerline had her
19 story as to what happened which I certainly believe, knowing
20 Thomas---

21 Q. Uh-huh.

22 A. ---could have happened, that he could have come out and
23 threatened her, that he could have -- that he did come out.
24 He's just the kind of guy that would come out and threaten
25 her with a gun, like she said, and that when whatever

1 happened there -- when he was trying to threaten her and
2 somehow the gun fell and she got the gun in her possession,
3 would say I'm going to run inside. I'm going to go to my
4 house and I'm going to come back and I'm going to kill you,
5 and that's what she stated.

6 Q. And you were able to present that to the jury.

7 A. Absolutely. And I -- if you -- if you heard the -- if
8 you just heard this story and did not know what kind of
9 person Thomas was, you might think that it was unlikely that
10 Gerline's story could be correct, but knowing not only what
11 she said but what everybody else said about Thomas, it is
12 certainly very possible that it could have happened the way
13 Gerline told it.

14 Q. Now, Mr. Carraway, the gun actually belonged to Gerline;
15 right?

16 A. No. Nobody ever proved who the gun belonged to.

17 Q. Okay.

18 A. He said that I think it was her gun, but I don't know --
19 I don't recall that we were able to say it was his gun
20 because that would lend credence to what she said about him
21 going to the mailbox and picking up the gun.

22 Q. Right.

23 A. But I don't -- I don't know that -- but it is certainly
24 my recollection that nobody was ever able to prove that it
25 was Gerline's gun or that Gerline had ever had that gun

1 before. That's what I recall.

2 **Mr. Gourley:** All right. No further questions, Your
3 Honor. Thank you, Mr. Carraway.

4 **The Court:** Okay.

5 **Mr. Brooks:** No other questions, Judge.

6 **The Court:** All right. Thank you, sir. You may step
7 down.

8 **Mr. Brooks:** I call Larry Pressley.

9 Larry Pressley, after being duly sworn, testified
10 as follows:

11 **The Clerk:** Please state your full name, and spell your
12 last name for the record.

13 **The Witness:** Larry Pressley. P-R-E-S-S-L-E-Y.

14 Direct Examination

15 By Mr. Brooks:

16 Q. Mr. Pressley?

17 A. Yes, sir.

18 Q. You know that lady there?

19 A. Yes, sir.

20 Q. How do you know her?

21 A. Sister.

22 Q. Okay. You saw her testify up here; right?

23 A. Yes, sir.

24 Q. And you heard what I told her about speaking up for this
25 lady here.

- 1 A. Yes, sir.
- 2 Q. The court reporter; right?
- 3 A. Yes, sir.
- 4 Q. You got that.
- 5 A. Yes, sir.
- 6 Q. Okay. Now, Thomas is your brother?
- 7 A. Yes, sir.
- 8 Q. Y'all call him Big Shot?
- 9 A. Yeah.
- 10 Q. Tell me about Big Shot.
- 11 A. He was a big shot.
- 12 Q. Did he -- did he -- did he -- did he ever threaten you?
- 13 A. Yeah.
- 14 Q. And how did you know it was a threat?
- 15 A. With a gun. He (unintelligible words spoken) he said
- 16 when he come back he was going to kill me.
- 17 Q. He pointed at gun at you before?
- 18 A. Yeah.
- 19 Q. He said: I'm going to kill you.
- 20 A. Yeah.
- 21 Q. Did he do that before this incident with Gerline?
- 22 A. No, that was a couple of years before that.
- 23 Q. I mean, yeah, but it was before---
- 24 A. Yeah.
- 25 Q. ---this.

- 1 A. Yeah.
- 2 Q. And Gerline knew about that; right?
- 3 A. Yes, I tell her.
- 4 Q. Everybody knew about that.
- 5 A. Yes.
- 6 Q. Was that the only time Thomas threatened you?
- 7 A. No, because he come to my house. One day I had a cellar
- 8 tank - this is on the side - for him to hook up.
- 9 Q. Uh-huh.
- 10 A. And I leave the house and come back and he was out there
- 11 turning the gas on. When I leave the house, it was so full
- 12 if I had lit a match I would have flied over the town.
- 13 Q. He actually turned the gas on.
- 14 A. Yes, sir.
- 15 Q. Trying to kill you.
- 16 A. Yeah, because he (unintelligible words spoken).
- 17 Q. And this was before Gerline's incident---
- 18 A. Yeah.
- 19 Q. ---in 2010. Right?
- 20 A. Yeah.
- 21 Q. And everybody knew about that; right?
- 22 A. Yeah.
- 23 Q. Okay. Now, did anybody ever talk to you about Gerline's
- 24 case coming up?
- 25 A. No.

1 Q. Would you have told him what you just told us?

2 A. Yes.

3 Q. Now, do you know that that would have been important to
4 know about Thomas?

5 A. Right. Yeah.

6 Q. Do you think so?

7 A. Yeah.

8 Q. Okay. And had Thomas also had a history of threatening
9 other family members?

10 A. Yeah.

11 Q. And you knew that?

12 A. Yeah.

13 Q. And nobody ever talked to you about Gerline's case and
14 Thomas's history.

15 A. Well, he tell it hisself, say what he going to do to
16 her.

17 Q. But did any -- anybody ever come to you and talk to you
18 about Thomas in preparation for Gerline's trial?

19 A. No.

20 Mr. Brooks: Okay. All right. No other questions,
21 Judge.

22 Cross-Examination

23 By Mr. Gourley:

24 Q. Mr. Pressley?

25 A. Yes, sir.

1 Q. Were you present at Gerline's trial?

2 A. No, sir.

3 Q. Okay. And you just stated that Thomas had pointed a gun
4 at you and then also opened a gas tank to essentially blow
5 you up?

6 A. Yes, sir.

7 Q. Did you ever file a police report against him?

8 A. I went -- yeah.

9 Q. You did?

10 A. Yeah.

11 Q. Do you have a copy of that here today?

12 A. No.

13 Q. Okay. And you obviously -- or did you know about the
14 incident between your sister and your brother, the shooting?

15 A. Yeah.

16 Q. Okay. You knew -- you knew about what took place and
17 everything like that?

18 A. After I come up there, I saw what happened. You know --
19 you know, I already know what happened.

20 Q. Okay. And you knew about the family history and
21 everything like that and the threats that he made -- that
22 Thomas made against yourself and your family members?

23 A. Yeah.

24 Q. Did you ever seek out Mr. Carraway to explain to him and
25 say, hey, you know---

1 A. No.

2 Q. ---this is what's going on?

3 A. No.

4 Q. Okay. You didn't feel like that was needed to come to
5 the forefront of this case?

6 A. Well, I just didn't know I could tell him.

7 Mr. Gourley: Okay. All right. Nothing further. Thank
8 you, Mr. Pressley.

9 The Court: Anything else, Mr. Brooks?

10 Mr. Brooks: No other questions of him, Judge.

11 The Court: Thank you, sir. You can step down.

12 Mr. Brooks: We would call Alberta Pressley.

13 Alberta Pressley, after being duly sworn, testified
14 as follows:

15 The Clerk: Please state your full name, and spell your
16 last name for the record.

17 The Witness: Alberta Pressley. P-R-E-S-S-L-E-Y.
18 Pressley.

19 Direct Examination

20 By Mr. Brooks:

21 Q. Ms. Pressley, how are you doing today?

22 A. I'm good.

23 Q. You heard what I told your brother and sister?

24 A. Yes, sir.

25 Q. Now, your brother Thomas, had he threatened you before?

1 A. Yes.

2 Q. Before this incident---

3 A. Yes.

4 Q. ---had he -- did he have a history of threatening you
5 and other members in the family?

6 A. Yes, he does.

7 Q. And was that common knowledge?

8 A. I don't know what it was.

9 Q. Common knowledge among the family.

10 A. Okay.

11 Q. Is that -- is that common knowledge?

12 A. Yeah.

13 Q. He had done this repeatedly; is that correct?

14 A. Yes.

15 Q. And were these some serious threats?

16 A. Yes, because like any time he go to do something, he
17 does it. I know sometimes he just like -- he mixed mixtures
18 and stuff and just throw it in the yard and stuff and throw
19 it on my -- my stuff like my truck or with the house or
20 whatever. And when I do take out incident on him, you know,
21 take it to the law, I never press charges against him because
22 I never want nobody in jail.

23 Q. Okay.

24 A. But they all have the reports and stuff that every time
25 he do something, I take it to the law.

1 Q. Okay. And this---

2 A. And it -- and it comes out.

3 Q. And this was before the incident with Gerline.

4 A. Yes.

5 Q. And he had threatened Gerline before.

6 A. Yes.

7 Q. And you knew that, too.

8 A. Yes.

9 Q. Okay. And a lot of other family members knew that.

10 A. Yes.

11 **Mr. Brooks:** Okay. No other questions, Judge.

12 Cross-Examination

13 By Mr. Gourley:

14 Q. Ms. Pressley, do you have any of those incident reports
15 here today?

16 A. No, I don't.

17 Q. Okay. And you stated that a lot of the other family
18 members knew about Thomas's abusive behavior?

19 A. Yes.

20 Q. Did any other family members come up and talk to your
21 attorney at any point---

22 A. No.

23 Q. ---about his abusive behaviors? No? Okay. No further
24 questions. Thank you. Thank you, Ms. Pressley.

25 **The Court:** Okay. Thank you.

1 **Mr. Brooks:** Judge, that's the applicant's case.

2 **The Court:** Okay.

3 **Mr. Gourley:** Nothing in reply, Your Honor.

4 **The Court:** All right. I will read the transcript and
5 let y'all know.

6 (Whereupon, the proceedings were concluded. There were
7 no exhibits introduced.)

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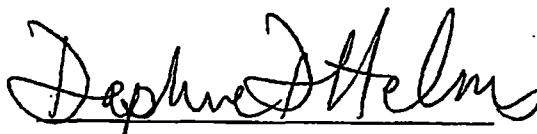
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25

I, the undersigned Daphne D. Helms, official court reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the circuit court for Richland County, South Carolina, on the 27th of May, 2014.

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

September 25, 2014

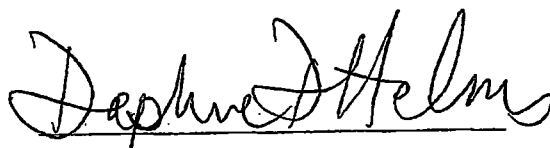
A handwritten signature in cursive script, reading "Daphne D. Helms". The signature is written in dark ink and is positioned above the printed name.

Daphne D. Helms, court reporter

I, the undersigned Daphne D. Helms, official court reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the circuit court for Richland County, South Carolina, on the 27th of May, 2014.

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

September 25, 2014

A handwritten signature in cursive script, reading "Daphne D. Helms". The signature is written in dark ink and is positioned above the printed name.

Daphne D. Helms, court reporter

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

Jerline Pressley, #350981,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Case No. 2012-CP-45-0562

ORDER OF DISMISSAL

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on October 23, 2012.¹ Respondent made its return on April 10, 2013. An evidentiary hearing into the matter was convened on May 27, 2014, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Charles T. Brooks, III, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was true bill indicted at the October 2010 term of the Williamsburg County Grand Jury for attempted murder; assault and battery of a high and aggravated nature; possession of a weapon during violent crime; and assault and battery—second degree. (2010-GS-45-0231). William LeGrand Carraway, Esquire, represented Applicant. Applicant proceeded to trial and on May 17, 2012, Applicant was found guilty as indicted. The Honorable George C. James, Jr., sentenced Applicant to sixteen years imprisonment for

¹ The application was received by Respondent on January 29, 2013.

attempted murder and five years imprisonment for possession of a weapon during violent crime; with all sentences to run concurrently. No direct appeal was filed.

ALLEGATIONS

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

1. Ineffective Assistance of Counsel.

During the evidentiary hearing, Applicant alleged that Trial Counsel was ineffective for failing to meet and discuss the case with her. Applicant further alleged that Trial Counsel was ineffective for failing to examine a self-defense claim.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on her own behalf. Additionally, Applicant called William LeGrand Carraway (hereinafter "Trial Counsel"), her brother, Larry Pressley (hereinafter "Larry"), and her sister, Alberta Pressley (hereinafter "Alberta"). This Court also had before it a copy of the trial transcript, the Williamsburg County Clerk of Court records, Applicant's South Carolina Department of Correction records, the PCR application, and return.

During the evidentiary hearing, Applicant stated that she was fifty-seven years old and no prior criminal record. Applicant stated she finished the tenth or eleventh grade. Applicant stated she had had various jobs including house keeper and electrician. Applicant stated Trial Counsel was appointed through the Williamsburg County Public Defender's Office. Applicant stated she had no meetings with Trial Counsel prior to going to trial. Applicant stated she was out on bond prior to her trial and tried to contact Trial Counsel on two or three occasions. Applicant stated she attended roll call and Trial Counsel refused to speak with her during that time. Applicant

stated she never talked about any possible defenses with Trial Counsel. Applicant stated she did not review any discovery material, discuss any defenses, or discuss any possible witnesses or leads. Applicant stated she became fed up with Trial Counsel's representation and could not "bother with him anymore."

Applicant stated she was convicted of shooting her brother, Roosevelt (hereinafter "Victim"). Applicant stated Victim was also known as "Big Shot." Applicant stated Victim had threatened multiple members of her family including, Alberta, Larry, and Margie (Applicant's second sister). Applicant stated Victim would always "cuss them out." Applicant recalled that Victim had previously pulled a gun on Larry and turned gas on in his house to attempt to blow him up.

Applicant stated Victim had previously requested her to give him three thousand dollars for her house that she lived in. Applicant stated she paid Victim twenty five hundred for various bills. Applicant stated Victim had previously threatened her on multiple occasions. Applicant stated Victim had been in trouble on previous occasions. Applicant stated she does not understand why Victim wanted to kill her.

Applicant recalled testifying at trial. Applicant recalled testifying that she and Victim were having legal issues over their mother's property. Applicant explained that her mother had recently passed and left all their property to Victim. Applicant stated Victim had filed an eviction notice, which required Applicant to move off the property. Applicant stated she had lived on the property for majority of her life. Applicant recalled the day of the shooting, she was looking for a tree that she had previously given her deceased mother.

Applicant stated Victim pulled up and told her that he was going to kill her. Applicant stated that Victim went to the mailbox and turned around and had a gun in his hand. Applicant

stated Victim told her that he was going to burry her. Applicant stated she was able to knock the gun out of Victim's hands and then she picked the gun up and shot Victim. Applicant stated she feared Victim would go into the house and get another gun and shoot her. Applicant stated she was not aware of what she was doing at the time. Applicant stated she and her brother were the only two people in the yard during the shooting. Applicant stated Alberta was in the house and did not come outside until five minutes after the shooting occurred. Applicant stated Alberta was a co-defendant in the trial. Applicant stated that the shooting took place on June 20, 2010 down in Williamsburg at 96 Abbey lane. Applicant stated that she was able to tell the jury her side of the story. Applicant further recalled testifying during trial that she and Victim used to get along and that she loved Victim. During the evidentiary hearing, Applicant admitted to shooting Victim.

Following Applicant's testimony, Trial Counsel was called to testify. Trial Counsel stated that he was appointed to represent Applicant. Trial Counsel could not recall the amount of time he met with Applicant prior to her trial. Trial Counsel stated that they discussed the possibility of a self-defense claim and that is what he argued during trial. Trial Counsel stated that he spoke with Alberta but she was not out in the yard during the shooting. Trial Counsel stated that Alberta was the only family member he was able to talk to because none of the other family members were available.

Trial Counsel stated that he did not feel sorry for Victim. Trial Counsel stated Victim was not a nice person and what he was doing to Applicant was wrong. Trial Counsel stated Victim called Applicant various names and had a poor reputation throughout the community. Trial Counsel stated that he was never told that Victim was terrorizing and attempting to kill other members of Applicant's family. Trial Counsel stated their mom deeded her property to

Victim. Trial Counsel stated shortly after their mother deceased, Victim served eviction papers on Applicant. Trial Counsel stated Applicant had been living on her mother's property for most of her life.

Trial Counsel stated the day of the shooting Victim stated he checked the mail and heard a "pop." Trial Counsel stated Victim then turned around and saw Applicant holding a .22 caliber rifle and began to shoot at him. Trial Counsel stated that it was argued during trial that Applicant shot Victim until there were no more bullets left in the gun. Trial Counsel stated Victim testified that Applicant continued to shoot him as he went up the steps. Trial Counsel stated Victim testified that Alberta came out of the house and told him that he was going to die today.

Trial Counsel stated Applicant argued that Victim approached her with a gun and she was able to knock it out of his hands. Trial Counsel stated Applicant argued that she picked up the gun and shot Victim out of self-defense. Trial Counsel concluded that stand your ground case law was not applicable given the factual context of this case. Trial Counsel further stated that they were able to present Applicant's side of the story to the jury.

Following Trial Counsel's testimony, Larry testified on Applicant's behalf. Larry stated that he was Applicant's brother. Larry stated they called Victim "Big Shot." Larry stated that he did not attend Applicant's trial. Larry stated Victim had previously threatened him by pointing a gun at him and turning gas on in his house. Larry stated these incidents took place years prior to Applicant shooting Victim. Larry stated he filed a police report against Victim for pointing a gun or turning the gas on in his house, but did not have any documentation with him. Larry stated he never spoke with Trial Counsel about Applicant's case. However, Larry stated he never sought out Trial Counsel or attempted to speak with him about Applicant's case. Larry

stated that he did not realize he needed to speak with Trial Counsel, despite feeling it would have been important for him to testify at trial.

Following Larry's testimony, Alberta was called to testify by Applicant. Alberta testified that Victim had previously threatened her and others. Alberta stated it was common knowledge throughout her family that Victim was a threatening person. Alberta stated she filed complaints with the Sheriff's office but never pressed formal charges. Alberta stated that she did not have a copy of the incident reports. Alberta further stated that no one contacted Trial Counsel about Victim's interactions with other family members.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Specifically, this Court finds Trial Counsel's testimony credible and Applicant's testimony not credible. Additionally, this Court finds Applicant's family member's (Larry and Alberta) testimony self-serving and not credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process

that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Trial Counsel was ineffective for failing to meet and discuss her case.

This Court finds Applicant's allegation that Trial Counsel was ineffective for failing to meet and discuss her case is without merit. This Court finds Trial Counsel's testimony credible while Applicant's testimony is not credible. Trial Counsel stated that he was appointed to represent Applicant. Trial Counsel could not recall the amount of time he met with Applicant prior to her trial. Trial Counsel stated that they discussed the possibility of a self-defense claim and that is what he argued during trial. Trial Counsel stated that he spoke with Alberta but she was not out in the yard during the shooting. Trial Counsel stated that Alberta was the only

family member he was able to talk to because none of the other family members were available. This Court finds Counsel's actions were reasonable in the circumstances, and did not fall below professional norms of reasonableness. Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Furthermore, this Court finds Applicant has failed to allege sufficient evidence to meet her burden of proving that she was prejudiced by Counsel's alleged ineffectiveness.

Trial Counsel was ineffective for failing to argue self-defense.

This Court finds Applicant's allegation that Trial Counsel was ineffective for failing to argue self-defense is without merit. This Court finds Trial Counsel's testimony credible, while Applicant's testimony is not credible. Trial Counsel stated the day of the shooting Victim stated he checked the mail and heard a "pop." Trial Counsel stated Victim then turned around and saw Applicant holding a .22 caliber rifle and began to shoot at him. Trial Counsel stated that it was argued during trial that Applicant shot Victim until there were no more bullets left in the gun. Trial Counsel stated Victim testified that Applicant continued to shoot him as he went up the steps. Trial Counsel stated Victim testified that Alberta came out of the house and told him that he was going to die today.

Trial Counsel stated Applicant argued that Victim approached her with a gun and she was able to knock it out of his hands. Trial Counsel stated Applicant argued that she picked up the gun and shot Victim out of self-defense. Trial Counsel stated he was able to present Applicant's version of events and paint Victim as a individual with a poor reputation. Additionally, a review of the transcript reveals Trial Counsel requested a jury charge on self-defense, but was ultimately denied. (Tr. p. 403- 413). Based on the foregoing, this Court finds Counsel's actions were reasonable in the circumstances, and did not fall below professional norms of reasonableness. Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Furthermore, this Court finds

Applicant has failed to allege sufficient evidence to meet her burden of proving that she was prejudiced by Counsel's alleged ineffectiveness.

ALL OTHER ALLEGATIONS

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

CONCLUSION

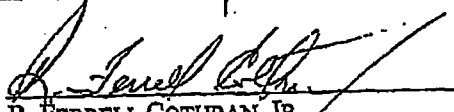
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 7 day of July, 2014.


R. FERRELL COTHMAN, JR.
Presiding Judge
Third Judicial Circuit

Manning, South Carolina

WITNESSES

James Hyman
Williamsburg County Sheriff

Wayne McFadden

ARREST WARRANT NUMBER

M062290 M062292 M062297

ACTION OF GRAND JURY

True Bill
Walter J. Davis
Foreperson of Grand Jury
Date: 10-7-10

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2010-GS-45-0231

The State of South Carolina

County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

OCTOBER TERM 2010

THE STATE

vs.

JERLINE PRESSLEY

ALBERTA PRESSLEY

Indictment for

ATTEMPTED MURDER, ASSAULT AND
BATTERY OF A HIGH AND AGGRAVATED
NATURE, POSSESSION OF A WEAPON
DURING VIOLENT CRIME AND ASSAULT
AND BATTERY - SECOND DEGREE

C. KELLY JACKSON, SOLICITOR

FILED
10 OCT -7 PM 12:52
CAROLINE E. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

100-443887-100

victim with present ability to do so, and which caused him to suffer moderate bodily injury or placed him at risk to suffer moderate injury.

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

P. Kelly Jackson

SOLICITOR

FILED

10 OCT -7 PM 12:52

CLERK OF COURT
WILLIAMSBURG, S.C.

A CERTIFIED TRUE COPY

Sharon W. Staggars

SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY