

RECEIVED
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SC SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Orangeburg County

Kristi Lea Harrington, Circuit Court Judge

RONALD SMITH,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002526

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF ORANGEBURG) COURT OF GENERAL SESSIONS
3) No. 2011 GS 38 1076

4 STATE OF SOUTH CAROLINA)
5)
6 versus) TRANSCRIPT OF RECORD
7)
8 RONALD SMITH)
9 Defendant)

10 Orangeburg, South Carolina
11 September 14, 2011
12

13 B E F O R E :

14 HONORABLE EDGAR W. DICKSON, Judge
15

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

17 For the State: DAVID PASCOE, Esq.
18 DONALD SORENSON, Esq.
Solicitors

19 For the Defendant: PEGGY HINDS, Esq.
Public Defender

20 Reporter Present: HARRY DOT WALKER
21
22

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1 (The within matter came before the Court for hearing
2 on September 14, 2011)

3 THE COURT: Ladies and gentlemen, we are getting ready
4 now to pick a jury in the case of the State versus Jarrod
5 Jacques and Ronald Smith, and the State in this case is
6 represented by David Pascoe and Donald Sorenson.

7 Mr. Pascoe, if you would introduce yourself and the
8 other people at the table?

9 MR. PASCOE: Thank you, Your Honor. Good morning,
10 ladies and gentlemen.

11 My name is David Pascoe and I'm a Solicitor here in
12 Orangeburg County. Trying this case with me this week is
13 Donald Sorenson, and this is Investigator James Sheppard
14 of the Orangeburg County Sheriff's Office. Also sitting
15 with us will be our Victim Advocate, Anne Braden. She
16 will sit with us at times.

17 (Mr. Pascoe naming other members of his office)

18 Those are the members of the Orangeburg office.

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

20 Is any member of the jury panel related by blood or
21 marriage or a close personal friend of anyone who works
22 in the Solicitor's Office? If so, please stand.

23 (No response from jurors)

24 All right, no one is standing.

25 All right, the Defendant Jarrod Jacques -- Mr. Jacques,

1 would you stand up, sir? Thank you, sir.

2 Is any member of the jury panel related by blood or
3 marriage or a close personal friend of Mr. Jacques? If
4 so, would you please stand?

5 (No response from jurors)

6 All right, no one is standing.

7 Any member of the jury panel related by blood or mar-
8 riage or a close personal friend of Ronald Smith? If
9 so, would you please stand?

10 (No response)

11 All right, no one is standing.

12 All right, Mr. Jacques is represented by Mr. Chisolm
13 and Mr. Leindecker. Mr. Chisolm, if you would introduce
14 yourself and the other people who work with you in the Pub-
15 lic Defender's Office then Ms. Hines won't have to do
16 that.

17 (Members of the Public Defender's Office named by
18 Mr. Chisolm)

19 MS. HINES: I'm Peggy Hines, and I represent Mr.
20 Smith.

21 THE COURT: Ms. Hines represents Ronald Smith.

22 Any member of the jury panel related by blood or mar-
23 riage of a close personal friend of any of the people who
24 work for the Public Defender's Office? If so, please stand.

25 (No response)

1 No one is standing.

2 Has any member of the jury panel or any member of
3 their family or a close personal friend of yours been pro-
4 secuted by the Solicitor? If so, please stand.

5 (No response)

6 No one is standing.

7 All right. Now, the Defendants in this case have been
8 charged with murder. Is any member of the jury panel aware
9 of anything about this case today or before today? If so,
10 please stand.

11 (No response)

12 All right, no one is standing.

13 Now, ladies and gentlemen, I'm going to go through a
14 list of potential witnesses. That doesn't mean they will
15 be called, but these are people who could be called.

16 If any of the witnesses I call happen to be in the
17 Courtroom, I ask you to please stand as I call your name.
18 Otherwise, I will just call the name.

19 First of all, you've already been introduced to Lieu-
20 tenant James Sheppard. Would you stand one more time?

21 Is any member of the jury panel related by blood or
22 marriage or a personal friend of Lieutenant James Sheppard?
23 If so, please stand.

24 (Juror standing)

25 JUROR: He's a customer of mine.

1 THE COURT: Hold on one second. Mr. Hewitt, you are
2 Juror Number 79?

3 JUROR: Yes.

4 THE COURT: I need you to stand up, please, sir. Juror
5 Number 79 -- you indicated Mr. Sheppard is a customer of
6 yours?

7 JUROR: Yes.

8 THE COURT: The fact that he's a customer of yours,
9 would that affect your ability to listen to the evidence
10 in this case and render a fair and impartial verdict?

11 JUROR: No, sir.

12 THE COURT: All right. If you'd stay with us, I would
13 appreciate it.

14 All right, Investigator Maurice Huggins of the Orange-
15 burg County Sheriff's Office may be called as a witness. Is
16 any member of the jury panel related by blood or marriage
17 or a close personal friend of Maurice Huggins? If so, would
18 you please stand at this time?

19 (No response)

20 All right, no one is standing.

21 Lieutenant Gerald Carter may be called as a witness.

22 Is any member of the jury panel related by blood or marriage
23 or a close personal friend of Lieutenant Gerald Carter? If
24 so, please stand.

25 (Juror standing, Mr. Hewitt)

1 THE COURT: Mr. Hewitt, he's also a customer of yours
2 as well. Would that affect your ability to listen to the
3 evidence and render a fair and impartial verdict?

4 JUROR: No.

5 THE COURT: Thank you, sir. Anyone else?

6 (No response)

7 THE COURT: Okay, Investigator Patricia -- is it Ikop
8 -- of the Orangeburg County Sheriff's Office. Any member
9 of the jury panel related by blood or marriage or a close
10 friend of Lieutenant Patricia Ikop? If so, please stand.

11 (No response)

12 No one is standing.

13 Kimberly Pugh of the Orangeburg County Sheriff's Of-
14 fice may be called as a witness. Any member of the jury
15 panel related by blood or marriage or a close personal
16 friend of Kimberly Pugh? If so, please stand.

17 (No response)

18 No one is standing.

19 Investigator Billy Etheridge of the Orangeburg County
20 Sheriff's Office may also be called as a witness. Any mem-
21 ber of the jury panel related by blood or marriage or a close
22 personal friend of Investigator Etheridge, please stand.

23 (No response)

24 No one is standing.

25 THE COURT: Deputy Richard Russell of the Orangeburg

1 County Sheriff's Office may also be called as a witness.
2 Any member of the jury panel related by blood or marriage
3 or a close personal friend of Deputy Richard Russell? If
4 so, please stand.

5 (No response)

6 No one is standing.

7 Sergeant Allen Ritter of the Orangeburg County Sher-
8 iff's Office may be called. Any member of the jury panel
9 related by blood or marriage or a close personal friend of
10 Allen Ritter, please stand.

11 (No response)

12 No one is standing.

13 James Green of SLED may be called as a witness. If
14 any member of the jury panel is related by blood or marri-
15 age or a close personal friend of James Green, please stand.

16 (No response)

17 No one is standing.

18 Carl Keely of SLED may be called as a witness. If
19 any member of the jury panel is related by blood or marri-
20 age or a close personal friend of Carl Keely, please stand.

21 (No response)

22 No one is standing.

23 John Roberts, also with SLED, may be called as a wit-
24 ness. Is any member of the jury panel related by blood
25 or marriage or a close personal friend of John Roberts?

1 If so, please stand.

2 (No response)

3 No one is standing.

4 Is there any member of the jury panel related by blood
5 or marriage or a close personal friend of Dr. Bradley Market?

6 If so, please stand.

7 Is Dr. Market an MD?

8 SOLICITOR: Pathologist.

9 THE COURT: Okay.

10 (No response)

11 No one is standing.

12 Is any member of the jury panel related by blood or
13 marriage or a close personal friend of Shaquanna Glover?

14 If so, please stand.

15 (No response)

16 No one is standing.

17 Is any member of the jury panel related by blood or
18 marriage or a close personal friend of Felice Glover? If
19 so, please stand.

20 (No response)

21 No one is standing.

22 Any member of the jury panel related by blood or mar-
23 riage or a close personal friend of Thelma Glover? If so,
24 please stand.

25 (No response)

1 No one is standing.

2 Any member of the jury panel related by blood or mar-
3 riage or a close personal friend of Sandra Pyler? If so,
4 please stand.

5 (No response)

6 No one is standing.

7 Any member of the jury panel related by blood or mar-
8 riage or a close personal friend of Debora Patate? If so,
9 please stand.

10 (No response)

11 No one is standing.

12 Any member of the jury panel related by blood or mar-
13 riage or a close personal friend of Ebony Glover? If so,
14 please stand.

15 (No response)

16 No one is standing.

17 Any member of the jury panel related by blood or mar-
18 riage or a close personal friend of Kelvin Fulmer? If so,
19 please stand.

20 (No response)

21 No one is standing.

22 Any member of the jury panel related by blood or mar-
23 riage or a close personal friend of Ava McNeal? If so,
24 please stand.

25 (No response)

1 No one is standing.

2 Any member of the jury panel related by blood or mar-
3 riage of a close personal friend of Makea Jenkins? If so,
4 please stand.

5 (No response)

6 No one is standing.

7 Any member of the jury panel related by blood or mar-
8 riage or a close personal friend of Kenesha Hoffman? If
9 so, please stand.

10 (No response)

11 No one is standing.

12 Any member of the jury panel related by blood or mar-
13 riage or a close personal friend of Shanetta Glover? If
14 so, please stand.

15 (No response)

16 No one is standing.

17 Any member of the jury panel related by blood or mar-
18 riage or a close personal friend of Danielle Monroe? If
19 so, please stand.

20 (No response)

21 No one is standing.

22 Any member of the jury panel related by blood or mar-
23 riage or a close personal friend of Donald Jamar Hart? If
24 so, please stand.

25 (No response)

1 No one is standing.

2 Any member of the jury panel related by blood or mar-
3 riage or a close personal friend of Brandon Bradley? If
4 so, please stand.

5 (No response)

6 No one is standing..

7 Any member of the jury panel related by blood or mar-
8 riage or a close personal friend of Orlando Hayes? If so,
9 please stand.

10 (No response)

11 No one is standing.

12 Any member of the jury panel related by blood or mar-
13 riage or a close personal friend of Rackeim Brown? If so,
14 please stand.

15 (No response)

16 No one is standing.

17 Any member of the jury panel related by blood or mar-
18 riage or a close personal friend of Yvette Hart? If so,
19 please stand.

20 (No response)

21 No one is standing.

22 Any member of the jury panel related by blood or mar-
23 riage or a close personal friend of Lanetha Eicheyl? If
24 so, please stand..

25 (No response)

1 No one is standing.

2 Any member of the jury panel related by blood or marriage
3 or a close personal friend of Willie Benson? If so, please
4 stand.

5 (No response)

6 No one is standing.

7 Any member of the jury panel related by blood or mar-
8 riage or a close personal friend of Quan Buchoff? If so,
9 please stand.

10 (No response)

11 No one is standing.

12 Any member of the jury panel related by blood or mar-
13 riage or a close personal friend of Laquouia Brown? If
14 so, please stand.

15 (No response)

16 No one is standing.

17 Any member of the jury panel related by blood or mar-
18 riage or a close personal friend of Christopher Black?
19 If so, please stand.

20 (No response)

21 No one is standing.

22 Investigator Walt Turner -- any member of the jury
23 panel related by blood or marriage or a close personal friend
24 of Mr. Walt Turner? If so, please stand.

25 (No response)

1 No one is standing.

2 Any member of the jury panel related by blood or mar-
3 riage or a close personal friend of Samuel Sims? If so,
4 please stand.

5 (No response)

6 No one is standing.

7 All right. I know you all are as glad as I am that
8 they are only potential witnesses.

9 Now, has any member of the jury panel or a member of
10 their family been employed by the Attorney General's Office
11 or a Solicitor's Office, or any prosecuting attorney's of-
12 fice? If anyone works or has worked in the past with any
13 of those agencies, would you please stand?

14 (Juror standing)

15 THE COURT: Hold on one second. Your name, please,
16 maam?

17 JUROR: (Inaudible name) Hiers.

18 THE COURT: Maam, have you or a member of your family
19 worked in a law enforcement agency?

20 JUROR: Yes.

21 THE COURT: What member of the family?

22 JUROR: My husband.

23 THE COURT: What agency?

24 JUROR: As a police officer in Nevada.

25 THE COURT: Ms. Hiers, the fact that your husband

1 worked as a police officer in Nevada, would that affect
2 your ability to listen to the evidence in the case and to
3 render a fair and impartial verdict?

4 JUROR: It would not.

5 THE COURT: If you would stay with us, please.

6 (Another juror standing)

7 THE COURT: Hold on one second.

8 JUROR: (Name not audible)

9 THE COURT: That would be Juror Number 24.

10 You or a member of your family?

11 JUROR: I worked off and on as a contract employee
12 for the Department of Justice.

13 THE COURT: Would that affect your ability to listen
14 to the evidence and render a fair and impartial verdict in
15 the case?

16 JUROR: It would not.

17 THE COURT: You would be impartial?

18 JUROR: Yes.

19 THE COURT: Okay, ma'am.

20 (Another juror standing)

21 THE COURT: Your name?

22 JUROR: (Name not audible)

23 THE COURT: Mr. Smith, you told me earlier that you
24 were a . . .

25 JUROR: I was a game warden.

1 THE COURT: The fact that you were a game warden,
2 would that affect your ability to listen to the evidence
3 in this case and render a fair and impartial verdict?

4 JUROR: Not at all.

5 THE COURT: Okay, if you would stay with us.
6 Anybody else?

7 (Another juror standing)

8 THE COURT: Yes, sir. I believe you told me earlier
9 that you had a commission?

10 JUROR: Yes, sir.

11 THE COURT: The fact that you had a commission, would
12 that affect -- it's not active, is that correct?

13 JUROR: Yes.

14 THE COURT: The fact that you had a commission, would
15 that affect your ability to listen to the evidence and
16 render a fair and impartial verdict in this case?

17 JUROR: No, sir.

18 THE COURT: Thank you. All right.

19 I've already asked whether any member of this jury
20 panel has read anything or heard anything about this case.
21 Has any member of the jury panel discussed this case or
22 heard anyone else discuss this case today or before today,
23 other than what you've heard in the Courtroom?

24 If that applies to you, please stand.

25 (No response)

1 THE COURT: No one is standing.

2 Has any member of the jury panel formed an opinion
3 about this case? If so, please stand.

4 (No response)

5 No one is standing.

6 Has any member of the jury panel or member of your
7 family ever been the victim of a serious crime? If so,
8 please stand.

9 (Juror standing)

10 THE COURT: Hold on. Your name?

11 JUROR: Horton.

12 THE COURT: Okay, Mr. Horton, don't volunteer anything
13 but just answer the questions I ask you. Okay?

14 JUROR: Yes, sir.

15 Okay, Mr. Horton, have you been the victim of a crime?

16 JUROR: No.

17 THE COURT: Okay. Has a member of your family ever
18 been the victim of a serious crime?

19 JUROR: Yes, sir.

20 THE COURT: What member of your family?

21 JUROR: One of my first cousins.

22 THE COURT: Okay. The fact that a first cousin of
23 yours was a victim of a crime, would that affect your
24 ability to listen to the evidence in this case and render a
25 fair and impartial verdict?

1 JUROR: Yes.

2 THE COURT: It would affect your ability to be fair
3 and impartial?

4 JUROR: Yes, sir.

5 THE COURT: Then I will excuse you. Okay, thank you,
6 sir.

7 (Another juror standing)

8 THE COURT: Yes, maam, your name?

9 JUROR: Catherine Haven.

10 THE COURT: Yes, maam, Ms. Haven. Have you been the
11 victim of a crime?

12 JUROR: No.

13 THE COURT: A member of your family been a victim of a
14 crime, a serious crime?

15 JUROR: Yes.

16 THE COURT: Which member of your family?

17 JUROR: My sister.

18 THE COURT: Okay, the fact that your sister was a vic-
19 tim of a serious crime, would that affect your ability to
20 listen to the evidence in this case and render a fair and
21 impartial verdict?

22 JUROR: No.

23 THE COURT: Maam, if you'd stay with us, please.

24 (Another juror standing)

25 THE COURT: Okay, Number 42. Have you been the victim

1 of a crime?

2 JUROR: A member of my family.

3 THE COURT: Which member of your family?

4 JUROR: My brother in law.

5 THE COURT: The fact that your brother in law was the
6 victim of a serious crime, would that affect your ability
7 to listen to the evidence in this case and render a fair
8 and impartial verdict?

9 JUROR: No.

10 THE COURT: Okay, if you'd stay with us, please, sir.
11 Anyone else?? ?

12 (No response)

13 No one is standing.

14 I have told you members of the jury that this is a
15 murder trial. Is there anything in the nature of the alle-
16 gations in this case which would cause any member of the
17 panel any problem with serving as a fair and impartial juror?
18 If so, please stand.

19 (No response)

20 No one is standing.

21 Is there any member of the jury panel who is opposed
22 to a private citizen owning or possessing firearms or hand-
23 guns or other weapons? Any member of the jury panel who is
24 opposed to private citizens owning firearms? If so, please
25 stand.

1 (No response)

2 No one is standing.

3 Is there any member of the jury panel or member of
4 your immediate family a member of the National Rifle Asso-
5 ciation? If so, please stand.

6 (Juror standing)

7 THE COURT: A member of your family, Mr. Hewitt?

8 JUROR: I am.

9 THE COURT: You are a member of the National Rifle
10 Association?

11 JUROR: Yes.

12 THE COURT: The fact that -- all right, that is just a
13 yes or no question, and I'll follow that up. The fact
14 that you are a member of the National Rifle Association,
15 would that affect your ability to listen to the evidence in
16 the case and render a fair and impartial verdict?

17 JUROR: No.

18 THE COURT: Thank you. Stay with us, please.

19 Anyone else?

20 (No response)

21 Does any member of the jury panel hold a belief that
22 would in any way impose a limit to an individual's right to
23 defend himself from the threat of another? If so, please
24 stand.

25 (No response)

1 No one is standing.

2 Okay. Is there any member of the jury panel who knows
3 of anyone who has been killed by another? Any member of
4 the jury panel know of anyone who has been killed by another
5 person? If so, please stand.

6 (Juror standing)

7 THE COURT: All right, Ms. Haven, Juror 74. You know of
8 someone who was killed by another person? Just yes or no.

9 JUROR: Yes.

10 THE COURT: The person who was killed that you know, how
11 close was that relationship? A friend or what?

12 JUROR: An acquaintance.

13 THE COURT: The fact that you have an acquaintance who
14 has been killed by another person, would that prevent you from
15 listening to the evidence in this case and rendering a fair
16 and impartial verdict?

17 JUROR: No.

18 THE COURT: Stay with us, please.

19 Anyone else?

20 (No response)

21 All right. In this case there may be some testimony about
22 some alcohol. Does any member of the jury panel have any
23 moral or religious opposition to the use of alcohol? If so,
24 please stand.

25 (Juror standing)

1 THE COURT: All right, Ms. Haven. You have a moral or
2 religious opposition to the use of alcohol?

3 JUROR: Yes, sir.

4 / THE COURT: The fact that this case will involve some
5 testimony about the use of alcohol, would that affect your
6 ability to be a fair and impartial juror?

7 JUROR: No.

8 THE COURT: Stay with us, please, maam.

9 The case may also involve some testimony about illegal
10 drugs. Does any member of the jury panel have any moral or
11 religious opposition to the use of illegal
12 drugs? If so, please stand.

13 (Juror standing)

14 THE COURT: Ms. Haven, the fact that this case may in-
15 volve some testimony about the use of illegal drugs, would
16 that affect your ability to listen to the evidence and render
17 a fair and impartial verdict?

18 JUROR: No.

19 THE COURT: Stay with us. Thank you, maam.

20 Has any member of the jury panel ever sat on a jury be-
21 fore? I need you to stand if you have been on a jury be-
22 fore.

23 (Jurors standing)

24 THE COURT: I'm going to start with you. Your name and
25 number?

1 JUROR: Mr. Bilbro, Number 10.

2 THE COURT: Thank you. Your name?

3 (Jurors giving names but they were not audible on
4 cassette.)

5 THE COURT: Ms. Haven, you've sat on a jury before?

6 JUROR: Yes, sir.

7 (Other jurors giving names, not audible)

8 THE COURT: Thank you. Has any member of the jury panel
9 ever received assistance from the Victim's Advocacy Program?
10 If so, please stand.

11 (No response)

12 No one is standing.

13 All right, any other questions from the State?

14 SOLICITOR: Nothing further.

15 THE COURT: Any other questions from the Defendants?

16 (Negative response by counsel)

17 MS. HINES: No, sir.

18 MR. CHISOLM: No, sir.

19 THE COURT: Ladies and gentlemen, it is getting close
20 to lunch time. You have now answered absolutely all the
21 questions you need to answer in this case.

22 We are going to select a jury but we've got some issues
23 that we have to take up outside of your presence, so rather
24 than have you all wait, since it is close to lunch time, I
25 am going to ask you all please to go to lunch and return to

1 the Courthouse at one thirty. Then we will select the jury,
2 and those of you who are unlucky enough not to be picked
3 will be excused. If you are lucky enough to be chosen, we
4 will continue on.

5 Okay. Right now you cannot talk about this case. You
6 cannot talk about this case with anybody. You cannot talk
7 about this case among yourselves or anything like that.

8 I don't want you to read anything or check the Inter-
9 net. If you get to learn anything about this case, you will
10 learn it as a juror from the witness stand. That is all the
11 information you will need.

12 Do not do any investigation or talk to anyone about this
13 case. You don't know a whole lot about it except the names
14 and the charges. You can talk about the weather changing or
15 whatever, but you cannot talk about this case.

16 If you will be back here at one thirty I will appre-
17 ciate it.

18 (Jurors excused from the Courtroom for the lunch recess)

19 (Court stood in recess until 1:30 P.M.)

20 THE COURT: Is the State ready to proceed?

21 MR. PASCOE: Yes, sir.

22 THE COURT: Defense ready to proceed?

23 MS. HINBS: Yes, sir.

24 THE COURT: Bring the jury.

25 (Jury returned to the Courtroom)

1 THE COURT: I appreciate your patience while we were
2 getting things squared away so we could proceed. We were
3 trying to get coordinated. Sometimes thing happen and I do
4 appreciate your patience with us.

5 I need to indicate to you one other thing. At the be-
6 ginning of the jury questioning you were told we were going
7 to do a trial with two Defendants but we have too few jurors
8 in the jury pool.

9 You all need to realize that we sent out two hundred re-
10 quests to get jurors here, and we had fifty-four show up.
11 Of course, we had any number of people with any number of
12 reasons and we'll talk to people to find out why they did
13 not come.

14 So since we have so few jurors, we are only going to
15 try one of the Defendants here today. Okay? That is why
16 there is only one Defendant up here.

17 I know you were introduced to two, but we are only
18 going to try one. That will affect the number of strikes
19 that can be used in picking the jury.

20 Now, we are getting ready to begin the case of the
21 State of South Carolina versus Ronald Smith. We are going
22 to pick a jury in that case.

23 What we're going to do is when he Clerk calls your
24 name I will ask you to come up and stand right here and
25 face the attorneys.

1 They will decide then whether they are going to seat
2 you or strike you from this jury. If they decide to seat
3 you, the Bailiff will show you where to sit in the jury box.

4 We are going to pick a jury that consists of twelve
5 people and then we will seat two alternates. So please
6 bear with us while we do that.

7 If you ladies will bring your pocketbooks with you when
8 you come up and, gentlemen, if you will bring coats or any-
9 thing you brought in with you. You may not return to your
10 seats. You may get to be jurors on the case.

11 (Whereupon, a jury was selected and seated in the
12 case.)

13 (Jurors not selected for this trial were excused by
14 the Court)

15 THE COURT: All right, ladies and gentlemen, thank you
16 for being willing to serve. This is your lucky day.

17 Now, let me tell you a couple of things before we start
18 -- we have to go into a couple of things before we even
19 start the trial, things I need to take care of before we
20 begin.

21 What I'm going to do is let you go back to the jury
22 room, and while you are in the jury room I'm going to ask
23 you to elect a Foreperson.

24 What a Foreperson does is to sit in this seat here that
25 is nearest to me. The Foreperson is in charge of completing

1 the verdict form at the end of the case and presiding over
2 the discussion in the jury room when you begin your deliber-
3 ations at the close of the case, completing the verdict form
4 at the end of the case.

5 Additionally, the Foreperson is -- if there is any
6 question or anything like that, the Foreperson has to write
7 the question out for me and serve as spokesperson for the
8 jury.

9 I'm going to let you go back in the jury room and pick
10 a Foreperson while we do our work out here.

11 Let me also remind you, as you may recall I told you
12 before you left to go to lunch, that you haven't heard any-
13 thing about the case. You cannot begin talking about the
14 case or discussing the case or anything like that while you
15 are in the jury room, other than picking a Foreperson.

16 Get comfortable and get to know each other, and there
17 are some things I'm going to say over and over in this
18 trial, and that is that until you have heard all the evidence
19 in the case, the arguments of counsel, and heard me charge
20 you on the law, you cannot discuss this case among yourselves
21 or with anyone else.

22 The reason for that is you don't want to go discussing
23 this until you have heard all the facts of the case and until
24 I tell you at the end of the case that you can begin your
25 deliberations you cannot talk about the case.

1 The bailiff will show you where the jury room is, so
2 if you will go back there and select a Foreperson. We
3 will be bringing you back in the Courtroom shortly to
4 begin the trial.

5 (Jury excused from Courtroom)

6 THE COURT: Before we get started I want to make sure
7 that -- do we need to put a summation of our conversation
8 on the record about calling of witnesses and the use of
9 the audio-video equipment, or any of that information on
10 the record, or are you all satisfied? Are you okay?

11 SOLICITOR: I can put it on the record.

12 THE COURT: Okay.

13 SOLICITOR: We have talked about in Chambers that
14 we have a video that we were going to put in evidence of
15 the Bojangles incident, which . . .

16 THE COURT: Yes, sir.,

17 SOLICITOR: . . . the Defense has.

18 We were going to put it in for the jury -- we were
19 going to give them a copy. The video will be viewed by
20 the jury, and they will be given a copy during their delib-
21 erations.

22 THE COURT: Okay.

23 MS. HINDS: Your Honor, I just want to say -- I know
24 it is a little bit early to have this back and forth, but
25 it's so that they are aware that they can -- they don't

1 have to re-watch if they have this in front of them.

2 THE COURT: Okay, and the Defense is going to be
3 able to use the video equipment as well.

4 MS. HINDS: Yes, sir.

5 THE COURT: Okay. Anything else?

6 SOLICITOR: No, sir.

7 THE COURT: Okay, and, on the record, I would note
8 your objection to my ruling.

9 MS. HINDS: Your Honor, I do have some pre-trial mo-
10 tions.

11 THE COURT: Yes, maam.

12 MS. HINDS: I would have a motion to sequester wit-
13 nesses, for the record.

14 THE COURT: Okay.

15 MS. HINDS: I don't believe the Solicitor has any
16 problem with that.

17 THE COURT: Okay, the only witness we will keep in
18 here is the investigating officer.

19 SOLICITOR: Lieutenant Shumpert, Your Honor, and we
20 have a couple of family members here as well.

21 THE COURT: Well, if they are potential witnesses, I
22 prefer them to be sequestered as well.

23 What else?

24 MS. HINDS: We had a motion to suppress the video
25 from the scene earlier before the actual incident.

1 THE COURT: Okay.

2 MS. HINDS: It is a video that allegedly shows my
3 client having a confrontation or some words with someone
4 inside the Bojangles, but nothing happened. No actual
5 fight or anything like that.

6 First off, I would think the quality on the video is
7 all that good, and I don't know that you can actually
8 identify who the people on the video are.

9 It doesn't show anything, so I don't know what it
10 has to do with anything.

11 I think the Solicitor is going to try to say somehow
12 that that was a preview to the actual event, and I don't
13 believe they can show that.

14 I think that showing the video is going to have a
15 prejudicial effect, and I don't see how it relates to
16 this incident.

17 THE COURT: Okay.

18 MR. PASCOE: Beg the Court's indulgence. This is
19 what we were talking about earlier, to my understanding.

20 THE COURT: Yes, sir.

21 MR. PASCOE: The incident happened shortly after mid-
22 night on June 12th of last year, and about three hours or
23 so prior to that is what is shown on this video.

24 Some confrontation occurred between the person we'd
25 allege is Mr. Smith and another individual who is not

1 really involved in this, but we would intend to get that
2 in to help prove his ID later on; that he's the same
3 one as shown, dressed the same way as this person.

4 If Mr. Smith had not been involved in the shooting
5 in the parking lot, I would concede that it was not rele-
6 vant, but he was at the actual shooting.

7 THE COURT: Okay, you're just saying the person shown
8 -- the first incident shows a person you can match up by
9 way of his dress with the individual in the later inci-
10 dent?

11 MR. PASCOE: We have a couple of witnesses who would
12 identify that person as being the same person involved
13 in the incident, and both videos show a person with the
14 same shirt.

15 THE COURT: Okay.

16 MR. PASCOE: He is in the video of the shooting later
17 on, as we spoke about earlier.

18 THE COURT: Okay. So that is based on how he was
19 dressed earlier in the evening.

20 MR. PASCOE: Yes, sir.

21 THE COURT: Ms. Hinds?

22 MS. HINDS: Just a moment, please.

23 (Brief pause. The beginning of Ms. Hinds' reply is
24 not contained on the cassette)

25 MS. HINDS: . . . on that video.

1 THE COURT: Okay, so you concede that he was identi-
2 fied as being in that video?

3 MS. HINDS: Yes, sir.

4 THE COURT: Okay. Then I'll allow it to be shown.
5 What else?

6 MS. HINDS: I have a matter concerning the lineup
7 where Mr. Smith was picked out. I would move to exclude it
8 it on the basis that it clearly flies in the face of every-
9 thing else, all the other testimony.

10 Basically, in that lineup identification Mr. Smith
11 was picked out but in the description it is clear he is
12 -- it is absolutely clear that he is talking about another
13 Codefendant by the name of Bradley.

14 He describes him in detail down to things -- arti-
15 cles of clothing. I would argue the only reason he picked
16 Mr. Smith out of that lineup was from something that had
17 occurred earlier that had nothing to do with Bojangles.

18 Clearly, his description can't be right, and for that
19 reason we would move to exclude that identification, Your
20 Honor.

21 THE COURT: All right.

22 MR. PASCOE: Your Honor, as far as the lineup, that
23 witness is not here right now. We did not intend to call
24 him until tomorrow.

25 THE COURT: All right.

1 MS. HINDS: If Your Honor would prefer to take this
2 up along with the in-Court identification, that will be
3 fine.

4 THE COURT: All right. What else?

5 MS. HINDS: I would move to strike the shell casing.
6 Basically, there will be allegations that there were at
7 least three shotguns used at the incident location on that
8 evening, and there may have even been more.

9 There were shells found all over the parking lot,
10 and, to my knowledge, they cannot link them to any guns
11 because, to my knowledge, no actual guns were retrieved.

12 In addition, they can't show when those shotgun shells
13 were there. They don't have anyone who can say the cas-
14 ings were not in the parking lot before this incident oc-
15 curred, and then the shotgun casings were there after the
16 incident occurred.

17 In addition, they can't link the casings to any par-
18 ticular gun because they don't have the guns to link them
19 with.

20 For those reasons, I would move to exclude the shell
21 casing.

22 THE COURT: All right.

23 MR. PASCOE: Your Honor, basically this all occurred
24 during a shootout in the parking lot at Bojangles, and
25 unfortunately they apparently got rid of the guns and . .

1 THE COURT: Okay. All right.

2 MS. HINDS: I'm not going to suppress the shell cas-
3 ings, but I will note your objection to my ruling.

4 MS. HINDS: Thank you, Your Honor.

5 THE COURT: Did you say before that Mr. Smith had a
6 motion?

7 MS. HINDS: One minute, please.

8 THE COURT: Okay.

9 (Brief pause)

10 MS. HINDS: That's all we have.

11 THE COURT: Okay. Before we get started after the
12 break, Ms. Hinds had a discussion with Mr. Smith as to
13 whether or not he had a motion before the Court.

14 While we were in recess I was advised that Mr. Smith
15 did not have a motion.

16 MS. HINDS: That's correct, Your Honor.

17 THE COURT: All right. The Foreman of this jury for
18 your information is Juror Number 143, Mr. Steven Secor.
19 He has been elected by the jurors, and he will sit in
20 seat number one.

21 Anything for the State before we bring the jury out?

22 MR. PASCOE: No, sir.

23 THE COURT: Anything from the Defense before we bring
24 the jury out?

25 MS. HINDS: Nothing further.

1 THE COURT: All right, please bring the jury out.
2 Make sure Mr. Secor is seated in the proper place.

3 (Jury returned to the Courtroom)

4 THE COURT: All right, ladies and gentlemen. We are
5 going to begin the trial, and before we get started, lad-
6 ies and gentlemen, you all need to be sworn in.

7 So once again I am going to ask you all to stand and
8 raise your right hands as you are sworn in as the jury in
9 this trial.

10 (Whereupon, the jury was sworn for the trial of the
11 within case)

12 THE COURT: If you said I do, you can sit down. Thank
13 you.

14 Ladies and gentlemen, we are getting ready to begin
15 the trial of the case of the State of South Carolina
16 against Ronald Smith, Defendant.

17 What I am going to tell you now is just essentially
18 an introduction to the case. Some of you have sat on jur-
19 ies before, and what I tell you now is not my charge on
20 the law. I will charge you on the law at the conclusion
21 of the case.

22 Right now I am going to give you an idea of what you
23 can expect from a procedural standpoint so you will kind
24 of understand what is happening.

25 The Defendant, Mr. Smith, has been indicted for the

1 crime of murder, and I will explain the elements of murder
2 to you when I charge you on the law.

3 The Indictment is simply the charge by which the case
4 is brought into Court and is not evidence in any sense of
5 the word, nor is it evidence of any of the allegations as
6 contained in the Indictment.

7 The Defendant has pled not guilty to the Indictment,
8 and the State therefore has the burden of proving each of
9 the elements of the Indictment beyond a reasonable doubt,
10 and it will be your duty, ladies and gentlemen, to decide
11 whether or not the State has met its burden.

12 Your duty as jurors is to find and determine the facts
13 as you are the sole judges of the facts. If at any time
14 during the trial I make any comment regarding the facts, I
15 am asking you to disregard that.

16 You are to determine the facts from the testimony
17 that you hear from this witness stand right here and
18 any other evidence that is introduced into the record.

19 It is up to you to determine the inferences which you
20 feel may properly be drawn from the evidence. It is import-
21 ant that you perform your duty of determining the facts
22 diligently and conscientiously because ordinarily there
23 is no way to correct an erroneous determination of the
24 facts found by the jury.

25 The law that makes you the judges of the facts makes

1 me the judge of the law, and the law as given by the Court
2 is the only law that you may consider.

3 You must accept and follow it although you may dis-
4 agree with it. I can't tell you what the facts are, and
5 you cannot disagree with me about what the law is or should
6 be.

7 Your job is to take the law as I give it to you and
8 apply it to the facts as you find them from the testimony
9 of the witnesses and the evidence that was introduced.

10 After doing that, you will render your verdict, a
11 true and just verdict under the solemn oath that you just
12 took as jurors.

13 Until I advise you to begin your deliberations, you
14 must not discuss this case with anyone, including your
15 fellow jurors, friends, family members or anyone involved
16 in the case.

17 After the case is submitted to you, you must discuss
18 it only in the jury room with your fellow jurors.

19 The attorneys and parties in this case have been ad-
20 vised that they cannot talk to you, and if you happen to
21 see them on the hall and they don't speak they are only
22 following my orders.

23 During the trial, you cannot listen to or watch any
24 news about this case, and this includes anything that may
25 be in the newspapers, on the Internet, radio or television.

1 You must not consider anything that you may have read
2 or heard about the case outside of the Courtroom.

3 Now, I'm going to also remind you not to do any in-
4 vestigation. Do not check any newspaper reports. Do not
5 go on the Internet. Do not go by the scene of the crime,
6 or anything like that.

7 Everything that you all are going to need to make
8 your determination in this case you will hear from this
9 witness stand in this Courtroom, and that is the only
10 evidence that you are to consider.

11 Now, it is important that you keep an open mind and
12 not decide any issues in this case until all of the evidence
13 has been presented, the parties have made their closing
14 arguments and I have instructed you on the law in this
15 case.

16 It is your solemn responsibility to determine the
17 guilt or the innocence of the Defendant, and your verdict
18 must be based solely on the evidence as it is presented to
19 you in this trial and on the law as I instruct you during
20 and at the close of the trial.

21 In a moment, the Solicitor will make what is called
22 an opening statement, in which he will state to you what
23 the Solicitor believes are the issues in this case.

24 Ms. Hinds, attorney for the Defendant, may also make
25 an opening statement, although she is not required to do so.

1 What the attorneys tell you during their opening state-
2 ments is not evidence. It is only their contention as to
3 what the issues in the case are.

4 The evidence in this case, as I have said, will be
5 presented to you by testimony of the sworn witnesses from
6 the witness stand and any exhibits that may be introduced
7 into evidence.

8 From time to time during the trial, there may be some
9 objections or we may have the attorney approach the bench,
10 or there may be reasons that I find it necessary to excuse
11 you from the Courtroom for a short while.

12 The reason for this is that sometimes I am required
13 to make a ruling on matters of law during which we need to
14 discuss the facts of the case. Since I am not supposed
15 to tell you what the facts are, I must excuse you from the
16 Courtroom while these discussions take place so that in no
17 way will you be influenced by anything I might say or do
18 in connection with the facts.

19 In determining what the true facts are in this case,
20 you must decide whether or not the testimony of a witness
21 is believable. It will be my responsibility to rule on
22 matters as a matter of law as to whether certain testi-
23 mony is admissible..

24 Once the testimony is admitted, whether or not you
25 believe it is solely for you to determine.

1 In deciding whether to believe a witness, you have
2 the right to consider the interest of any witness, the
3 bias of any witness, the prejudice of any witness, the op-
4 portunity of the witness to have seen the matters and the
5 things about which they testify and the way the witness
6 acts on the stand.

7 You have a right to consider anything that is in the
8 record that will help you evaluate the testimony of the
9 witnesses.

10 That means that it is your duty to pay close atten-
11 tion to the witnesses, to observe them, to listen to them
12 and to pay close attention to the attorneys and the Court.

13 Please give strict attention to the testimony in the
14 case. Again, after all of the testimony and after the ar-
15 guments of counsel and my charge on the law to you, you
16 will then be in a position to determine what the facts are
17 and to apply those facts to the law, and thus render a true
18 and just verdict.

19 All right, Mr. Solicitor, are you ready?

20 SOLICITOR: Yes, sir.

21 THE COURT: Thank you, sir.

22 SOLICITOR: Good afternoon, Mr. Foreman and ladies and
23 gentlemen of the jury.

24 Back in the late eighteen hundreds, it wasn't uncommon
25 for persons to settle disputes by getting into gunfights in

1 the middle of town. I'm sure we've all heard the term
2 the wild west which kind of sprung out of that time
3 frame.

4 Ladies and gentlemen, back in the early morning
5 hours, about one o'clock in the morning, on June 12th of
6 last year, the wild west came to our County, right here
7 in Orangeburg County.

8 Before one o'clock that morning, five men got to-
9 gether in a parking lot of the Bojangles and the Shell
10 Station over on Chestnut Street with dozens of bystanders
11 out there to settle their differences and to exchange gun-
12 fire.

13 Unfortunately, the tragic result of that night was to
14 a fifty-seven year old bystander by the name of Samuel
15 Sims who took a bullet to the right side of his head and
16 he died out there in that parking lot.

17 I submit to you that five individuals were identified
18 and charged as the individuals responsible for Mr. Sims'
19 death. One of those individuals was that man right there
20 who goes by the nickname Sty, Ronald Smith.

21 He is on trial, and it will be his day in Court this
22 week. The other four individuals who have also been charged
23 will have their days in Court. One of them you all had a
24 brief opportunity to see this morning, Mr. Jacques, who
25 goes by the nickname of Rock, Geo Rock.

1 He is one of Mr. Smith's friends. Another one who
2 is charged is a man by the name of Orlando Haynes who goes
3 by the nickname Latten, and you will hear about the other
4 two individuals who basically the three of them got in a
5 shoot-out that night, a man by the name of Donald Jamel
6 and (Inaudible).

7 Ladies and gentlemen, as a result of his actions that
8 night and early the next morning, he is charged with one
9 count of murder.

10 Murder, ladies and gentlemen, is, very simply, the
11 unlawful killing of another person with malice aforethought
12 -- the unlawful killing of another person with malice afore-
13 thought.

14 You will hear a lot more at the close of the trial
15 when Solicitor Pascoe gets an opportunity to come before you
16 to talk to you a little more about the law, and when Judge
17 Dickson ultimately charges you on the law. You will hear
18 more about the definition of murder and of malice also.

19 Let me take a couple more minutes of your time to talk
20 to you about a couple of other legal terms that are going
21 to come up in this trial.

22 You heard me say that Mr. Sims died from a gunshot
23 to the side of the head, and there are five people who were
24 ultimately charged. Obviously, five people didn't fire
25 that one shot.

1 You will hear something about what is called accomp-
2 lice liability. You have probably all heard the term, the
3 hand of one is the hand of all.

4 Basically what that means is that when two or more
5 persons combine together to commit an unlawful act, the
6 hand of one is the hand of all. In other words, the act
7 of one is the act of all.

8 So when the five persons come together for the purpose
9 of exchanging gunfire in a parking lot with dozens of by-
10 standers around and one of them is hit ultimately with one
11 of those bullets and dies, they are all guilty under the
12 law.

13 The other term I want to talk to you about is something
14 called, very briefly, transferred intent. When you fire a
15 bullet and nobody is out there--it is never going to be al-
16 leged that anybody out there shooting that night intended
17 to hit Mr. Sims. He was an innocent bystander who was sit-
18 ting initially out there in the parking lot in his vehicle, who
19 got out of his vehicle in an attempt to take cover when he
20 got struck.

21 The transferred intent basically means that if you are
22 intending to hit one person and you miss and hit someone
23 else, you are equally as guilty for that person's death.
24 You are not excused just because you didn't hit the person
25 you were aiming at.

1 You are going to hear ultimately a lot more about that
2 from Judge Dickson also.

3 As was said, what the lawyers get up here and say is
4 not evidence. The evidence is what you hear from the wit-
5 nesses on the witness stand who testify and from the exhibits
6 that are introduced during the trial, which you will have
7 back in your jury room.

8 I'm not going to take a whole lot of time now to go
9 over the facts because you are going to hear from the wit-
10 nesses who were out there.

11 In this case what you'll have is better than that be-
12 cause you are going to actually be able to see what happened
13 out there from several of the cameras that were outside the
14 Bojangles that caught the shooting.

15 You're going to have an opportunity to see that over
16 the next couple of days and hear from numerous witnesses who
17 will testify.

18 What I ask of you, as Judge Dickson did, is to keep an
19 open mind. To keep an open mind. Trying a case from a
20 prosecutor's standpoint is a lot like putting together a
21 jigsaw puzzle.

22 Each witness, each piece of evidence that we put in is
23 just a piece of the puzzle, but ultimately those little
24 pieces we put together are hopefully going to show you what
25 happened out there that night.

1 I submit to you, ladies and gentlemen, after you get
2 all of that evidence and get back in your jury room and
3 have a chance to go over it, there's not going to be any
4 doubt in your minds that that man there, Ronald Smith, is
5 guilty of murder and should be held accountable and respon-
6 sible for his role in Mr. Sims' death.

7 Thank you.

8 THE COURT: Thank you. Ms. Hinds?

9 MS. HINDS: Thank you, Your Honor.

10 Good afternoon, ladies and gentlemen. My name is Peggy
11 Hinds and I represent Ronald Smith.

12 What I would like for you to remember is that the point
13 of our judicial system is when someone is accused of some-
14 thing, they are presumed innocent. That is absolutely the
15 foundation of our legal system.

16 That protects all of us from accusations from others,
17 unless and until those accusations can be proven.

18 I remind you that Mr. Smith sitting there at that
19 table is innocent as he sits there today and he remains in-
20 nocent unless and until in your deliberations you find
21 different. He is innocent right now and will remain so dur-
22 ing the trial.

23 The Judge will tell you about reasonable doubt. Basic-
24 ally, the Solicitor likes to state it is not beyond any
25 doubt, and I'm not going to argue with that definition,

1 but I will remind you a reasonable doubt is a doubt for
2 which you can give a reason, and you must be firmly con-
3 vinced about the judgment you are about to make.

4 It is not, could this happen? Might it have happened
5 that way? Maybe it happened? You have to be firmly convinced
6 in your judgment.

7 As the Solicitor told you, there were five or at least
8 five people out there -- I would argue six. There were multi-
9 ple things going on out there that night, and you will hear
10 about them and get a chance to see everything that was going
11 on at Bojangles that night, or at least as much as is caught on
12 that video film.

13 The witnesses will help you to try to understand and
14 make sense of that video, but I would ask you also in examin-
15 ing the evidence and putting it all together to look for
16 things that they are not going to give you.

17 There are things the State is not going to be able to
18 provide you with in terms of evidence. One of those things
19 is the weapons. There are no guns that are going to be pre-
20 sented in evidence. They are not going to have a gun up here
21 in evidence.

22 Why is that important? Because there are things that
23 are going to be facts and things that are based upon feel-
24 ings. The State's case is based upon theories, and that is
25 why he's talking about a puzzle.

1 I submit to you that he wants you to suspend hard evi-
2 dence and to wait for that puzzle to come together through
3 their theories.

4 Again, Mr. Smith sits over there presumed innocent, and
5 I would ask you to keep an open mind.

6 What happened that night out at Bojangles is a ter-
7 rible tragedy, and we do not mean to diminish his family's
8 loss in any way, shape or form. It is a tragedy that this
9 man died out there that night, but our pos-
10 ition is that the State's evidence is not going to show you
11 that Mr. Smith was responsible.

12 I would submit to you that at the end of the trial
13 when you have a chance to hear all of the evidence that
14 you will return for Mr. Smith a verdict of not guilty in
15 this case.

16 Thank you.

17 THE COURT: All right. The State may call its first
18 witness.

19 SOLICITOR: Thank you. The State calls Investigator
20 Sheppard.

21 MARVIN SHEPPARD, being
22 duly sworn, testified as follows:

23 THE COURT: Mr. Pascoe, your witness.

24 DIRECT EXAMINATION

25 BY SOLICITOR:

INV. SHEPPARD ON DIRECT

1 Q. Good afternoon, Investigator Sheppard.

2 A. Good afternoon.

3 Q. Please state your name?

4 A. Marvin Sheppard.

5 Q. Where do you currently work?

6 A. Orangeburg County Sheriff's Office.

7 Q. How long have you been with the Orangeburg County
8 Sheriff's Office?

9 A. Almost three years.

10 Q. Had you been in law enforcement before you went with
11 the Sheriff's Office?

12 A. Yes, sir.

13 Q. Where did you work before that?

14 A. (Inaudible)

15 Q. How many years total have you worked in law enforce-
16 ment?

17 A. Seven years. A little over seven years.

18 Q. What are your current duties with the Orangeburg
19 County Sheriff's Office?

20 A. I'm an investigator with special operations at the
21 Sheriff's Office.

22 Q. All right, and how long have you been assigned as an
23 investigator with the special operations unit?

24 A. Since January of this year.

25 Q. So about nine months now?

INV. SHEPPARD ON DIRECT

1 A. Yes, sir.

2 Q. And what were your duties prior to being assigned as
3 an investigator with the special operations unit?

4 A. I was a patrol deputy.

5 Q. Tell the jury what the duties of a patrol deputy are
6 in Orangeburg County?

7 A. Yes, sir. To respond to calls such as nine one one
8 calls, emergency calls.

9 Q. If I call nine one one and ask for a police officer,
10 you or another deputy would have responded?

11 A. That's right.

12 Q. Okay, and what would you be wearing when you were on
13 patrol at that time?

14 A. A uniform.

15 Q. And what kind of vehicle would you be driving?

16 A. A marked patrol car.

17 Q. And were you working in your capacity as a deputy dur-
18 ing the early morning hours of Saturday, June 12th of 2010?

19 A. Yes, sir.

20 Q. What shift were you working that day?

21 A. Seven P.M. to seven A.M. shift.

22 Q. So from seven o'clock in the evening on Friday of June
23 11th until seven o'clock in the morning of June 12th?

24 A. Yes, sir.

25 Q. Saturday, June 12th?

INV. SHEPPARD ON DIRECT

1 A. Yes, sir.

2 Q. What area of the County were you patrolling that night?
3 specifically?

4 A. I was patrolling the Orangeburg area.

5 Q. Did you receive any calls to go anywhere that early
6 Saturday morning?

7 A. Yes, sir, I did.

8 Q. And where did you get called to that morning of June
9 12th, 2010?

10 A. I got called -- I was dispatched to a shooting incident
11 at the area of the Bojangles and Shell on Chestnut here in
12 Orangeburg.

13 Q. Okay. Approximately what time did you receive that
14 dispatch?

15 A. A little after midnight, approximately around twelve
16 thirty.

17 Q. Did you put what time you received the dispatch in the
18 incident report?

19 A. Yes, sir, I did. Twelve fifty-five.

20 Q. Twelve fifty-five A.M.

21 A. Yes, sir.

22 Q. And approximately how long did it take you to get to
23 the Bojangles-Shell station on Chestnut?

24 A. Approximately four minutes.

25 Q. Okay, and were you first officer on the scene when you

INV. SHEPPARD ON DIRECT

1 got there?

2 A. Yes, sir.

3 Q. Okay, and what all did you observe when you got there
4 to the scene?

5 A. I saw a bunch of people in the parking lot. I saw a
6 person lying there next to a vehicle, and some other units
7 were there which were damaged; people yelling and screaming.

8 Q. In detail, tell the jury about the person you saw lay-
9 ing next to a vehicle?

10 A. I saw a black male laying next to a white SUV. He had
11 a gunshot wound to the head. He wasn't moving.

12 Q. Was he moving at all?

13 A. No, he wasn't.

14 Q. Was he breathing, in your opinion?

15 A. No, he wasn't.

16 Q. What did you do after you observed the individual?

17 A. At that time, I got the crime scene tape and taped off
18 the area to preserve the area where the victim was laying.

19 Q. Did you get information on that victim?

20 A. Later on I did.

21 Q. At the scene?

22 A. Not at that time.

23 Q. And who was the decedent?

24 A. Samuel Sims.

25 Q. And what was his address?

INV. SHEPPARD ON DIRECT

1 A. At , (portion inaudible)

2 Q. How old was Mr. Sims?

3 A. He was approximately fifty-eight.

4 Q. And did you keep people away from Mr. Sim's body?

5 A. Yes, sir, I did.

6 Q. Did you see any other evidence at the crime scene you
7 tried to keep people away from?

8 A. Yes, sir, I did.

9 Q. Such as what?

10 A. Shell casings and damaged vehicles that had taken gun-
11 shots. Casings around them.

12 Q. Okay, did you touch the shell casings?

13 A. No, sir, I didn't.

14 Q. Did you touch the vehicles that had been shot?

15 A. No, sir.

16 Q. What did you do?

17 A. Like I said, I taped off the area and made notes of
18 where everything was.

19 Q. So you made sure nobody touched them?

20 A. Yes, sir.

21 Q. Did you interview any of the witnesses at the scene?

22 A. There were some verbal statements, but I made sure they
23 stayed on the scene until the investigators arrived.

24 Q. Did you -- was it your job out there as a patrol offi-
25 cer to take detailed statements from witnesses?

INV. SHEPPARD ON DIRECT

1 A. No, sir.

2 Q. Who does that?

3 A. The investigators.

4 Q. And you are now an investigator but you were not on
5 June 12, 2010?

6 A. Yes, sir.

7 Q. And did investigators come to the scene?

8 A. Yes, they did.

9 Q. Is that one of your duties, to make sure they come
10 out to the scene of a homicide?

11 A. Yes, sir.

12 Q. Did you speak to a young man named Kevin Fulmer?

13 A. Yes, sir, I spoke with Mr. Fulmer.

14 Q. And did you make sure that he stayed to talk to the in-
15 vestigators?

16 A. Yes.

17 Q. And where did Mr. Fulmer work -- where did he work at
18 that time?

19 A. He worked at Bojangles-Shell.

20 Q. And did you speak with a young man, a Mr. (name not
21 audible)?

22 A. Yes, sir.

23 Q. And why did you speak with him?

24 A. He was with a victim near the SUV at the scene.

25 Q. What was she a victim of?

INV. SHEPPARD ON DIRECT

1 A. She had some fragments of glass, and she explained to
2 me what happened.

3 Q. But she was able to be responsive?

4 A. Yes, sir.

5 Q. What vehicle was she in? Do you recall?

6 A. A Suburban but I don't recall the color.

7 Q. Okay, was she armed?

8 A. No, sir.

9 Q. Was she involved in the gunfight at all?

10 A. No, sir. She appeared to be a victim.

11 Q. Did you speak with anybody else at the scene?

12 A. I spoke to a Ms. Glover.

13 Q. Was she at the scene?

14 A. Yes, she was.

15 Q. Was she with Mr. Von Glover?

16 A. Yes, sir, she was.

17 Q. In the blue SUV?

18 A. Yes, she was.

19 Q. Did you speak to Taneshia Thompson?

20 A. Yes, sir.

21 Q. And why did you speak with her?

22 A. She advised me that she was driving by the Shell sta-
23 tion and she heard a loud pop but didn't thinking anything
24 about it. She was just driving down the road and when she
25 got home she realized her vehicle was damaged so she came

INV. SHEPPARD ON DIRECT

1 back to the Shell-Bojangles.

2 Q. And did you observe the damage to her vehicle?

3 A. Yes, sir.

4 Q. And what was the damage to Ms. Thompson's vehicle?

5 Tell the jury about the damage to her vehicle?

6 A. The damage was her rear driver's side window and
7 the rear -- it appeared the bullet came through the rear.

8 Q. Did you document the type of car she had?

9 A. Yes, sir.

10 Q. What was it?

11 A. It was a burgandy in color, four door (inaudible).

12 Q. And did you document that she had damage to the ve-
13 hicle?

14 A. Yes, sir.

15 Q. And what was the damage? The amount of the damage?

16 A. It was approximately Six Hundred Dollars.

17 Q. And there was insurance?

18 A. Yes, sir.

19 Q. When the investigators got there, how long did you
20 stay at the scene?

21 A. I think I departed from the Shell-Bojangles at five
22 o'clock that morning.

23 Q. And a lot of what you did was securing the scene and
24 assisting at the scene?

25 A. Yes.

INV. SHEPPARD ON DIRECT

1 Q. Did you have any more major involvement in the case
2 at all?

3 A. No, sir.

4 Q. I'm going to show you a number of photographs. I'll
5 show you State's Exhibits 2 and 3. Do you recognize those
6 photographs?

7 A. Yes, sir.

8 Q. Speak up, please.

9 A. Yes, sir.

10 Q. And what do you recognize the photographs to be?

11 A. The shells that were in the parking lot.

12 Q. And have you had an opportunity to observe a video from
13 the same area as these photographs were taken?

14 A. Yes, sir, I did.

15 Q. And are these still photos from those video?

16 A. Yes, sir.

17 SOLICITOR: I would ask that State's Exhibits 2 and 3 be
18 admitted, Your Honor.

19 THE COURT: Any objection?

20 MS. HINDS: No objection.

21 THE COURT: State's 2 and 3 are in evidence.

22 (Photographs admitted without objection as State's Ex-
23 hibits 2 and 3)

24 BY SOLICITOR:

25 Q. Showing you State's Exhibits 4 and 5, do you recognize

INV. SHEPPARD ON DIRECT

1 those?

2 A. Yes.

3 Q. What do you recognize that to be?

4 A. This is a vehicle that was damaged.

5 Q. The Glover vehicle?

6 A. Yes, sir.

7 Q. And does that accurately depict the way it was when
8 you got to the scene?

9 A. Yes, sir.

10 SOLICITOR: I would move to admit 4 and 5 into evidence,
11 Your Honor.

12 MS. HINDS: No objection.

13 THE COURT: State's 4 and 5 are in evidence.

14 (Photographs admitted without objection as State's Ex-
15 hibits 4 and 5)

16 BY SOLICITOR:

17 Q. Showing you State's Exhibits 6 and 7, do you recognize
18 these photographs?

19 A. Yes, sir.

20 Q. What do you recognize these photographs to depict?

21 A. The ^{deceased} victim at the scene and the vehicle he was laying
22 next to.

23 Q. And do they accurately depict what you saw at that time?

24 A. Yes, sir.

25 Q. And other than State's Exhibit 7, which was taken

INV. SHEPPARD ON DIRECT

1 later, this is how it appeared that night?

2 A. Yes, sir.

3 SOLICITOR: Move State's 6 and 7 into evidence, Your
4 Honor.

5 THE COURT: Any objection?

6 SOLICITOR: No, sir.

7 THE COURT: Exhibits 6 and 7 are in evidence.

8 (Photographs admitted without objection as State's
9 Exhibits 6 and 7)

10 BY SOLICITOR:

11 Q. Could I have just one moment?

12 THE COURT: Say that again.

13 SOLICITOR: Your Honor, I'm going to stand here and ask
14 Ms. Hinds if she wanted to watch . .

15 THE COURT: Yes.

16 Q. This is not a great picture, but would you come up
17 here and show the jury State's Exhibit 2? Stand over there.
18 Show the jury where Ms. Glover's vehicle is, the blue Su-
19 burban?

20 A. Right here.

21 Q. Now, show the jury on State's Exhibit 2 where the white
22 vehicle was found that he was behind?

23 A. Yes. It was here.

24 Q. And Exhibit 4, that's Ms. Glover's vehicle?

25 A. Yes.

INV. SHEPPARD ON DIRECT

1 Q. And that's already in evidence. State's Exhibit 6 -- what
2 is that?

3 A. That's where I found the victim that night.

4 Q. State's 7 depicts the victim's body in relation to the
5 white vehicle?

6 A. Yes, sir.

7 Q. You can sit back down. Thank you.

8 (Brief pause in proceeding)

9 That's all I have. Thank you. Please answer any ques-
10 tions Defense Counsel may have.

11 THE COURT: All right, Ms. Hinds.

12 MS. HINDS: Just briefly, Your Honor.

13 CROSS EXAMINATION

14 BY MS. HINDS:

15 Q. You said you were the first to arrive, is that cor-
16 rect? That was your testimony?

17 A. Yes, maam.

18 Q. And you think that was in a short amount of time once
19 you got the call?

20 A. Yes.

21 Q. How long did it take for anybody else to get there?

22 A. It was pretty fast. I mean, it happened just like
23 that. (Gesturing)

24 Q. So very quickly?

25 A. Yes, maam.

INV. SHEPPARD ON CROSS

1 Q. Can you give me some idea of who else was there or
2 how many officers responded?

3 A. (Answer inaudible)

4 Q. So within a very short period of time there were a lot
5 of people out there?

6 A. Yes, maam.

7 Q. A lot of law enforcement officials there?

8 A. Yes, maam.

9 Q. But you are the one who taped off the scene, is that
10 correct?

11 A. Yes, maam.

12 Q. Were you still in the process of doing that when the
13 other officers arrived?

14 A. I'm sorry? I was probably in the process as they were
15 arriving.

16 Q. Okay, and you spoke with Mr. Fulmer?

17 A. Yes.

18 Q. That's the clerk in the store?

19 A. Yes, maam.

20 Q. Where exactly did you talk to him?

21 A.

22 Q. Inside or outside?

23 A. Inside.

24 Q. About how long did you speak with him?

25 A. Two or three minutes.

INV. SHEPPARD ON CROSS

1 Q. Long enough to identify him as a witness or somebody
2 who knew something. Correct?

3 A. Yes, that's correct.

4 Q. Okay. Do you know who may have reported the shots being
5 fired?

6 A. No, maam.

7 Q. And it was shortly after you came on the scene that
8 you saw Mr. Sims. Correct?

9 A. That is correct.

10 Q. Next to the Expedition?

11 A. The white SUV.

12 Q. And it was ultimately determined that was his car?

13 A. The car he was in, yes.

14 Q. Okay. Do you have any idea he had been laying there
15 when you got there? .

16 A. No, maam, I do not.

17 Q. You were the first to find him, correct?

18 A. Yes, maam. . The first officer.

19 Q. And I think you testified that you received information
20 from Shequanna Glover and Tanisha Glover, is that correct?

21 A. I did.

22 Q. And they were potential victims also. Correct?

23 A. Yes, maam.

24 Q. Were they -- when you arrived on the scene, were they
25 in the vehicle, were they standing outside, or . .

INV. SHEPPARD ON CROSS

- 1 A. They were out of the vehicle.
- 2 Q. Okay. Just standing in the parking lot?
- 3 A. Yes, maam.
- 4 Q. Were they near their vehicle?
- 5 A. They were in the parking lot. Yes, maam.
- 6 Q. And you spoke to both of them, correct?
- 7 A. I did. That's correct.
- 8 Q. Do you know how long they had been at the Bojangles?
- 9 A. No, maam.
- 10 Q. I believe one of the Glovers was actually taken by EMS.
- 11 Correct?
- 12 A. That is correct.
- 13 Q. And I think your testimony was that you also spoke with
- 14 Tanisha Thompson?
- 15 A. Correct.
- 16 Q. At that point were you still the only one there, or
- 17 was anybody with you when you spoke with them or when you
- 18 were talking with these people?
- 19 A. There were law enforcement officers all around there
- 20 when I spoke with them.
- 21 Q. And she's the one that said she was driving by and heard
- 22 a pop, and when she got to her residence she realized that
- 23 she had broken glass?
- 24 A. Correct.
- 25 Q. And she came -- she told you she came at that point back

INV. SHEPPARD ON CROSS

1 to the incident location?

2 A. Yes, she returned to the incident location.

3 Q. And that was in the Taurus?

4 A. That was in the Taurus.

5 Q. Did she give you any idea of knowing when she had been
6 by there? Did she know how long she'd been gone?

7 A. No, she said she went home and noticed her damage to
8 her vehicle when she got out and that's when she turned
9 around and went back to the incident location.

10 Q. Do you have any idea how far her residence was?

11 A. (Answer not audible) No, maam.

12 Q. Okay, and you spoke with Ms. Thompson, you said, is
13 that correct?

14 A. Yes.

15 Q. And you identified her as the driver of the blue SUV?

16 A. She told me she was driving it.

17 Q. Okay. Was she right there with Shaquanna and Tanisha?

18 A. Yes.

19 Q. Okay. Were the three of them actually in the vehicle
20 when the glass was shattered?

21 A. Yes, maam.

22 Q. All three of them?

23 A. Yes, maam.

24 Q. I believe you also spoke with an Ava McNeal?

25 A. Yes, maam.

INV. SHEPPARD ON CROSS

1 Q. She would be who?

2 A. Her vehicle was damaged.

3 Q. What kind of vehicle was that?

4 A. I believe she had a SUV also. A black SUV, I be-
5 lieve, maam.

6 Q. She told you that her vehicle was damaged also?

7 A. Yes, maam.

8 Q. Do you know what that damage consisted of?

9 A. I believe her damage came to about a Thousand Dollars.

10 Q. Did you actually see her vehicle?

11 A. I saw it.

12 Q. And where was it?

13 A. Parked on the side of Bojangles.

14 Q. You didn't actually see what happened that night, did
15 you? You weren't there when the shooting took place?

16 A. I was not there.

17 Q. And that was the end of your involvement, what you
18 have just said, is that correct?

19 A. Yes, maam.

20 Q. Thank you.

21 THE COURT: Any Redirect?

22 SOLICITOR: Very briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY SOLICITOR:

25 Q. There's something Ms. Hinds brought up that I failed

INV. SHEPPARD ON REDIRECT

1 to ask you about.

2 Just to clarify, I show you a photograph that is
3 State's Exhibit 3. That is you actually in the photograph
4 walking toward the victim?

5 A. Yes, sir.

6 Q. Okay, and that's all I have. Thank you.

7 THE COURT: Anything on Recross?

8 SOLICITOR: No, sir.

9 THE COURT: You may step down. Thank you, sir.

10 (Witness excused from stand)

11 SOLICITOR: Tanisha Thompson, Your Honor.

12 TANISHA THOMPSON, being
13 duly sworn, testified as follows:

14 CLERK: You may have a seat. Please state your name
15 for me.

16 WITNESS: Tanisha Thompson.

17 THE COURT: Speak up, please. You may examine, Solici-
18 tor.

19 DIRECT EXAMINATION

20 BY SOLICITOR:

21 Q. Good afternoon, Tanisha. Are you doing all right?

22 A. Yes, sir.

23 Q. I appreciate your being here today.

24 How old are you, Tanisha?

25 A. I'm thirty-five.

MS. THOMPSON ON DIRECT

1 Q. Do you live here in Orangeburg County?

2 A. Yes, sir.

3 Q. How long have you lived here?

4 A. All my life.

5 Q. Who do you live with?

6 A. I live with my parents.

7 Q. Do you ever go to the Shell-Bojangles on Chestnut
8 Street?

9 A. Yes, sir, I do. I've been there several times.

10 Q. Here in Orangeburg County?

11 A. Yes.

12 Q. For what reason would you go there?

13 A. To purchase gas or cigarettes.

14 Q. I want to ask you some questions about early Saturday
15 morning on June 12th of 2010. Last year.

16 Do you remember that early morning pretty well?

17 A. Yes.

18 Q. Why is that?

19 A. Because I was out there during the time of the shoot-
20 ing.

21 Q. Okay. Tell the jury where you were sometime around
22 twelve thirty that morning?

23 A. I had stopped at Bojangles to get me a bottled water.

24 Q. How did you get there?

25 A. My car.

MS. THOMPSON ON DIRECT

1 Q. What kind of car were you driving back in June of last
2 year?

3 A. (Inaudible)

4 Q. Did you go to the store by yourself?

5 A. Yes.

6 Q. And where did you park at the store?

7 A. On the side area.

8 Q. How long approximately did you stay at the store?

9 A. Probably about ten minutes.

10 Q. Let me ask you this. Did you see the shooting that
11 night?

12 A. No.

13 Q. Did you see anybody with guns that night?

14 A. No, I didn't.

15 Q. Tell the jury what you did observe and hear while you
16 were out at Bojangles or left from Bojangles that night?

17 A. . .

18 Q. Was the Bojangles open?

19 A. Not the Bojangles. Just the Shell gas station.

20 Q. But the Shell gas station that was -- that Bojangles
21 was connected to?

22 A. Yes.

23 Q. Tell the jury what you heard or saw that early morn-
24 ing, Tanisha?

25 A. When I got to the store I went in to get what I went

MS. THOMPSON ON DIRECT

1 there for but I came back out because it was kind of
2 crowded. I spoke with a young lady that I knew for a few
3 minutes and we were getting ready to leave.

4 I got in my vehicle and proceeded to make a right out
5 of there . .

6 Q. Uh huh.

7 A. As I was making a right I noticed a sound that I didn't
8 know -- it sounded like a car backfiring, and I noticed a
9 bunch of people running.

10 So when I realized what had taken place I got really
11 scared and I just took off.

12 Q. Okay. What did you end up realizing about your car
13 when you got down the road that night?

14 A. That my window on the right passenger side behind the
15 driver's seat was shattered and that there was a bullet in
16 my door.

17 Q. Okay, and after you saw the bullet in your door and
18 that the window was shattered, what did you do?

19 A. I returned to the store. Well, actually I called my
20 -- I stopped at McDonald's and called my mom and told her
21 what had happened, and she advised me that she was on the
22 way, and we both went back to the store.

23 Q. So she were close to your mom, weren't you?

24 A. Yes.

25 Q. And did you show the police the damage to your vehicle?

MS. THOMPSON ON DIRECT

1 A. Yes.

2 Q. And you told them what you told the jury about hearing
3 what you had thought was a car backfiring?

4 A. Yes.

5 Q. And that your car had been hit or struck?

6 A. Yes.

7 Q. I show you State's Exhibit Number 1. Have you had an
8 opportunity to look at the video of the incident that hap-
9 pened at Bojangles that night or early morning?

10 A. Yes.

11 Q. And were you able to point out on that video where
12 your car was?

13 A. Yes.

14 Q. And where you were?

15 A. Yes.

16 SOLICITOR: I would ask that State's Exhibit 1 be ad-
17 mitted into evidence.

18 MS. HINDS: No objection.

19 THE COURT: Okay, without objection.

20 (Video admitted in evidence without objection as
21 State's Exhibit 1)

22 THE COURT: Are you going to . .

23 SOLICITOR: We are going to show the video.

24 THE COURT: All right.

25 (Brief pause in the proceeding)

MS. THOMPSON ON DIRECT

1 BY SOLICITOR:

2 Q. Come on down here, Tenisha, and I'll need you to speak
3 up for me loud enough that Ms. Harry Dot can hear you. Okay?

4 A. Okay.

5 THE COURT: Ms. Thompson, you are over there so you're
6 going to have to talk louder. The jury needs to hear you
7 as well.

8 Q. I'm going to try and get out of everybody's way. All
9 right.

10 Let me ask you this. Whose burgandy vehicle is that
11 right there at about twelve forty-one A.M. on June 12th by
12 the Bojangles?

13 A. That's my car.

14 Q. And are we going to be able to see you and your vehicle
15 on camera four and camera five? Is that where we'll be able
16 to see you?

17 A. I don't remember the actual cameras but I can point it
18 out to you.

19 SOLICITOR: Go ahead and play it forward, all views --
20 well, actually camera four.

21 (Video being shown)

22 Q. Is that your vehicle coming up?

23 A. Yes.

24 Q. Okay.

25 Are you going to get out of the car in about a minute

MS. THOMPSON ON DIRECT

1 and go in the store?

2 A. Yes.

3 SOLICITOR: Go to camera five.

4 (Video being shown)

5 BY SOLICITOR:

6 Q. You can kind of go fast to twelve forty-two, if you
7 want to. Stop in about forty seconds.

8 Stop right there at that point. I don't want to miss
9 it.

10 Who is that right there going in the store?

11 A. That's me entering the store.

12 Q. What were you going to go buy in the store?

13 A. I was going to get me some cigarettes and water.

14 Q. And you went in the store?

15 A. I did.

16 SOLICITOR: Go now to forty-six forty.

17 Q. We can also see you coming out of the store?

18 A. Yeah.

19 Q. Were you even paying attention to anything that's going
20 on outside?

21 A. No.

22 Q. Who is exiting the store at forty-six forty-four?

23 A. That's me.

24 Q. Where did you go back to when you got your cigarettes?

25 A. I went back to my vehicle that was parked on the side.

MS. THOMPSON ON DIRECT

1 Q. Did you know this person here by any chance?

2 A. Yes, it was (inaudible) that I was speaking with.

3 Q. Okay. Did you know this guy who was walking around, by
4 any chance?

5 A. Yes, I know him.

6 Q. Is he a friend?

7 A. Just someone I know.

8 Q. Okay. Speed it up to forty-eight forty-five.

9 Are you paying attention to anything that's going on
10 at the Bojangles and Shell Station right now?

11 A. No.

12 (Video still being shown)

13 Q. Who is that right there?

14 A. That's my vehicle.

15 Q. You're turning left right there -- you see people run-
16 ning?

17 A. Uh hm.

18 Q. Okay. Go to camera five. Stop it there.

19 I believe you put your blinker on?

20 A. Uh hm.

21 Q. So are you paying attention to this at all?

22 Do you know there's even a shooting going on?

23 A. No, I didn't even know until I saw everyone running.

24 Q. What did you tell the jury you thought you heard as you
25 were leaving?

MS. THOMPSON ON DIRECT

1 A. I just thought -- I heard a sound and I thought it was
2 a car backfiring.

3 Q. Go to six. Back it up, keep backing. Stop.

4 Did you see this person firing a gun in your rear view
5 mirror?

6 A. I never saw anybody firing a gun. All I saw was peo-
7 ple running, and it just scared me.

8 Q. You didn't see anything like that?

9 A. No.

10 Q. You can sit back down. Thank you.

11 I'll ask you to do one more thing for me. Okay?

12 A. Okay.

13 Q. If I'm Tanisha and I'm driving -- show the jury where
14 the car was struck by a bullet?

15 A. Okay, this is the driver, and this on the driver's
16 side. It was right up in here. It was directly behind me
17 and it was right up in here that it actually struck.

18 Q. So right behind you?

19 A. Uh hm.

20 Q. What happened to the glass?

21 A. It shattered my glass.

22 Q. Thank you.

23 SOLICITOR: Beg the Court's indulgence.

24 THE COURT: Yes, sir.

25 (Brief pause in proceeding)

MS. THOMPSON ON DIRECT

1 BY SOLICITOR:

2 Q. Do you have a car any more, Tanisha?

3 A. No, I don't.

4 Q. Did you sell it?

5 A. Yes.

6 Q. I really appreciate your coming down. I know you have
7 a lot to do today.

8 Please answer any questions Ms. Hinds may have for you.

9 A. Okay.

10 THE COURT: Ms. Hinds, your witness.

11 CROSS EXAMINATION

12 BY MS. HINDS:

13 Q. So basically from the Solicitor's questions, you didn't
14 see anything?

15 A. No.

16 Q. Your car was damaged as you were pulling away. Is that
17 correct?

18 A. Yes, ma'am.

19 Q. Who is the girl that you were talking to?

20 A. Adrianna Green.

21 Q. So there is no one that you can identify?

22 A. No, ma'am.

23 Q. Were you also talking to a guy out there?

24 A. Yes.

25 Q. Who was that?

MS. THOMPSON ON CROSS

1 A. His name was Carl but I don't know his last name.

2 Q. Okay. You heard a shot as you were pulling away?

3 A. Yes.

4 A. But you didn't know what was going on out there at the
5 time?

6 A. No, I didn't.

7 Q. No further questions. Thank you.

8 THE COURT: Anything on Redirect?

9 SOLICITOR: No, sir.

10 THE COURT: Thank you, maam. You can step down. Is
11 this witness excused?

12 SOLICITOR: Yes, sir.

13 THE COURT: All right. Next witness.

14 SOLICITOR: Shaquanna Glover, Your Honor.

15 THE COURT: All right, come up here.

16 SHAQUANNA GLOVER, being
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY SOLICITOR:

20 Q. State your name, please?

21 A. Shaquanna Glover.

22 Q. Good afternoon, Ms. Glover, are you doing all right
23 today?

24 A. Yes, sir.

25 Q. How old are you, Ms. Glover?

MS. GLOVER ON DIRECT

1 A. Twenty-one.

2 Q. You live here in Orangeburg County?

3 A. Yes, sir.

4 Q. How long have you lived in Orangeburg County?

5 A. All my life.

6 Q. And do you know Ms. Bernice Glover?

7 A. Yes.

8 Q. How well do you know Ms. Bernice Glover?

9 A. She's my mother.

10 Q. Who is Thelma Glover?

11 A. That's my cousin.

12 Q. What about a Ms. Sandra Thomas?

13 A. My cousin.

14 Q. Okay. Shaquanna, did you or do you even know the De-
15 fendant, Ronald Smith?

16 A. No.

17 Q. Back in June of 2010?

18 A. No.

19 Q. Did you know a Defendant by the name of Jarrod Jacques?

20 A. No.

21 Q. Did you know a man by the name of Donald Harmon?

22 A. No.

23 Q. Brandon Bradley?

24 A. No.

25 Q. Orlando Haynes?

MS. GLOVER ON DIRECT

1 A. No.

2 Q. Any of the people involved in a shooting at the Bojangles
3 that night? Know any of them?

4 A. No, sir.

5 Q. Tell the jury who you were hanging out with around mid-
6 night of Saturday, June 12th? Or right after midnight?

7 A. Bernice Glover, Thelma Glover, . . .

8 Q. Sandra Thomas?

9 A. Right.

10 Q. And Ms. A. J. Foster, a family friend?

11 A. Yes.

12 Q. Tell the jury what you were going to do that night?

13 A. When we left my house, we were going to Thelma's house
14 and when we got by the Bojangles gas station, we stop on
15 the way to Thelma's house.

16 Q. Whose vehicle did you guys take?

17 A. Thelma's car. Thelma Glover.

18 Q. Who was driving?

19 A. Thelma.

20 Q. Tell the jury where you were sitting in Thelma's car?

21 A. The back driver's side.

22 Q. Back driver's side?

23 A. Yes, sir.

24 Q. Where was everybody else sitting in Thelma's car?

25 A. Sandra was in the front and we was in the back.

MS. GLOVER ON DIRECT

1 Sandra and Thelma were in the front and I was in the back.

2 Q. Okay. I want to show you what's marked State's Ex-
3 hibit 9. Do you recognize the vehicle in that photograph
4 there?

5 A. Yes.

6 Q. Does it accurately depict where you and Thelma and
7 your mother and Ms. Thomas were that night?

8 A. Yes.

9 SOLICITOR: I would move State's Exhibit 9 into evi-
10 dence, Your Honor.

11 MS. HINDS: No objection.

12 THE COURT: State's 9 in evidence..

13 (Photograph admitted without objection as State's
14 Exhibit 9)

15 BY SOLICITOR:

16 Q. That's your vehicle right there?

17 A. Yes.

18 Q. You all's vehicle?

19 A. Yes.

20 Q. Where were you sitting in that blue SUV?

21 A. Back driver's side.

22 Q. This was taken off the video, is that right?

23 A. Yes.

24 Q. And you've seen that video?

25 A. Yes.

MS. GLOVER ON DIRECT

1 Q. Did you know anyone in this white video, the white
2 vehicle here?

3 A. No.

4 Q. Did you know any of the people in that vehicle?

5 A. No.

6 Q. Had you seen that white vehicle before that day?

7 A. Not that I know of.

8 Q. Tell the jury what happened when you guys parked at
9 the Shell station that night?

10 A. We pulled up to the station and Sandra got out to go
11 inside the store, and my cousin came up to a truck on my
12 side with a guy.

13 Thelma was standing close to him and she was talking
14 to him, and as he was talking to her my mind said he got
15 a gun, and I looked up and I seen a guy standing in front
16 of the store ^{with like a bandanna on} and I seen him with a gun in his hand, and
17 that's when I heard the first bullet fired as his hand came up.

18 Q. What happened next? You said you heard a bullet . . .

19 A. Well, I was trying to get out of the vehicle but I can-
20 not open the door, and by the time I opened the door a shot
21 hit me.

22 Q. Tell the jury where the bullet went through the door
23 that hit you?

24 A. Where was I hit?

25 Q. Where the bullet came in through the door and hit you.

MS. GLOVER ON DIRECT

1 A. Okay, it came through the right side into the back.

2 Q. Showing you State's Exhibit 4, is that -- where the
3 window is shattered, is that where the bullet went through?

4 A. Yes.

5 Q. Where you were actually hit?

6 A. Me?

7 Q. Yes.

8 A. (Inaudible)

9 Q. As you were trying to get out of the vehicle you got hit?

10 A. Yes, sir.

11 Q. And you were behind the driver?

12 A. Yes.

13 Q. What did you do?

14 A. I tried to get out of the car.

15 Q. Had you ever been through anything like this before?

16 A. No.

17 Q. Can you describe for the jury how scary it was for you?

18 A. It was very scary.

19 Q. Do you even know how many gunshots you heard on that
20 night?

21 A. No, but it was a lot.

22 Q. A lot?

23 A. Yeah.

24 Q. Other than the person you saw with the gun on the side
25 of the vehicle, did you see anybody else with guns?

MS. GLOVER ON DIRECT

- 1 A. No.
- 2 Q. Were you looking to see any other people with guns?
- 3 A. No.
- 4 Q. What did you want to do?
- 5 A. I wanted to get to safety.
- 6 Q. Tell the jury, after the shooting finally stopped,
- 7 where you ended up going?
- 8 A. With EMS.
- 9 Q. How much pain were you in?
- 10 A. A lot of pain.
- 11 Q. What happened when you got to the hospital?
- 12 A. I got stitches.
- 13 Q. Where did you get the stitches? Tell the jury where
- 14 the bullet hit you?
- 15 A. Right here, on my neck.
- 16 Q. Do you still have a scar there underneath your hair?
- 17 A. Yes.
- 18 Q. Do you know how many stitches you had to get?
- 19 A. (Inaudible)
- 20 Q. Do you remember giving the police a statement that
- 21 night?
- 22 A. Yes.
- 23 Q. At two twenty-three in the morning they came and talked
- 24 to you and you gave a statement?
- 25 A. Yes.

MS. GLOVER ON DIRECT

1 Q. Did you think you could recognize the gunmen again if you
2 saw them?

3 A. Yes, I did think so. The one with the red bandanna?

4 Q. You thought you could recognize that one person you
5 saw with the red bandanna?

6 A. Yes, sir.

7 Q. Is he the only person that you got a look at?

8 A. Yes, sir.

9 Q. Okay, a couple more things. Let me show you what's
10 been marked as State's Exhibit 8. Do you recognize that?

11 A. Yes.

12 Q. Does that actually depict the damage the bullet caused
13 that night?

14 A. Yes.

15 SOLICITOR: I would ask that State's Exhibit 8 be
16 admitted in evidence.

17 MS. HINDS: No objection.

18 THE COURT: State's Exhibit 8 in evidence.

19 (Photograph admitted in evidence without objection as
20 State's Exhibit 8)

21 BY SOLICITOR: You had a pretty bad time that night, didn't
22 you?

23 A. Yes, sir.

24 Q. Did you go there looking for a gunfight that night?

25 A. No, sir.

MS. GLOVER ON DIRECT

1 Q. Were you armed with a gun that night?

2 A. No, sir.

3 Q. You testified you thought you could identify one of
4 the gunmen. Let me show you what's been marked as State's Ex-
5 hibit 10. Do you recognize that photograph?

6 A. Yes.

7 Q. Is that a still photograph from the video?

8 A. Yeah.

9 Q. What do you recognize that to be?

10 A. This is the guy with the do-rag on here.

11 Q. With the do-rag on?

12 A. Yes. The red bandanna.

13 Q. And State's Exhibit 10 is a still photograph of the
14 point of view that you had as far as the gunman that you saw?

15 A. Yes.

16 SOLICITOR: I would ask that State's Exhibit 10 be
17 admitted into evidence.

18 MS. HINDS: No objection.

19 THE COURT: Exhibit 10 in evidence.

20 (Photograph admitted without objection in evidence
21 as State's Exhibit 10)

22 BY SOLICITOR:

23 Q. You're speaking of this person right here?

24 A. Yes.

25 85

MS. GLOVER ON DIRECT

1 Q. And, of course, you're here in this SUV?

2 A. Yes, sir.

3 Q. All right. You told the police that you could iden-
4 tify that gunman?

5 A. Yes.

6 Q. And obviously he's not the person who shot you though,
7 is he?

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

9 Q. That shot came from the side?

10 A. Right.

11 Q. And do you remember the very next day, on June 13th, an
12 investigator coming and meeting with you?

13 A. Yes.

14 Q. Did he show you some pictures?

15 A. Yes.

16 Q. Let me show you what's been marked as State's Exhibit 11.
17 Do you recognize that?

18 A. That's what he showed me.

19 Q. And did he ask if you recognized anyone in those photo-
20 graphs? Whether you recognized anybody?

21 A. Yes.

22 Q. Did you recognize anyone?

23 A. Number one.

24 Q. Why did you recognize number one?

25 A. He was the guy with the bandanna.

MS. GLOVER ON DIRECT

1 Q. That was across from you?

2 A. Yes.

3 SOLICITOR: I'd ask that Number 11 be admitted into
4 evidence.

5 MS. HINDS: No objection.

6 THE COURT: Number 11 in evidence.

7 (Photograph admitted without objection as State's Ex-
8 hibit 11)

9 BY SOLICITOR:

10 Q. And this is the person who was standing there with the
11 do-rag?

12 A. Yes.

13 Q. And did you also fill out an affidavit that that was
14 the person who had on the red bandanna?

15 A. Yes.

16 Q. Is this the actual affidavit you filled out for the in-
17 vestigator?

18 A. Yes.

19 Q. Marked State's Exhibit 12.

20 A. Yes, sir.

21 SOLICITOR: I'd ask that State's 12 be admitted into
22 evidence, Your Honor.

23 MS. HINDS: No objection.

24 THE COURT: Okay, in evidence.

25 (Affidavit of witness admitted without objection as

MS. GLOVER ON DIRECT

1 State's Exhibit 12)

2 BY SOLICITOR:

3 Q. Did he ever show you any other photo lineup?

4 A. No.

5 Q. Would you have been able to pick out anyone from any
6 other photo lineup?

7 A. No, I wouldn't.

8 Q. Did you know Brandon Bradley, the person you picked out
9 of the lineup back in 2010?

10 A. No.

11 Q. If I've asked you this, I apologize, but in 2004 you
12 got a Magistrate's Court conviction for obtaining property
13 under false pretenses?

14 A. Yes.

15 Q. And despite that, you assisted law enforcement that
16 night?

17 A. Yes, sir.

18 Q. You did the right thing?

19 A. Yes, sir.

20 SOLICITOR: Thank you, Shaquanna. Answer any questions

21 Ms. Hinds has for you.

22 THE COURT: Ms. Hinds, you may cross.

23 CROSS EXAMINATION

24 BY MS. HINDS:

25 Q. You got to the Bojangles around one o'clock that morning,

MS. GLOVER ON DIRECT

1 correct?

2 A. Yes.

3 Q. Okay, and you were with family and friends as you've
4 described to the jury?

5 A. Yes, maam.

6 Q. In a blue Suburban?

7 A. Yes.

8 Q. And Sandra was the only one who had gotten out?

9 A. Yes, maam.

10 Q. And she's buying something or doing something inside?

11 A. Yes.

12 Q. Okay. Is she inside when this was happening or when the
13 shooting started?

14 A. I believe she was inside.

15 Q. I believe you told the police you saw a black man with
16 a gun in his right hand with a white wife-beater and blue
17 jeans. Correct?

18 A. Yes, maam.

19 Q. And that was the man with the red bandanna also?

20 A. Yes.

21 Q. You didn't know the man?

22 A. No.

23 Q. Okay, so not knowing him, you couldn't have any problems
24 with him. Correct?

25 A. Correct.

MS. GLOVER ON CROSS

1 Q. You told the officers he was arguing with another black
2 man with a white tee shirt?

3 A. I don't remember saying that.

4 Q. You don't remember saying that?

5 A. No.

6 Q. You don't remember telling him about an argument, is
7 that correct?

8 A. Correct.

9 Q. So the only person basically that you saw was the per-
10 son with the red bandanna?

11 A. Yes.

12 Q. And you picked him out of the lineup?

13 A. Yes, maam.

14 Q. You were in a car next to the Impala?

15 A. . . .

16 Q. In other words, your SUV was here and the Impala would
17 have been here along side of you?

18 A. Yes, maam.

19 Q. Were the front of both cars at the same place? In
20 other words, . . .

21 A. We were beside it but I didn't think about that being
22 the one. I didn't realize the car was there back then.

23 Q. And the SUV sits up a ways too?

24 A. Yes.

25 Q. And the Impala would have been a lower car, so you

MS. GLOVER ON CROSS

1 probably wouldn't have?

2 A. That's right.

3 Q. Even if you had realized it was there?

4 A. Yes.

5 Q. You are in the back seat on the driver's side, correct?

6 A. Yes.

7 Q. And other than the guy with the bandanna, you didn't see
8 anybody else?

9 A. No.

10 Q. Thank you.

11 THE COURT: Any Redirect?

12 SOLICITOR: No, sir.

13 THE COURT: You may step down. Thank you, maam.

14 (Witness excused from stand)

15 (Witness excused by the Court without objection)

16 THE COURT: Solicitor?

17 SOLICITOR: May we approach, Your Honor?

18 THE COURT: Yes, sir.

19 (Conference at the bench between counsel and the Court
20 off the record)

21 THE COURT: Before we go forward with the next witness,
22 the parties have agreed to this stipulation, which I am
23 going to read into the record for you.

24 The parties have stipulated that the Defendant, Ronald
25 Smith, is the person on the video without a shirt on, who

1 arrived driving a Chevy Impala and left the scene also driv-
2 ing a Chevy Impala.

3 The Chevy Impala is depicted in State's Exhibits 22
4 through 24.

5 All right, you may call your next witness.

6 SOLICITOR: Yes, sir. State calls Stanley Richard
7 Russell.

8 STANLEY RICHARD RUSSELL,
9 being duly sworn, testified as follows:

10 CLERK: Please have a seat and state your name for the
11 record.

12 WITNESS: Deputy Richard Russell.

13 DIRECT EXAMINATION

14 BY SOLICITOR:

15 Q. Deputy Russell, please tell the jury where you're em-
16 ployed?

17 A. Orangeburg County Sheriff's Office.

18 Q. I can tell from your uniform that you have other em-
19 ployment also?

20 A. That's correct. I am a member of the 133rd Engine Com-
21 pany which is being activated (portion not audible on cas-
22 sette) -- deployed to Afghanistan. I leave on the 30th.

23 Q. Deputy, tell us how long you've been with the Orange-
24 burg County Sheriff's Office?

25 A. A year.

DEP. RUSSELL ON DIRECT

1 Q. What are your current duties there?

2 A. Deputy, road patrol.

3 Q. Turning your attention back to June 12th of 2010, were
4 you involved in having a vehicle towed that day?

5 A. That is correct.

6 Q. Tell the jury where you had the vehicle towed from?

7 A. It was towed from St. James Street in Orangeburg
8 County.

9 Q. Okay.

10 A. From a vacant lot there, in Orangeburg.

11 Q. And what kind of vehicle was that?

12 A. It was a silver in color Chevy, 2003, Impala.

13 Q. Showing you State's Exhibit Number 22 and 23, and ask
14 if that is the car?

15 A. Yes, sir.

16 SOLICITOR: Your Honor, at this time we offer State's
17 22 and 23 in evidence.

18 MS. HINDS: Without objection.

19 THE COURT: State's 22 and 23 in evidence.

20 (Photographs admitted in evidence without objection as
21 State's Exhibits 22 and 23)

22 BY SOLICITOR:

23 Q. And you said that vehicle was on a vacant lot?

24 A. Yes.

25 Q. On St. James Street?

DEP. RUSSELL ON DIRECT

1 A. Yes, that's correct.

2 Q. And where is that in relation to Jameson Avenue?

3 A. About a block.

4 Q. All right, and was anybody with the vehicle?

5 A. There wasn't, no.

6 Q. Was there any damage to the vehicle?

7 A. I noticed what appeared to be a -- it appeared the
8 windshield of the vehicle was struck by a bullet. That was
9 the only damage that I noticed.

10 Q. Showing you State's Exhibit 24. Is that the damage
11 you noticed to that Impala? Does that accurately depict it?

12 A. That's correct.

13 SOLICITOR: Offer State's Exhibit 24 into evidence.

14 MS. HINDS: Without objection.

15 THE COURT: State's 24 in evidence.

16 (Photograph admitted without objection as State's
17 Exhibit 24 in evidence)

18 BY SOLICITOR:

19 Q. Did you at that point in time take the apparently
20 abandoned vehicle?

21 A. Yes.

22 Q. What then would you have done with that Impala?

23 A. I had it towed and ran the tag on it to find out who
24 the vehicle belonged to, and I contacted the Sheriff Office,
25 Sergeant Hunter, and had the vehicle towed to the County

DEP. RUSSELL ON DIRECT

1 impound lot.

2 Q. Is that where these photographs were taken, 22 and 23?

3 Was that also at the impound lot?

4 A. That's correct.

5 Q. Did you have any part of the processing of the vehicle?

6 A. No, I did not.

7 Q. Was that vehicle ultimately turned back over to the reg-
8 istered owner?

9 A. Yes, it was.

10 Q. Who was that?

11 A. It was registered to a Ms. Jenkins.

12 Q. Thank you, Deputy Russell. Please answer any questions
13 Ms. Hinds has.

14 THE COURT: You may Cross.

15 MS. HINDS: I don't have any questions. Thank you.

16 THE COURT: You may step down.

17 (Witness excused from stand)

18 SOLICITOR: The State calls Lieutenant

19 GERALD DAVID CARTER

20 being duly sworn, testified as follows:

21 CLERK: Please state your name.

22 WITNESS: My name is Gerald David Carter.

23 DIRECT EXAMINATION

24 BY SOLICITOR:

25 Q. Lieutenant Carter, please tell the jury where you're

LT. CARTER ON DIRECT

1 employed?

2 A. I'm employed with the Orangeburg County Sheriff's De-
3 partment.

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

5 A. I've been full time with the Sheriff's Office nineteen
6 years. I was a reserve officer for four and a half years.

7 Q. And what are you current responsibilities with the
8 Sheriff's Department?

9 A. I'm a Lieutenant over the forensic unit for the Orange-
10 burg County Sheriff's Office.

11 Q. And, Lieutenant Carter, back in June of last year, 2010,
12 were you involved in executing a search warrant on the Chevy
13 Impala that is depicted in State's 22 and 23?

14 A. Yes, sir, I was.

15 Q. And when did that occur?

16 A. I think it was on the 16th -- June 16th.

17 Q. Did you take these photographs?

18 A. Yes, I did.

19 Q. What was the date and time you did that?

20 A. June 16th of 2010.

21 Q. That morning?

22 A. That morning, yes, sir.

23 Q. And describe for the jury the condition of that vehicle
24 when you processed it for evidence?

25 A. The only thing of note was it had obviously sustained

LT. CARTER ON DIRECT

1 a bullet impact. A bullet passed through the front wind-
2 shield and ricocheted off the dashboard and ended up in
3 the ceiling and was embedded in the ceiling, which also left
4 a hole in the fabric of the ceiling.

5 Q. Showing you State's Exhibit 24, is that the bullet, or
6 where it entered the windshield?

7 A. Yes, sir, it is.

8 Q. Showing you State's 25 through 28, do those accurately
9 reflect the damage to the interior of the vehicle from the
10 contact with the bullet?

11 A. Yes, they do.

12 SOLICITOR: Move to admit State's 25 through 28.

13 MS. HINDS: No objection.

14 THE COURT: State's 25 through 28 in evidence

15 (Photographs admitted without objection as State's 25,
16 26, 27, 28 in evidence)

17 BY SOLICITOR:

18 Q. You indicated, Lieutenant Carter, that when the bullet
19 passed through the windshield it appeared to have hit what
20 inside the vehicle? initially?

21 A. The dashboard.

22 Q. Showing you State's Exhibit 25, is that what is depicted
23 there, the damage to the dashboard?

24 A. Yes, sir, it is.

25 Q. And where did it appear to go when it ricocheted off

LT. CARTER ON DIRECT

1 the dashboard?

2 A. Into the ceiling. The roof of the car padding.

3 Q. Showing you State's Exhibit 26 and 27. Is that what
4 is depicted there?

5 A. Yes, sir, it is.

6 Q. Is that basically up near the dome light inside of the
7 vehicle?

8 A. Yes, sir.

9 Q. What did you then do upon finding that?

10 A. Searched for the bullet up in the padding because there
11 was no exit. It had to be in the padding somewhere.

12 Q. And is State's 28 an enlarged photograph of that bullet?

13 A. Yes, sir. That's the bullet I recovered from the ceil-
14 ing.

15 Q. Did you then collect that bullet which is shown in
16 State's Exhibit 28?

17 A. Yes.

18 Q. And showing you State's Exhibit 29, is that the bullet
19 right there?

20 A. Yes, sir, it is.

21 Q. And what is on the envelope there?

22 A. It's my handwriting in black and someone else put the
23 lab number, but the black writing is mine.

24 SOLICITOR: At this time we would offer State's 29 in
25 evidence.

LT. CARTER ON DIRECT

1 MS. HINDS: No objection.

2 THE COURT: State's 29 in evidence.

3 (Bullet and envelope entered in evidence without objec-
4 tion as State's Exhibit 29)

5 BY SOLICITOR:

6 Q. And where ~~was~~ this bullet sent for further analysis?

7 A. To the SLED Laboratory.

8 Q. And that's where the other writing got on there?

9 A. Yes, sir.

10 Q. Thank you. Please answer any questions Ms. Hinds has.

11 CROSS EXAMINATION

12 BY MS. HINDS:

13 Q. Just to sum, up, you executed the search warrant on the
14 car, correct?

15 A. Yes, maam.

16 Q. And you determined that a bullet originated from the
17 exterior, passed through the windshield, hit the dash, ul-
18 timately resting in the padding near the dome light?

19 A. Yes, maam.

20 Q. And you recovered that bullet?

21 A. Yes, maam.

22 Q. And you took pictures of everything?

23 A. Yes.

24 Q. And as far as the actual incident at Bojangles, you
25 have no personal knowledge of that?

LT. CARTER ON CROSS

1 A. No.

2 Q. Thank you.

3 THE COURT: Any Redirect?

4 SOLICITOR: No, sir.

5 THE COURT: Thank you, sir. You may step down.

6 SOLICITOR: We'd call Sandra Thomas.

7 SANDRA THOMAS, being

8 duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY SOLICITOR:

11 Q. I appreciate your sticking around, Sandra. Your name
12 is Sandra Thomas?

13 A. That's right.

14 Q. Speak up as loud as you can. Okay?

15 A. Yes.

16 Q. Good. Where do you live, Ms. Thomas?

17 A. (Inaudible)

18 Q. Okay, is that in Orangeburg County?

19 A. Yes, sir.

20 Q. How long have you lived in Orangeburg County?

21 A. All my life.

22 Q. Do you have any children?

23 A. I have two girls and eight grand.

24 Q. Eight grandchildren?

25 A. Yes.

MS. THOMAS ON DIRECT

1 Q. They keep you busy?

2 A. Yes.

3 Q. Let me ask you some questions about the early morning
4 hours of June 12, 2010, okay? Last year.

5 Who were you with that night or early morning?

6 A. Apple.

7 Q. Apple -- is that Thelma Glover?

8 A. Yes.

9 Q. And you were with her cousins, Bernice Glover and
10 Shaquanna?

11 A. Yes.

12 Q. Okay. Where did you all end up going that night?

13 A. Well, there was a fish fry and then we stopped at the
14 store because I wanted to get me a ginger ale.

15 Q. Okay. The store being the Shell station and Bojangles
16 on Chestnut?

17 A. Yes.

18 Q. Is this the area on State's Exhibit 2 where you all
19 pulled into?

20 A. Yeah.

21 Q. And that is depicted there?

22 A. Yes.

23 Q. And you were in that blue SUV?

24 A. Right.

25 Q. Where were you sitting in that blue SUV?

MS. THOMAS ON DIRECT

1 A. In the front on the passenger side.

2 Q. Who was driving?

3 A. Apple.

4 Q. Thelma Glover?

5 A. Yes.

6 Q. Did you ever exit the vehicle, Sandra?

7 A. No.

8 Q. Did you get out of the vehicle at the store?

9 A. Yes, to go in the store.

10 Q. Why did you get out?

11 A. To get me a ginger ale.

12 Q. Did you end up getting that ginger ale?

13 A. No.

14 Q. What was the first thing that happened when you got in
15 the store?

16 A. (Inaudible)

17 Q. Did you see anything before you went into the store?

18 A. Nothing but the guy that took off his shirt.

19 Q. Did you see any weapons that night?

20 A. (Inaudible).

21 Q. Did you see anything outside the store?

22 A. No.

23 Q. Did you see anybody with any guns when you were outside
24 the store?

25 A. No.

MS. THOMAS ON DIRECT

1 Q. Is that what you've been telling the investigators and
2 me since this incident?

3 A. Yes.

4 Q. Are you sure?

5 A. Yes, sir.

6 Q. Okay. Do you remember ever telling investigators in
7 my office that when you went in the station that night you
8 yelled out that they've got guns?

9 A. Yes.

10 Q. Is that true, that when you went in the Shell sta-
11 tion you yelled out that they've got guns?

12 A. Yes.

13 Q. Why didn't you tell that to the jury a couple of min-
14 utes ago? Are you a little nervous?

15 A. Yeah.

16 Q. Okay, tell the jury what you saw when you exited your
17 vehicle?

18 A. I said they've got guns.

19 Q. Tell them what you saw, not what you said, when you
20 exited your vehicle?

21 A. I saw some with guns.

22 Q. Were you scared that night?

23 A. Yeah. I was scared because I thought I was going to
24 get hit. I was scared for the ones with me.

25 Q. How many people did you see with guns?

MS. THOMAS ON DIRECT

1 A. Just one.

2 Q. Just one?

3 A. Yeah.

4 Q. Let me show you some pictures. Okay? State's Exhibits
5 13, 14 and 15. Do you recognize those still photos?

6 A. . .

7 Q. You can take a look at each one.

8 A. This one.

9 Q. You recognize 13?

10 A. Yes.

11 Q. Does that accurately depict you going into the Shell
12 station?

13 A. Yes.

14 Q. And that's 13, 14 and 15?

15 A. Yes.

16 SOLICITOR: I would ask that State's Exhibits 13, 14 and
17 15 be admitted into evidence.

18 MS. HINDS: No objection.

19 THE COURT: Admitted without objection.

20 (Photos admitted in evidence without objection as
21 State's Exhibits 13, 14 and 15)

22 BY SOLICITOR:

23 Q. Do you see on State's Exhibit 15 where the person was
24 that you saw with a gun?

25 A. Here.

MS. THOMAS ON DIRECT

1 Q. Q. Step down here. Right there?

2 A. Yes.

3 Q. What did the person have on that you saw with the gun?

4 A. A white shirt.

5 SOLICITOR: Your Honor, in the interest of time can I
6 just recall her? I don't have any further questions for
7 her at this time.

8 THE COURT: Do you have a problem with him recalling
9 her later? He can show the video again later.

10 SOLICITOR: I will probably call her back tomorrow.

11 MS. HINDS: All right.

12 THE COURT: He can recall her, but you can examine her
13 at this time.

14 CROSS EXAMINATION

15 BY MS. HINDS:

16 Q. Okay, you get to the Bojangles early that morning, cor-
17 rect?

18 A. Yes.

19 Q. Okay, and you want your ginger ale so you go inside?

20 A. Yes.

21 Q. The rest of them stayed in the SUV?

22 A. Yes.

23 Q. You went in the store, and can you tell me again exactly
24 what happened?

25 A. I see the guy with a gun.

MS. THOMAS ON CROSS

1 Q. You need to speak up. What did you see when you got
2 in the store?

3 A. I saw that guy with a gun and then I said that.

4 Q. Then you heard shooting, is that right?

5 A. Yes.

6 Q. Okay. Who did you see with the gun? Do you know?

7 A. Just a guy who had on a white shirt.

8 Q. A guy with a white shirt?

9 A. Yes.

10 Q. Did he have the gun in his right hand or his left
11 hand?

12 A. I don't know. It must have been the left.

13 REPORTER: It is very hard to hear her.

14 THE COURT: Pull the chair up to the microphone, if
15 you can.

16 BY MS. HINDS:

17 Q. So you saw the gun in the left hand of the guy with
18 the white shirt?

19 A. Yes.

20 Q. Was it at his side, was it up? Where was the gun?

21 A. (Inaudible)

22 Q. At that point you went in the store and you were afraid?

23 A. Yes. I laid down.

24 Q. And that's all that you saw?

25 A. Yes.

MS. THOMAS ON CROSS

1 Q. Okay, I don't have anything further.

2 THE COURT: Anything on Redirect?

3 SOLICITOR: Just briefly, to clarify.

4 REDIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Did you see the gun before you even got in the store?

7 A. Yes, sir.

8 Q. Show the jury exactly where you were on here?

9 A. Yes.

10 Q. That was you, right there?

11 A. Yes.

12 Q. That's all I have.

13 THE COURT: Recross?

14 MS. HINDS: Nothing else.

15 THE COURT: Okay, you may step down, and she will be
16 subject to Redirect.

17 (Witness excused from stand)

18 SOLICITOR: Ms. Bernice Glover.

19 BERNICE GLOVER, being

20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY SOLICITOR:

23 Q. State your name, please.

24 A. Bernice Glover.

25 Q. Good afternoon, Ms. Bernice. I appreciate your staying

MS. B. GLOVER ON DIRECT

1 with us.

2 Do you live here in Orangeburg County?

3 A. Yes.

4 Q. How long have you lived in Orangeburg?

5 A. About twenty-one years.

6 Q. How are you related to Ms. Shaquanna Glover who testi-
7 fied earlier?

8 A. She's my daughter.

9 Q. Who were you hanging out with in the early morning
10 hours of June 12, 2012?

11 A. It was myself, my daughter, Thelma Glover and my sister,
12 in-law and another young lady that I didn't know very well
13 at the time.

14 Q. Sandra Thomas?

15 A. Yes.

16 Q. I'm going to show you State's Exhibit 14. You guys
17 were in the blue SUV right there?

18 A. Yes, sir.

19 Q. And where were you sitting in the SUV?

20 A. I was sitting in the back on the passenger side.

21 Q. Where was your daughter, Shaquanna, sitting?

22 A. In the back on the driver's side.

23 Q. Did you ever see -- you were obviously in a vehicle
24 during the shooting that night at the Bojangles?

25 A. Yes, sir.

MS. B. GLOVER ON DIRECT

1 Q. Were you armed with a gun that night?

2 A. No, sir.

3 Q. Were you shooting at anybody?

4 A. No, sir.

5 Q. Was anyone in your vehicle shooting at anybody?

6 A. No, sir.

7 Q. Did you ever get out of the vehicle before the shoot-
8 ing?

9 A. No, sir.

10 Q. Who is the only person who got out before the shooting?

11 A. The young lady who just testified?

12 A. Sandra Thomas, the lady who just walked out of the
13 Courtroom as you came up?

14 A. Yes.

15 Q. Tell the jury what you saw and heard right before the
16 shooting?

17 A. Uh, we were sitting in the van and I saw a young man
18 walking toward the van on my side, the passenger side, and
19 when I looked over I just happened to notice a gun in his
20 hand.

21 Q. I want to show you what's been marked State's Exhibit 16
22 and 17. Do you recognize those photographs?

23 A. Yes, sir.

24 Q. What do you recognize? in these two pictures?

25 A. That's the Bojangles, and that's the van we were sitting

MS. B. GLOVER ON DIRECT

1 in, and a guy coming toward the van, a young man.

2 Q. Okay. Point that out.

3 A. This is the young man I saw coming toward the van that
4 had a gun.

5 Q. Say that again.

6 A. This is the young man I saw walking toward the van with
7 a gun.

8 Q. That's State's Exhibit 16 and 17?

9 A. Yes, sir.

10 SOLICITOR: I would ask that those be admitted into
11 evidence, Your Honor.

12 MS. HINDS: No objection.

13 THE COURT: State's 16 and 17 in evidence.

14 (Photographs admitted in evidence without objection as
15 State's Exhibits 16 and 17)

16 BY SOLICITOR:

17 Q. And that's the man that walked by your car?

18 A. Yes, sir.

19 Q. Did you get a good look at his face?

20 A. No, sir.

21 Q. What did you see?

22 A. I just saw the gun.

23 Q. And he walked right by your window?

24 A. Yes, sir. On my right where I was sitting at in the
25 van.

MS. B. GLOVER ON DIRECT

1 Q. And when you saw he had a gun what did you say?

2 A. I ducked and I started hollaring, he has a gun.

3 Q. Have you had an opportunity to see a video of the shoot-
4 ing at the Bojangles?

5 A. Yes, sir.

6 Q. Is the person you saw with the gun on that video?

7 A. Yes, sir.

8 Q. Okay. Let's look -- take it back to where the SUV got
9 there and watch the shooting.

10 A. . .

11 (Portion of video being played)

12 Q. Can you come down here, Ms. Glover, and stand right
13 here so Ms. Harry Dot can hear you.

14 A. Okay.

15 Q. This is your SUV pulling in right here?

16 A. Yes, sir, it is.

17 Q. Do you know any of the people that were also pulling
18 in or in this vehicle right here?

19 A. No, sir.

20 Q. Had you ever seen those people before?

21 A. No, sir.

22 Q. Did you pay any attention to them that night?

23 A. No, sir.

24 Q. And this is on the video at twelve forty-seven A.M.?

25 A. Yes, sir.

MS. B. GLOVER ON DIRECT

1 Q. And who is this person right here talking to you guys?

2 A. That's our cousin, Patrick.

3 Q. He was talking to who?

4 A. He was talking to all of us.

5 Q. Okay. Were you paying attention to anything that was
6 going on over here?

7 A. Not at the time.

8 Q. You all were just talking to Patrick?

9 A. Yes, sir.

10 (Video playing)

11 Q. You're not paying any attention to these two?

12 A. No, not at the time.

13 Q. What about this person driving the vehicle who is get-
14 ting out?

15 A. No, sir, not at that time. That's when the young lady
16 got out and went in the store.

17 Q. That's Sandra Thomas going in the store?

18 A. Yes, sir.

19 Q. All right. Are you paying attention to what's going
20 on there?

21 A. No, sir. Not until I see this young man here.

22 Q. Tell me when you see him. Pause it.

23 A. Right here.

24 Q. Show it to the jury.

25 A. I happened to see this young man and that's what made me

MS. B. GLOVER ON DIRECT

1 pay attention.

2 Q. Show the jury.

3 A. This young man right here.

4 Q. The one you just testified was walking beside your ve-
5 hicle?

6 A. Yes, sir.

7 Q. Why did you pay attention to him?

8 A. Because I just happened to notice he was coming toward
9 the van, and when I looked I just saw a gun.

10 Q. The man without the shirt on you saw with a gun in
11 his hand?

12 A. Yes.

13 Q. Did you yell anything?

14 A. Yes. He has a gun.

15 Q. Then what did you do?

16 A. . .

17 Q. Did you see this guy with a gun?

18 A. No, sir.

19 Q. Did you see this guy with a gun?

20 A. No, sir.

21 Q. That's the only person you saw with a gun, the guy
22 without the shirt on?

23 A. Yes.

24 Q. Obviously they had a gun but you weren't paying attention
25 to them?

MS. B. GLOVER ON DIRECT

1 A. I wasn't paying no attention.

2 Q. Okay. Keep it playing. That's you all trying to
3 back up there?

4 A. Yes.

5 Q. Were you all able to get out?

6 A. No, sir.

7 Q. Did you see the driver of this Impala vehicle without
8 a shirt on when he put the gun over the car and fired in
9 that direction?

10 A. No, sir.

11 Q. What were you doing at the time?

12 A. I was on the floor.

13 Q. Did you know Mr. Samuel Sims, who was out here?

14 A. No, sir.

15 Q. Had you been hit at all?

16 A. I had some glass cut me.

17 Q. When the bullet went through the window?

18 A. Yes.

19 Q. Where did the bullet go through?

20 A. It came through the window to the back on the pas-
21 senger side.

22 Q. Who is that getting out of the vehicle there? Do you
23 know?

24 A. No, sir.

25 Q. Did you know your daughter had been shot at that time?

MS. B. GLOVER ON DIRECT

1 A. No, sir.

2 Q. And showing you State's Exhibit 17, that's the person
3 you saw with the gun?

4 A. Yes.

5 Q. He didn't have a shirt on and was right by your car
6 with the gun in his hand?

7 A. Yes, sir.

8 Q. Let me show you what's marked as State's Exhibits 18,
9 19 and 20. Do you recognize those photographs?

10 A. Yes, sir.

11 Q. What do those show?

12 A. (Inaudible)

13 Q. Does that depict the damage to the vehicle?

14 A. Yes, sir.

15 Q. The glass damage?

16 A. Yes, sir.

17 SOLICITOR: I would admit these into evidence, Your
18 Honor, Exhibits 18, 19 and 20.

19 THE COURT: Any objection?

20 MS. HINDS: No.

21 THE COURT: Admitted without objection.

22 (Photographs admitted in evidence without objection
23 as State's Exhibits 18, 19 and 20)

24 BY SOLICITOR:

25 Q. What does this photo depict?

MS. B. GLOVER ON DIRECT

1 A. The van we were in.

2 Q. That's the window you were sitting right next to?

3 A. Yes.

4 Q. That was State's Exhibit 18, and now I'll show you 19,
5 and that is where you were sitting?

6 A. Yes.

7 Q. The window was right by you?

8 A. Yes, sir.

9 Q. State's 20 is another shot of the vehicle?

10 A. Yes, sir.

11 Q. After the shooting stopped and we saw you get out of the
12 vehicle on the video, where did you end up?

13 A. At the hospital.

14 Q. What did they have to do to you at the hospital?

15 A. Used that machine thing to make sure I didn't have a
16 bullet in me.

17 Q. Fortunately, you did not have a bullet in you?

18 A. No, sir.

19 Q. Were you able to give the police a statement that morn-
20 ing, about two twenty that morning?

21 A. Yes, sir.

22 Q. Did you see any of those individual's faces that night
23 or early morning?

24 A. No, sir.

25 Q. Did you see who shot you or who shot the car?

MS. B. GLOVER ON DIRECT

1 A. No, sir.

2 Q. You saw the one person with a gun without his shirt on?

3 A. Yes, sir.

4 Q. Do you know the Defendant, Ronald Smith?

5 A. No, sir.

6 Q. Do you know Jarrod Jacques?

7 A. No, sir.

8 Q. Brandon Bradley?

9 A. No, sir.

10 Q. Donald Harmon?

11 A. No, sir.

12 Q. Orlando Haynes?

13 A. No, sir.

14 SOLICITOR: Beg the Court's indulgence.

15 Please answer any questions Ms. Hinds has for you.

16 THE COURT: Ms. Hinds.

17 CROSS EXAMINATION

18 BY MS. HINDS:

19 Q. I just want to make sure I understand. You are sitt-
20 ing in the car, correct?

21 A. Yes.

22 Q. And somebody comes by, and that was the guy with the
23 gun in his hand?

24 A. Right.

25 Q. His left hand?

MS. B. GLOVER ON DIRECT

1 A. Yes.

2 Q. You're in the back seat on the passenger side?

3 A. Yes.

4 Q. And then there is the white car next to you?

5 A. I didn't notice the car.

6 Q. You didn't notice the car. As the guy is walking past
7 is he coming toward you?

8 A. Coming towards the van, on the right side of the van.

9 Q. He was on the right side of the van when you saw him.

10 He's going past you?

11 A. . .

12 Q. I'm trying to understand. I'm not trying to confuse
13 you.

14 A. He came toward the van and when he was coming towards
15 the van he angled on the right side of me and he just then
16 stopped on the passenger side.

17 Q. And he just stopped?

18 A. Yes.

19 Q. Which way was he facing?

20 A. To the right.

21 Q. Did you see where he came from? Were you paying any
22 attention before?

23 A. No, maam.

24 Q. You don't know where he came from?

25 A. No, maam.

MS. B. GLOVER ON CROSS

1 Q. And the last you saw him, where was he?

2 A. Coming toward the van.

3 Q. And I believe your testimony was you didn't see anything
4 else that was going on?

5 A. Correct.

6 Q. Okay. Did you actually see anybody shooting?

7 A. No, maam.

8 Q. But you heard the noise and the glass broke shortly
9 thereafter?

10 A. Yes.

11 Q. It must have been frightening?

12 A. Yes, it was.

13 Q. Okay. Your testimony is you can't tell us or you did
14 not see who any of the shooters might have
15 been. Is that correct?

16 A. Yes.

17 Q. Thank you. Nothing further.

18 THE COURT: Anything on Redirect?

19 SOLICITOR: No, sir, Your Honor.

20 THE COURT: You may step down. Thank you, maam.

21 (Witness excused from stand)

22 SOLICITOR: That's all the State has for today.

23 THE COURT: Ladies and gentlemen, you have heard some
24 of the witnesses today. As I have told you, you have not
25 heard all the testimony.

1 I'm going to excuse you to go home tonight. You can-
2 not talk about this case to anyone or talk among yourselves
3 about the case.

4 If there is anything on TV, don't watch it, and do not
5 go on the Internet or ride by the scene of the incident,
6 because everything you will need to know about this case
7 you will hear in this Courtroom.

8 Now, tomorrow morning we will start at nine thirty,
9 so please be back in the jury room at nine thirty in the
10 morning.

11 Thank you. I hope you all have a wonderful evening.

12 (Jury excused for the evening)

13 THE COURT: All right. Anything from the State be-
14 fore we recess?

15 SOLICITOR: I would just mention that I was going to
16 put in State's Exhibit 21 through that last witness, Ms. Harry
17 Dot, and I decided not to because I showed the video. It
18 was her coming out.

19 I just want to make sure we don't mix up the evidence.
20 I did not put it in, State's Exhibit 21.

21 REPORTER: So that is not in.

22 THE COURT: All right.

23 SOLICITOR: Also, State's Exhibit 15 is in without ob-
24 jection. I had some concerns but I marked it, and it might
25 be conflicting. I can get a clean copy of 15 or leave that

1 in. Just hold on to it and we'll figure it out.

2 REPORTER: I'll have a question mark by it, but
3 Number 21 is not in.

4 SOLICITOR: Right.

5 THE COURT: Anything else from the State?

6 SOLICITOR: No, sir.

7 THE COURT: Anything from the Defense?

8 MS. HINDS: No, sir.

9 THE COURT: All right. We'll be in recess until nine
10 thirty in the morning.

11 If I could see you all for a minute before you leave.

12 Thank you.

13 SOLICITOR: The stipulation we entered that you read to
14 the jury, could we have it marked as a Court's Exhibit?

15 THE COURT: Court's Exhibit 1. Any objection?

16 MS. HINDS: No, sir.

17 (Court stood in recess for the evening)

18 TRANSCRIPTION NOTE: Nothing further is avail-
19 able for transcription as to this case)

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25

1 CERTIFICATE

2 I, HARRIET P. BENNETT, Official Court Reporter for
3 South Carolina Court Administration, hereby certify that
4 the foregoing Transcript was prepared from the available
5 records of Harry Dot Walker to the best of my ability, hav-
6 ing been heard in the Court of General Sessions for Orangeburg
7 County on September 14, 2011.

8 I further certify that the balance of the record cannot
9 be found and is not available for transcription.

10 I am neither of kin nor counsel to any party to this
11 matter.

12 June 13, 2014

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Harriet P. Bennett

FORM 5

STATE OF SOUTH CAROLINA)

) IN THE COURT OF COMMON PLEAS

County of ORANGEBURG)) Arnold Smith # 348980)
) Full name and prison number (if any) of Applicant)

) v.)

) APPLICATION FOR)

) State of South Carolina)

) POST-CONVICTION RELIEF)

FILED FOR RECORD
JENNIFER B. CLARK
CLERK OF COURT
ORANGEBURG, SC
2012 JUN 26 AM 9:17INSTRUCTIONS - 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 LEWIS CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence GENERAL SESSIONS
190 E. 650N P.O. Box 9000 ORANGEBURG, SC 29116
3. Name(s) of co-defendant(s) (if any) JACOB SALQUES, ORLANDO HAYNES
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2011-15-35-1076 MURDER
 - (b)

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) September 14 - 2011 31 YEARS
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty After guilty Plea
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
~~NO~~ YES I DID
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. THE SOUTH CAROLINA COURT OF APPEALS
- ii. _____
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. THE APPEAL WAS DISMISSED
- ii. _____
- iii. N/A
- (c) the date of each such result:
- i. NOVEMBER 23, 2011
- ii. _____
- iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) DUE PROCESS OF LAW BY AN IDENTIFICATION PROCEDURE.
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) THE OPPORTUNITY OF THE WITNESSES TO VIEW THE CRIMINAL AT THE TIME OF THE CRIME WAS NOT ACCURATE.
- (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? HAVE NOT
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? HAVE NOT
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? HAVE NOT
- (d) any other petitions, motions or applications in this or any other Court? HAVE NOT
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. _____
- ii. _____
- iii. _____
- iv. N/A
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. N/A
- iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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?

Have not

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

(a) which grounds have been presented:

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

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

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

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) _____
 (b) _____
 (c) N/A

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

(a) your arraignment and plea? YES I HAVE
 (b) your trial, if any? _____
 (c) your sentencing? YES I HAVE
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

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. PEGGIE HINDS OFFICE OF THE PUBLIC DEFENDER.
FIRST JUDICIAL CIRCUIT 190 EIBSON STREET ROOM 110

ii. _____
 iii. _____

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

i. PLEA
 ii. SENTENCING
 iii. _____

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

Remanded For New Trial

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

No I am not

STATE OF SOUTH CAROLINA)

County of Orangeburg S.C.)

VERIFICATION

I, Ronald Smith, 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.

Ronald Smith Ronald Smith

SWORN to and subscribed before me this 14th
day of June, 2012.

Sylvia Jones (L.S.)
Notary Public

My Commission Expires: Ronald Smith

1/24/2018

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

I, Ronald Smith, 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.

Ronald Smith
Applicant

SWORN or affirmed to and subscribed before me this
14th day of June, 2012.

Sylvia Jones
Notary Public

My Commission Expires: 1/24/2018

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

) IN THE COURT OF COMMON PLEAS
) FOR THE FIRST JUDICIAL CIRCUIT

Ronald Smith, #347780,

) Case No. 2012-CP-38-01015
)

) Applicant,
)

) v.
)

RETURN

) State of South Carolina,
)

) Respondent.
)

In response to the post-conviction relief application filed June 26, 2012, the Respondent would show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Orangeburg County. Applicant was indicted during the May 2011 term of the Orangeburg County Grand Jury for Murder (2011-GS-38-1076). Margaret Hinds, Esquire, represented Applicant. On September 14, 2011, Applicant pled guilty as indicted before the Honorable Edgar W. Dickson, who sentenced Applicant to confinement for a period of thirty-one years.

A Notice of Appeal was filed with the South Carolina Court of Appeals. An Order of Dismissal was issued on November 23, 2011 for failure of Appellant to identify an appealable issue. The Remittitur was issued on December 14, 2011.

Attached herewith and incorporated herein are the records of the Orangeburg County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections and the appellate records. The guilty plea hearing 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 for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Due process of law by an identification procedure."
 - a. "The opportunity of the witness to view the criminal at the time of the crime was not accurate (sic)."

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, SCRPC.

III.

For the purposes of this Return, the State interprets Applicant's allegation to be one of ineffective assistance of counsel. 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. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

The Applicant further alleges that he was denied due process of law. The Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held.

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS

2012-CP-38-01015

RONALD SMITH, 347780,
Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,
Respondent.

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

James B. Jackson, Jr., Esquire
Nester & Jackson, PA
Post Office Drawer 349
Santee, SC 29142-0349

DATED this 28th day of November, 2012.

Lauren Meara
Lauren Meara, Legal Assistant
For Respondent

Hon. Winnie B. Clark, Clerk of Court
 Orangeburg County Courthouse
 Post Office Box 9000
 Orangeburg, S.C. 29116-9000

April 16, 2013

Re: Motion, Ronald Smith v. State of S.C.
 Case No. 2012-CP-38-01015

Dear Ms. Clark,

Enclose is a Motion to relieve Counsel to be filed in your
 Office. Please forward back to me the enclosed additional copy for my
 files. Thank you for your cooperation, I am,

Sincerely,

CC:

James B. Jackson, Jr.
 S.C. Attorney General

Ronald Smith
 Ronald Smith #347780
 Lieber Cir. Just
 Post Office Box 205
 Ridgeville, S.C. 29472

FILED
 APR 17 2013
 CLERK OF COURT
 ORANGEBURG, S.C.

2013 APR 16 PM 12:09

✓

State of South Carolina
 County of Orangeburg
 Ronald Smith #347780,
 Petitioner,

vs.

State of South Carolina,
 Respondent.

In The Court of Common Pleas
 In The 1st Judicial Circuit
 Case No. 2012-CP-38-01015

Notice of Motion and Motion To Relieve Counsel

Come Now, the Petitioner Ronald Smith, who moves and respectfully request pursuant to Rule 407 S.C. Rule of Professional Conduct to relieve Counsel of record for a conflict of interest under the rule of Professional Conduct in the pending action.

1. I am the Petitioner to the pending PCR. I am over eighteen (18) years of age and I am competent to testify to the matters set forth herein.
2. I have communicated with my Attorney about my case and requested assistance from him within the scope of his duties.
3. Counsel that is representing Petitioner has inform me that he do not see nor has any issues to be raised in my up coming PCR.
4. Counsel has openly disregarded the order in rule 71.1 (d) SCRC in P. to insure that all available grounds are included in my PCR.
5. Counsel has openly shown little to no interest or diligence in representing me in my PCR.
6. The above statement and aforementioned motion can be supported by Counsel records.

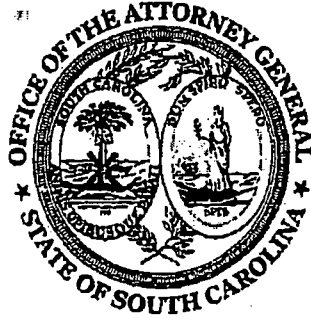
Ronald Smith
 Ronald Smith #347780

Certificate of Service

I, Ronald Smith, do hereby certify that I have served a copy of the Notice of Motion and Motion to Relieve Counsel on the Hon. Winnifred B. Clark, Clerk of Court, of Orangeburg County at P.O. Box 9000, Orangeburg, So. Car. 29116-9000, by depositing in the U.S. Mail with sufficient postage First Class Mail on this 16th day of April, 2013. Copies of the same has been served on the parties below

cc:
James B. Jackson, Jr., Esq.
S.C. Attorney General's Office

Ronald Smith
Ronald Smith #347780
Lieber Corr. Inst.
Post Office Box 205
Ridgerville, S.C. 29472



ALAN WILSON
ATTORNEY GENERAL

September 13, 2013

James B. Jackson Jr., Esq.
Nester & Jackson, PA
PO Drawer 349
Santee, SC 29142-0349

Re: Ronald Smith, #347780 v. State of South Carolina
2012-CP-38-1015

Dear Mr. Jackson:

We are in receipt of the enclosed Motion to Relieve Counsel. A hearing on this motion will be set on an upcoming roster. If you have any questions or concerns, please feel free to contact me at (803) 734-3737 or MHarrigan@scag.gov.

Sincerely,

Megan E. Harrigan
Assistant Attorney General

MEH/ko

Enclosure

cc: Shante Zene, Orangeburg Civil Clerk
Ronald Smith, #347780

2013 SEP 16 PM 12:10
FILED FOR RECORD
CLERK OF COURT
ORANGEBURG, SC

1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF ORANGEBURG

2012-CP-38-01015

3
4 RONALD SMITH

) TRANSCRIPT OF RECORD

5 VS.

6 STATE OF SOUTH CAROLINA

) NOVEMBER 1, 2013
) ST. GEORGE, SC

7
8 B E F O R E:

9 THE HONORABLE DIANE S. GOODSTEIN

10
11 A P P E A R A N C E S:

12 JAMES B. JACKSON, JR., ESQUIRE
13 Attorney for the Applicant

14 MEGAN E. HARRIGAN, ESQUIRE
Attorney for the State of South Carolina

15
16 Ruth L. Mott, RPR, CRR
Certified Court Reporter

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1 MS. HARRIGAN: This is the matter of Ronald Smith versus
2 the State of South Carolina, Docket No. 2012-CP-38-1015. He
3 was indicted during the May 2011 term of the Orangeburg
4 County Grand Jury for murder. He was represented by Peggy
5 Hinds. On September 14th, 2011, he plead guilty before the
6 Honorable Edgar W. Dickson, who sentenced applicant to
7 confinement for 31 years. A notice of appeal was filed. An
8 order of dismissal was issued November 23rd, 2011, and a
9 remittitur was issued on December 14th, 2011. He filed his
10 application for post conviction relief on June 26, 2012, and
11 thereafter he filed a motion to relieve his counsel, and we
12 are here today for that motion. At this time I'll turn it
13 over to applicant.

14 THE COURT: Sure. How are you?

15 THE APPLICANT: I'm good.

16 THE COURT: Good, and you're Ronald Smith?

17 THE APPLICANT: Yes, ma'am.

18 RONALD SMITH,
19 being first duly sworn, testified as follows:

20 THE COURT: Thank you, Mr. Smith. Now, you're concerned
21 about having Judge Jackson represent you.

22 THE APPLICANT: Yes, ma'am.

23 THE COURT: Tell me why.

24 THE APPLICANT: I feel like I need a regular paid
25 attorney, and my mother working on that now.

1 THE COURT: Okay. All right. So it's not that you're
2 concerned about Judge Jackson. You just want -- your mama is
3 trying to retain somebody?

4 THE APPLICANT: Yes, ma'am.

5 THE COURT: And so you're asking that the matter be
6 postponed to May, which is our next term, so that that can
7 happen?

8 THE APPLICANT: Yes, ma'am.

9 THE COURT: Okay. All right. Now, I don't have any
10 problem with doing that, but here's what I want you to do,
11 you know, if your mama is unsuccessful right here in the next
12 30 days, I want to you relax because you've got a
13 million-dollar lawyer. I don't know -- you know, when you
14 get somebody appointed, you just never know who you get, but
15 you've got like a million-dollar one. What I want you to do
16 is I want you to be happy and satisfied because this is your
17 application and this is important to you, and I know that. I
18 know that, and I want you to know that I know that. But the
19 other thing that I want you to be mindful of is that under
20 our appointment system, you know, if you practice law, you
21 know, you're a million-dollar lawyer, or you can be a baby
22 starting out, and everybody's subjected to being appointed.
23 And you just happened to get a very fantastic lawyer, so what
24 I want you to do is I want you at peace; but if your mom
25 hasn't been able to get somebody like in the next 30 days or

1 so --

2 THE APPLICANT: Yes, ma'am.

3 THE COURT: -- then I want you to let Judge Jackson know
4 that, okay?

5 THE APPLICANT: Yes, ma'am.

6 THE COURT: Because he's got work he's got to do. And
7 if that's where you find yourself, I don't want you to be
8 concerned, okay?

9 THE APPLICANT: Yes, ma'am.

10 THE COURT: Because you kind of won the lottery when he
11 got appointed, so I want you to start working with him and
12 get ready for May, okay?

13 THE APPLICANT: Yes, ma'am.

14 THE COURT: Now, Mr. Smith, having said that, we had a
15 number of cases that had to get continued to May, so we're
16 shooting for May for everybody to be able to have their
17 matters heard that got continued. I just ask your patience
18 with this if we're unable to schedule this matter in May.
19 That's going to be our goal, now, you understand.

20 THE APPLICANT: Yes, ma'am.

21 THE COURT: And we know you want to get this matter
22 resolved, but unfortunately I've had to continue a number of
23 cases. And Ms. Harrigan from the Attorney General is
24 remarkable, and she knows that people want to get their
25 matters resolved. She's so aware of that, and I know that

1 she'll get your matter scheduled in May if she can; but if it
2 has to go to the next term, I just ask for a little bit of
3 understanding. It isn't because we didn't want it to get
4 heard. It's just because we had so many things pressing.
5 We're looking for May. I just don't want you to get
6 concerned if something happens, okay?

7 THE APPLICANT: Yes, ma'am.

8 THE COURT: Let mama work on it, now, for 30 days or so;
9 but, otherwise, you let Mr. Jackson know, don't let him be
10 wondering what's going on because, you know, you've got a
11 great lawyer.

12 THE APPLICANT: Yes, ma'am.

13 THE COURT: I happen to know that.

14 THE APPLICANT: Yes.

15 THE COURT: Yes, sir, Mr. Jackson.

16 MR. JACKSON: Your Honor, just to advise you, the next
17 problem in this case is we don't have the transcript yet.

18 MS. HARRIGAN: Yes, Your Honor.

19 THE COURT: She'll get it.

20 MS. HARRIGAN: We've sent multiple requests. The court
21 reporter has since retired, and that's kind of been a
22 longstanding concern with our office and I know for
23 applicants. We've had some luck with another retired court
24 reporter being able to transcribe some of her notes. We have
25 had some success. My office is again today requesting this.

1 We've sent three requests for this transcript. We are
2 diligently working on getting that, and that is the holdup
3 with this matter appearing on a roster is through no fault --
4 because I know the applicant or the State, we haven't been
5 able to secure a transcript yet.

6 MR. JACKSON: I just want you to be aware of that, Your
7 Honor.

8 THE COURT: Sounds like you've got your hands around it.

9 MS. HARRIGAN: Yes. We sent another request this
10 morning I've confirmed with my legal assistant, so we've sent
11 now I believe our third or fourth request.

12 THE COURT: So everybody's working on it. What happened
13 was the court reporter who transcribed your or who took your
14 case has since retired, and her health has not been good at
15 all; and so what they're having to do is pull in another
16 retired court reporter to take her notes and create
17 transcripts. They've got the solution. It's just taking a
18 little bit of time, but I know Mr. Jackson and I know Ms.
19 Harrigan will stay on top of that, okay?

20 THE APPLICANT: Yes, ma'am.

21 THE COURT: The other thing is that he'll stay
22 representing you. He won't -- you know, he's not going to go
23 away. He'll still be representing you, Mr. Jackson will; and
24 it's called a substitution of counsel in the event that you
25 retain someone else. But do let him know, now, what the

1 status is in about 30 days, okay?

2 THE APPLICANT: Yes, ma'am.

3 THE COURT: Thank you so much.

4 MS. HARRIGAN: Thank you, Your Honor.

5 --- END OF TRANSCRIPT OF RECORD ---

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1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF ORANGEBURG
4

5 I, the undersigned Ruth L. Mott, Certified Court
6 Reporter for the State of South Carolina, do hereby certify
7 that the foregoing is a true, accurate and complete
8 transcript of record of all the proceedings had and evidence
9 introduced in the matter of the above-captioned case,
10 relative to appeal, in the 1st Judicial Circuit Court for
11 Orangeburg County, South Carolina, on the 1st of
12 November, 2013.

13 I further certify that I am neither related to nor
14 counsel for any party to the cause pending or interested in
15 the events thereof.

16 March 14, 2016

17
18 *Ruth L. Mott*

19 Certified Court Reporter
20
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STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Ronald Smith, #347708,
Applicant,

vs.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No.: 2012-CP-38-1015

ORDER DENYING MOTION TO
RELIEVE COUNSEL

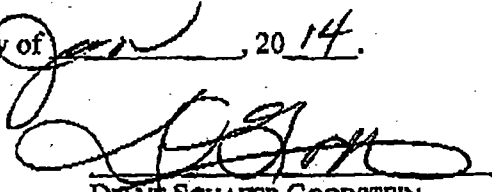
FILED
JAN 16 PM 12:55
Clerk of Court
First Judicial Circuit
SC

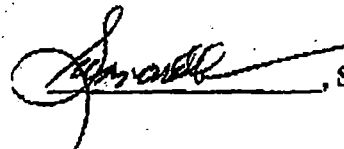
This matter is before the Court by way of an application for post-conviction relief filed on June 26, 2012. The State made its Return on November 28, 2012, requesting an evidentiary hearing be held. James B. Jackson, Jr., Esquire, was appointed but the Orangeburg County Clerk of Court to represent the Applicant in this matter. On April 16, 2013, Applicant filed a Motion to Relieve Counsel. A hearing on said Motion was convened November 1, 2013 at the Dorchester County Courthouse. Applicant and his counsel were both present. Respondent was represented by Assistant Attorney General Megan E. Harrigan of the South Carolina Attorney General's Office. After questioning Applicant and Counsel, this Court denied Applicant's Motion to Relieve Counsel.

IT IS THEREFORE ORDERED THAT:

1. Applicant's Motion to Relieve Counsel is hereby **DENIED**;
2. The matter is **CONTINUED**¹ to the next available term of court.
3. Applicant is remanded to the custody of Respondent.

IT IS SO ORDERED this 7 day of Jan, 20 14.

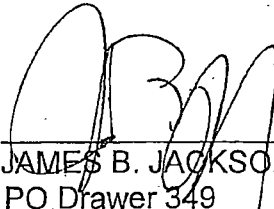

DIANE SCHAFER GOODSTEIN
Presiding Judge
First Judicial Circuit


_____, South Carolina

¹ This matter has not yet appeared upon a roster, as Respondent is still awaiting the transcript of Applicant's guilty plea. As of December 10, 2013, Respondent has sent four requests for the transcript.

Date: *June 3, 2014*
Santee, SC

NESTER & JACKSON

A handwritten signature in dark ink, appearing to read 'JB Jackson', is written over a horizontal line.

JAMES B. JACKSON, JR.
PO. Drawer 349
Santee, SC 29142
(803) 854-4484
Attorney for Defendant

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

State of South Carolina,

Plaintiff (s)

VS.

Ronald Smith, 347780,

Defendant (s)

) IN THE COURT OF COMMON PLEAS

1) FIRST JUDICIAL CIRCUIT

1) CASE NO: 2012-CP-38-1015

CERTIFICATE OF SERVICE BY MAIL

FILED FOR RECORD
WITH CLERK OF COURT
ORANGEBURG, SC
2014 JUN -4 AM 9:2

This is to certify that I have this 5 day of June, 2014 deposited in the United States Mail, with sufficient postage affixed thereto, the Defendant's Notice of Motion and Motion to Grant Post Conviction Relief in the above entitled case to the party below:

Megan E. Harrigan, Esq.
Assistant Attorney General
PO Box 11549
Columbia, SC 29211-1549

JAMES B. JACKSON, JR.
Attorney for Defendant

SWORN to before me this

day of June, 2014.

Notary Public, SC

My Commission Expires: 11-16-17

ATTEST: TRUE COPY

Wingja B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, S.C.

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Ronald Smith, #347780,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

2012-CP-38-1015

**RETURN TO APPLICANT'S "MOTION
TO GRANT POST- CONVICTION
RELIEF"**

This matter comes before the Court by way of Applicant's "Motion to Grant Post-Conviction Relief," filed with the Orangeburg County Clerk of Court on June 4, 2014. This Return to said motion follows:

I.

In his "Motion to Grant Post-Conviction Relief," Applicant moves for the Court to grant his application for post-conviction relief "based on the fact that the Attorney General's Office has made numerous attempts to obtain a copy of the transcript of the proceedings in this matter, and no such transcript has been yet received." Applicant fails to cite any case law, statutes, or other authority on which he bases his Motion.

On summary judgment, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. Knight v. Austin, 396 S.C. 518, 722 S.E.2d 802 (S.C. 2012). Summary judgment is a drastic remedy which should be cautiously invoked so that a litigant is not improperly deprived of a trial on disputed factual issues. Murphy v. Tyndall 384 S.C. 50, 681 S.E.2d 28(S.C. App. 2009); Madison ex rel. Bryant v. Babcock Center, Inc. 371 S.C. 123, 638 S.E.2d 650 (S.C. 2006).

In the present case, Respondent submits that Applicant's motion is premature and unnecessary. After filing said Motion, Respondent was provided with a portion of Applicant's trial transcript,¹ which was immediately forwarded to Applicant upon receipt. Additionally, a review of the allegations asserted by Applicant in his application for post-conviction relief include allegations that can be presented, and refuted, by testimony of Applicant, his trial counsel, and other witnesses without reliance on a transcript of the proceedings. Applicant has failed to set forth any reasons why his post-conviction relief action cannot proceed forward to an evidentiary hearing where disputed factual issues can be resolved. Therefore, Respondent requests that Applicant's "Motion to Grant Post-Conviction Relief."

V.

WHEREFORE, Respondent moves to deny Petitioner's Motion to Grant Post-Conviction Relief.

Signature block to follow.

¹ As previously indicated to Applicant's counsel, both by written letter and telephone conversation, the original court reporter who transcribed Applicant's trial and following guilty plea has since retired. Her cassette tapes and notes were subsequently given to another court reporter for transcription. This court reporter was only able to locate cassette tapes for a portion of Applicant's proceedings, and therefore, a complete transcript of all proceedings is unavailable, albeit through no fault of Applicant or Respondent.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

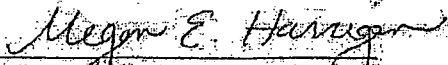
KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

P.O. Box 11549
Columbia, South Carolina 29211

July 1, 2014

By:


Attorneys for the Respondents

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

RONALD SMITH, #347780

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

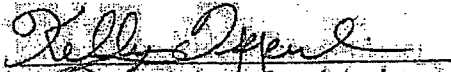
2012-CP-38-1015

AFFIDAVIT OF SERVICE BY MAIL

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

James B. Jackson, Esquire
Nester & Jackson, PA
Post Office Drawer 349
Santee, South Carolina 29142-0349

DATED this 1st day of July, 2014.


Kelly Oppenheimer, Legal Assistant
For Respondent

STATE OF South Carolina }

County of Orangeburg }

Ronald Smith 347780 }

V. }

The State of South Carolina, }

Respondent }

In THE Court OF Common Pleas

Case No.: 2012-CP-38-015

MOTION TO AMEND

Post-Conviction Application

Sent on 9/24/2014

Ms. Shante' Zene

Attorney General

Sent to

X Ronald Smith

FILED FOR
RECORD
CLERK
ORANGE
COUNTY
SOUTH CAROLINA

SEP 10 PM 12:55

The applicant, Above-named, move the Honorable Court, through his undersigned attorney, to grant him leave to amend the following additional grounds to his PCR hearing.

1. The applicant's guilty plea was not knowingly, intelligently, and voluntarily entered due to ineffective assistance of trial counsel's failure to inform him of a Third-Party guilt defense.

To establish a claim of ineffective assistance of trial counsel a PCR applicant must show that: (1) Counsel's representation fell below an objective standard of reasonableness and, (2) but for counsel's errors, there is a reasonable probability the results at the trial would have been different. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052.

A Post-Conviction relief applicant who enters a plea on advice of counsel may only attack the Voluntary and Intelligent character of his plea by showing that Counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for Counsel's errors, he would not have

RECEIVED

AUG 15 2014

P.C.I. MAILROOM

Pled guilty and would have insisted upon going to trial, and burden of proof is on the applicant to prove his allegations by a preponderance of the evidence. See Frazier v. State, 570 S.E.2d 172 (S.C. 2002).

Accordingly, in applicant's case, a police investigative report revealed that the murder for which the applicant was charged was committed by another person who initially attacked him. In fact, the report identifies the person who actually killed the victim, see report attached hereto as exhibit A.

In addition, there was also a video that supported the investigator's report. This investigative report and video was disclosed to the defense; however, counsel failed to inform the applicant of any defense in regards to this evidence.

The Applicant contends that this evidence of the officers' investigative report and video of the crime scene was certainly sufficient enough to support his defense of "Third-party guilt" which could have exculpated him had his counsel presented it.

Our S.C. Supreme Court has held that evidence offered by an accused as to the commission of the crime by another person must be limited to such facts as are inconsistent with his own guilt, and to such facts as raise a reasonable inference or presumption as to his own innocence, see, e.g., State v. Cooper, 514 S.E.2d 2d 584 (S.C. 1999).

Moreover, the Court has held that before evidence can be received, there must be such proof of connection with it, such a train of facts or circumstances as tends clearly to point out such other person as the guilty party. Holmes v. S.C., 126 S.Ct. 1727 citing State v. Gay, 541 S.E.2d 541, also Miller v. State, 665 S.E.2d 541 (S.C. 2003).

RECEIVED

AUG 15 2014

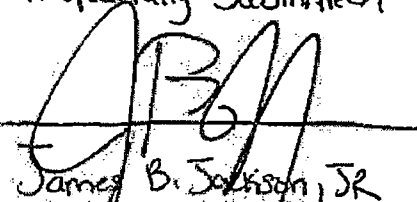
P.C.I. MAILROOM

Conclusion

As Counsel evidently failed to inform the applicant of a third party
guilt defense, this failure was ineffective assistance that was per se
Prejudicial because had Counsel informed Applicant of this defense
he would not have pled guilty and would have proceeded to trial.

Respectfully Submitted,

1/5/



James B. Jackson, Jr.
Law Office of Nestor E. Jackson

P.O. Drawer 349

631 Bass Drive

Santee, SC 29142

CC: Applicant's file

Date: 8-14-14

Winnifa B. Clark

Clerk of Court

P.O. Box 9000

Orangeburg, SC 29116-9000

2012-CP-38-1015

RE: Motion To Amend PCR Application

FILED FOR RECORD
WINNIFA B. CLARK
CLERK OF COURT
ORANGEBURG, SC

2014 AUG 18 PM 3:29

Dear Clerk,

Enclosed please find the original copy of my Motion To Amend Post-conviction Relief Application for filing with your office. I have included a self addressed envelope for your return to me. Clock-stamped copies of these documents for my records. Thank you for your assistance in this matter.

Sincerely,

Ronald Smith

CC: Inmate Files

Ronald Smith # 347780

Perry Correctional Inst.

430 Oaklawn Rd.

Pelzer, SC 29669

RECEIVED

AUG 15 2014

P.C.I. MAILROOM

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER) CASE NO.: 2012-CP-38-01015

RONALD SMITH,)

APPLICANT,)

VS.)

STATE OF SOUTH CAROLINA,)

RESPONDENT.)

POST CONVICTION RELIEF HEARING

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Dorchester County Courthouse
St. George, South Carolina
on Monday, October 27, 2014, Commencing at 10:23 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

APPEARANCES OF COUNSEL

FOR THE APPLICANT: James B. Jackson, Jr, Esquire
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Santee, South Carolina 29142

FOR THE RESPONDENT: Clay Mitchell, Esquire
Assistant Attorney General
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Columbia, South Carolina 29211-1549

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Post Conviction Relief Hearing
Proceedings
October 27, 2014

PROCEEDINGS

1
2 THE COURT: Counsel, please state your name for the
3 record and the party you represent.

4 MR. JACKSON: Your Honor, my name is James B.
5 Jackson, Jr., and I'm an attorney from Orangeburg and I
6 represent Ronald Smith, the applicant.

7 THE COURT: Are you Ronald Smith?

8 MR. SMITH: Yes, ma'am.

9 THE COURT: Are you prepared to go forward at this
10 time, counsel?

11 MR. MITCHELL: Yes, Your Honor.

12 Your Honor, this case is Ronald Smith versus The
13 State of South Carolina, 2012-CP-38-01015.

14 The applicant was indicted during the May, 2011
15 term by the Orangeburg County Grand Jury for murder.
16 Ms. Margaret Peggy Hines represented the applicant on
17 these charges. And on September 14th, 2011, applicant
18 pled guilty, as indicted, before the Honorable Edgar W.
19 Dixon. He was therefore sentenced -- he was thereafter
20 sentenced to confinement for a period of thirty-one
21 years. Notice of appeal was filed with the South
22 Carolina Court of Appeals, which was dismissed in
23 November of 2011. The remittitur was issued December
24 14th, 2011. Applicant filed this application for post
25 conviction relief on June 26th, 2012.

MIA PERRON, CVR-CM-M

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1 Your Honor, we do have a bit of an issue with this
2 case, as court administration has informed us that they
3 are unable to produce a transcript of the guilty plea.
4 So what we have is a partial transcript with the trial
5 started, I believe a few witnesses were called, and then
6 thereafter applicant decided to plead guilty. So we do
7 not have a transcript of the guilty plea proceedings.
8 We do have a transcript of the beginning of the trial
9 proceedings.

10 The State is still ready to go forward on that. I
11 believe Mr. Smith wants to go forward on that, as well.
12 My predecessor previously discussed I think a little bit
13 of maybe possibly reconstructing the hearing. But I
14 think that's something we need to deal with before we
15 get into the full merits of the hearing.

16 THE COURT: All right. Let me --

17 MR. JACKSON: Your Honor, I --

18 THE COURT: Let me hear from you, Mr. Jackson.

19 MR. JACKSON: Your Honor, what I did I think is
20 filed an actual motion in this matter to ask the Court
21 to grant the post conviction relief on the basis of the
22 State hasn't been able to produce a transcript of the
23 guilty plea.

24 Counsel is correct. As I understand, reading the
25 partial transcript, they started the trial one day and

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1 finished that day and it was sometime the next day --
2 and I don't know what part of the next day because,
3 again, we don't have the transcript of anything that
4 occurred the second day. That's apparently when the
5 guilty plea took place.

6 I couldn't help but notice that counsel relied on
7 the transcript in the last case with a guilty plea.
8 They can't do that here.

9 There is no evidence that the plea was freely or
10 voluntarily made, or any of that sort of thing, and it
11 just seems to me that the applicant would be entitled to
12 a new trial based on the inability of the State to
13 produce a transcript of the guilty plea.

14 THE COURT: So, counsel, following your logic,
15 then, if there were lost transcripts, then all the
16 sentences should -- he should -- post conviction relief
17 should be granted every time we can't find a transcript?

18 MR. JACKSON: I would argue that, Your Honor.

19 Again, I don't know how often this happens. This
20 is the first time it's ever happened, that I'm involved
21 in, with a PCR. I don't know. But it seems to me --

22 THE COURT: Well, clearly, with or without a
23 transcript, I'm assuming your client was present for the
24 guilty plea and he can testify as to what happened;
25 correct?

Post Conviction Relief Hearing
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1 MR. JACKSON: Yes, ma'am. But, again, I don't --

2 THE COURT: And, clearly, the attorney that
3 represented your client was present and can testify here
4 as to what happened?

5 MR. JACKSON: That's true.

6 THE COURT: And then it just becomes an issue of
7 credibility and believability for me to make a
8 determination. While the transcript would be most
9 helpful, I don't find that it is a dispositive issue.
10 Unless you have some case law that says otherwise?

11 MR. JACKSON: Do not, Your Honor.

12 THE COURT: All right. So we're going to --

13 MR. JACKSON: The is the first time this has
14 happened to me.

15 THE COURT: -- go forward here today, unless there
16 is any objection from the State.

17 MR. MITCHELL: No, Your Honor.

18 THE COURT: And so what forward -- what issues are
19 we going forward on? Because clearly the loss of a
20 transcript has nothing to do with the ineffective
21 assistance of counsel.

22 You would agree, counselor?

23 MR. JACKSON: Yes.

24 But we are going forward on the ineffective
25 assistance of counsel. Lack of transcript, of course,

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1 is the second issue. You know, it's just hard for me to
2 determine what happened at the guilty plea without a
3 transcript. And it's hard for you.

4 THE COURT: Well, I'm going to rely on the
5 testimony of the people that were there, which is
6 typically what I do.

7 And so tell me, what issues are we going forward?
8 There was --

9 MR. JACKSON: And -- I'm sorry.

10 THE COURT: -- a door opening and I was having a
11 hard time hearing you.

12 MR. JACKSON: Ineffective assistance of counsel.

13 THE COURT: Based upon?

14 MR. JACKSON: Failure to investigate.

15 THE COURT: Is that the issue you are going forward
16 on here today? Is that what you're prepared for?

17 MR. JACKSON: [No response]

18 THE COURT: Call your first witness.

19 MR. JACKSON: Yes, ma'am. We would call Ronald
20 Smith.

21 [Whereupon, Mr. Smith comes forward]

22 THE CLERK OF COURT: Please raise your right hand.
23 State your full name for the record.

24 MR. SMITH: Ronald Smith.

25 [Whereupon, Mr. Smith is duly sworn by the clerk of

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1 court as follows: do you solemnly swear or affirm to
2 tell the truth, the whole truth, and nothing but the
3 truth, so help so you God]

4 THE WITNESS: Yes, ma'am.

5 [Whereupon, Mr. Smith takes the witness stand]
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MIA PERRON, CVR-CM-M

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Ronald Smith
Direct Examination by Mr. Jackson
October 27, 2014

RONALD SMITH,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. JACKSON:

Q. You are Ronald Smith; is that correct?

A. Yes, sir.

Q. How old are you, Ronald?

A. Twenty-seven.

Q. And where do you live?

A. Orangeburg, South Carolina.

Q. And you were living there when this incident
occurred; is that correct?

A. Yes, sir.

Q. And what was the date of the incident; do you
remember?

MR. JACKSON: Kind of sit up for me so you can talk
into the microphone.

A. June the 12th.

Q. [Mr. Jackson] And, generally speaking, where were
you that night?

A. I went to the store.

Q. And a shooting occurred; is that correct?

A. Yes, sir.

Q. And you got arrested. Did you get arrested that

Ronald Smith
Direct Examination by Mr. Jackson
October 27, 2014

1 night, or later?

2 A. No, sir.

3 Q. When?

4 A. That was later.

5 Q. Later.

6 And what were you charged with when you were
7 arrested?

8 A. Two counts of attempted murder.

9 Q. And how much later was it that you got arrested; do
10 you recall?

11 A. About two months, two and a half months later.

12 Q. And where were you during those couple of months?
13 Did you go anywhere?

14 A. No. I was in the area.

15 Q. Were you working at the time --

16 A. No, sir.

17 Q. -- this incident occurred? You were not?

18 A. [No response]

19 Q. How far did you go in school, Mr. Smith?

20 A. I graduated.

21 Q. Do you have any health or mental health issues?

22 A. Mental health issue.

23 Q. You do?

24 A. Yes, sir.

25 Q. What sort of mental health issues do you have?

Ronald Smith
Direct Examination by Mr. Jackson
October 27, 2014

1 MR. MITCHELL: Objection.

2 I'm not sure all this goes towards failure to
3 investigate the --

4 THE COURT: I'm going to give him a little
5 latitude. Thank you.

6 Q. [Mr. Jackson] Tell me a little bit about what
7 mental health issues you have.

8 A. I been in Special Ed classes.

9 Q. Anything other than that?

10 A. No, sir.

11 Q. Now, when you did get arrested a couple months
12 later, were you assigned a lawyer?

13 A. Not right then, no, sir.

14 Q. When did you get assigned a lawyer?

15 A. Like about a month and half, two months later.

16 Q. And who was the lawyer that was assigned to
17 represent you?

18 A. Peggy Hines.

19 Q. And do you remember when she first met with you?

20 A. It took her a while to come see me.

21 Q. Were you still in jail, or were you out on bond?

22 A. No. I was in jail.

23 Q. Did you ever get out on bond?

24 A. No, sir.

25 Q. And what did you and Ms. Hines talk about when she

Ronald Smith
Direct Examination by Mr. Jackson
October 27, 2014

1 first came to see you?

2 A. Basically, we just talking about -- well, she --
3 then she called me over to the courthouse. We talked. And
4 she just telling me basically about she want me to tell her
5 what's been going on. She said, I ain't know anything going
6 on at the time.

7 Q. So she wanted you to tell her what happened at the
8 scene? at the scene where this incident took place?

9 A. Yeah.

10 Q. Okay. Were you there?

11 A. Yes, sir.

12 Q. Did you tell her what happened?

13 A. Yeah, I told her.

14 Q. And what else did you talk about?

15 A. Really, nothing.

16 Q. Did you talk about your right to a jury trial?

17 A. No, sir.

18 Q. Did you talk about what defenses you had with these
19 charges?

20 A. No, sir.

21 Q. So you didn't talk about anything.

22 But she asked you what happened at the scene; is
23 that correct?

24 A. That's it.

25 Q. When was the next time you met with her, if you

Ronald Smith
Direct Examination by Mr. Jackson
October 27, 2014

1 recall?

2 A. Probably about another month later.

3 Q. And when was it that you actually went to trial on
4 these charges?

5 A. September.

6 Q. And between the time you got arrested in September
7 and the trial, about how many times did you see Ms. Hines and
8 talk with her?

9 A. About five. About five times.

10 Q. But did you ever go over your right to a jury
11 trial, and what the State had to prove, and all that sort of
12 thing?

13 A. No, sir.

14 Q. Never did?

15 A. No, sir.

16 Q. You didn't understand any of that?

17 A. No, sir.

18 Q. Did you understand what you were charged with?

19 A. Yes, sir.

20 Q. Did you understand how much time it carried if you
21 got convicted?

22 A. Yes, sir.

23 Q. So on the day of trial, were you ready to go to
24 trial?

25 A. Yeah, I been ready.

Ronald Smith
Direct Examination by Mr. Jackson
October 27, 2014

1 Q. Had you told her everything she needed to know to
2 go to trial?

3 A. No.

4 She didn't even inform me of no defense or
5 nothing.

6 Q. I'm talking about did you tell her everything you
7 knew about it.

8 A. No, sir.

9 Q. What did you not tell her?

10 A. I really didn't have too much to tell her.

11 Q. But you told her what all happened at the scene of
12 the crime; is that right?

13 A. Yes, sir.

14 Q. And she had not talked about any defenses that you
15 had; is that right?

16 A. No, sir.

17 Q. Were other people charged in this crime?

18 A. Yes, sir.

19 Q. How many other people??

20 A. Four other people.

21 Q. And were they charged with the same thing you were?

22 A. Yes, sir. Except for one.

23 Q. One person actually died at the shooting; is that
24 correct?

25 A. Yes, sir.

Ronald Smith
Direct Examination by Mr. Jackson
October 27, 2014

1 Q. And he's the person that actually got shot?

2 A. Yes, sir.

3 Q. So what were you charged with at trial? Were you
4 charged with murder?

5 A. They had me charged with two counts of attempted
6 murder.

7 Again, I had went up for a bond. They denied it.
8 Then they said, well, you're going to go to trial. And that's
9 when they had like the indictments and they charged everybody
10 with murder. They indicted everybody on murder.

11 Q. So you actually -- were there any plea negotiations
12 prior to trial?

13 A. No, sir. Not at first.

14 Q. Did she tell you they'll let you plead guilty to
15 this and get this sentence?

16 A. No, sir.

17 Q. When is the first time you heard anything about
18 plea negotiations?

19 A. When I went, they -- well, the second day of trial,
20 when I went back to the back, that's when she said I'll go
21 talk to the judge and see if I can get you a plea.

22 Q. So the first day of trial, there was no talk --
23 there had been no talk about a guilty plea?

24 A. No, sir.

25 Q. You wanted a trial; is that correct?

Ronald Smith
Direct Examination by Mr. Jackson
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1 A. Yeah, I did.

2 They told me I was going to trial. I didn't want
3 to go to trial. They told me I be going to trial, so I had to
4 go with it.

5 Q. Who is they that told you that?

6 A. The solicitor.

7 The solicitor had write me and tell me that I'm
8 going to trial.

9 Q. So no pleas were offered to you? Is that what
10 you're saying?

11 A. No, sir.

12 Q. So you started off and picked a jury and actually
13 had trial the first day; is that correct?

14 A. Yes, sir.

15 Q. Some witnesses were called?

16 A. Yes, sir.

17 Q. What happened the second day?

18 A. The second day, I went -- they came and got me. I
19 went to trial.

20 Then she was like, I didn't know Harman coming to
21 testify. So I was like, what do you mean didn't know he was
22 going to come and testify. So after that, that's when she had
23 a -- she was like --

24 Q. Let me slow you down a minute, because I'm not sure
25 I understand you.

Ronald Smith
Direct Examination by Mr. Jackson
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1 You said Harman was going to testify?

2 A. Yes, sir. He did testify.

3 Q. Who is Harman?

4 A. That's the -- Donald Harman did the actual killing.

5 Q. So he made a deal with the State to testify against
6 you; is that correct?

7 A. Yes, sir.

8 Q. And he actually testified as a result of that deal?

9 A. Yes, sir.

10 Q. And after that, what happened?

11 A. After that, that's when she -- I ain't know he was
12 coming to testify.

13 He had sunk the ship. She said, it ain't looking
14 good for you, Danny had sunk the ship. So that's what
15 happened with the plea. That's when she said she was going to
16 the judge and talk to the judge about the plea.

17 Q. So she felt like your case was going pretty good
18 until the codefendant cut a deal with the State and testified
19 against you; is that right?

20 A. Yes, sir.

21 Q. And so then she went and talked about a guilty
22 plea; is that right?

23 A. Yes, sir.

24 Q. What did she tell you about that?

25 A. She told me, she said, the judge say thirty, and I

Ronald Smith
Direct Examination by Mr. Jackson
October 27, 2014

1 told her I wouldn't take no thirty.

2 So she went back, and she was like -- when she came
3 back she said the judge say thirty, ain't no lower, no higher.
4 So I was like, okay. So that's when she called my aunt and my
5 mother in the back, whatever like that, and she explained to
6 them what happened -- I mean, about the plea. And that's when
7 she was like, if you don't take the thirty, you're going to be
8 seeing sixty to life. And that's when I really pled.

9 Q. So she told you if you didn't take the thirty, you
10 were going to get something like sixty to life?

11 A. Yes, sir.

12 Q. And that's the big reason you pled at that time; is
13 that correct?

14 A. Yes, sir.

15 Q. At that time, had she shared with you the discovery
16 information she got from the State? Paperwork and all that
17 sort of thing.

18 A. I mean, we went through a little bit.

19 But as far as the investigator report, she did
20 not.

21 Q. What investigator report are you talking about?
22 Just tell me briefly what it is. You don't have to look for
23 it. I've got a copy of it.

24 A. The investigator --

25 Q. Let me ask you this. Is the report by Detective

Ronald Smith
Direct Examination by Mr. Jackson
October 27, 2014

1 Sheppard [sic] where he watched the video and wrote down what
2 he saw on the video? Is that correct?

3 A. Yes, sir.

4 [Whereupon, Plaintiff's Exhibit Number 1 is marked
5 by the court reporter]

6 Q. [Mr. Jackson] Is this the report that you're
7 talking about?

8 [Whereupon, the witness reviews documents]

9 A. Yes, sir.

10 Q. [Mr. Jackson] And you had not seen that report at
11 the time of your guilty plea?

12 A. I did not.

13 Q. And in this report, again, is Detective Sheppard
14 [sic] watching the video of what happened out at the scene?
15 Is that correct?

16 A. Yes, sir.

17 Q. And does this report indicate that Mr. Harman did
18 the shooting?

19 A. Yes, sir.

20 MR. JACKSON: Your Honor, I would offer a copy of
21 this report into evidence, just for the purpose of
22 showing that there was --

23 THE COURT: Have you marked it?

24 MR. JACKSON: Applicant's Number 1.

25 THE COURT: Any objection?

Ronald Smith
Direct Examination by Mr. Jackson
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1 MR. MITCHELL: Yes.

2 We object on he can't prove authenticity of it,
3 can't authenticate the document. The applicant, I don't
4 think he's ever seen that before. It's an investigative
5 report issued by the sheriff's department, I believe.

6 THE COURT: Counsel?

7 MR. JACKSON: Your Honor, I can identify it through
8 the next witness. I mean, if we can mark it for
9 identification, I'll --

10 THE COURT: So Applicant's 1. All right. You may
11 continue.

12 Q. [Mr. Jackson] So is this your big complaint,
13 Mr. Smith, in regards to Ms. Hines, is that she was aware that
14 there was some evidence that Mr. Harman did the shooting and
15 not you? Is that correct?

16 A. Yes, sir.

17 Q. And she hadn't shared that with you; is that
18 correct?

19 A. No, she did not inform me of it.

20 Q. Had you known about that, would you have pled
21 guilty to these charges?

22 A. No, I would not.

23 Why would I plead guilty with knowing that somebody
24 else killed him?

25 Q. Are there any other complaints you have against

Ronald Smith
Direct Examination by Mr. Jackson
October 27, 2014

1 Ms. Hines in regards to this case?

2 A. No, sir.

3 Q. This is the -- this is the big one, though, is that
4 correct --

5 A. Yes, sir.

6 Q. -- in regards to this report?

7 All right. You understand that you knew that you
8 had a right to a jury trial?

9 A. Yes, sir.

10 Q. And you, in fact, were exercising your right to a
11 jury trial?

12 A. Yes, sir.

13 Q. And in the middle of the jury trial, you changed
14 your plea to guilty and pled guilty?

15 A. Yes, sir.

16 Q. Again, tell the jury, because she needs to know
17 this, why did you do that? Was that freely and voluntarily
18 done on your part?

19 A. No, sir.

20 Q. Why not?

21 A. My guilty plea was not knowing and voluntary
22 entered, because my counsel filled out a form with a charge of
23 murder.

24 And then my counselor did not inform me of third-
25 party guilt defense.

Ronald Smith
Direct Examination by Mr. Jackson
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1 Q. So she felt like there was a third party who was
2 guilty of this and she hadn't told you about this information;
3 is that correct?

4 A. Yes, sir.

5 Q. Is there anything else you want to tell the judge
6 in regards to this matter, Mr. Smith?

7 A. No, sir. That's it.

8 MR. JACKSON: Thank you. Please answer any
9 questions that the attorney general may have for you.

10 MR. MITCHELL: Good morning, Mr. Smith.

11 THE WITNESS: Good morning.
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Ronald Smith
Cross-Examination by Mr. Mitchell
October 27, 2014

CROSS-EXAMINATION

1
2 BY MR. MITCHELL:

3 Q. You were charged with murder; is that right?

4 A. Yes, sir.

5 Q. You and four other codefendants?

6 A. Yes, sir.

7 Q. And this incident happened at a Bojangles; is that
8 right?

9 A. Yes, sir.

10 Q. So there were some shots fired at this Bojangles
11 and someone died as a result; is that right?

12 A. Yes, sir.

13 Q. And it's your contention that you did not fire the
14 shot that killed the victim; right?

15 A. No, sir.

16 Q. Did Ms. Hines go over with you the hand of one,
17 hand of all theory?

18 A. Not at the time she didn't tell me about it.

19 Q. She didn't tell you about how you could be charged
20 with murder even though you might not have committed that
21 actual murder?

22 A. Yes, sir.

23 Q. So she -- did she tell you about accomplice
24 liability?

25 A. No, sir.

Ronald Smith
Cross-Examination by Mr. Mitchell
October 27, 2014

1 Q. So you wanted to go to trial. You were at trial,
2 and you planned on going to trial, this whole time?

3 A. No, sir, I ain't planned on going to trial.

4 Q. Well, you said I think earlier that you went to
5 trial because they told you to go to trial; is that right?

6 A. Yeah, they told me I been going to trial.

7 Q. Who is they?

8 A. The solicitor.

9 Q. So it wasn't your decision to go to trial?

10 A. No, sir.

11 Q. So after the second day is when a codefendant,
12 Harman, testified; is that right? On the second day?

13 A. Yeah, he testified on the second day.

14 Q. And then that's when Ms. Hines started talking to
15 you more about pleading guilty during the trial --

16 A. Yes, sir.

17 Q. -- is that right?

18 A. Yes, sir. When I was in the back.

19 Q. Okay. So the judge said thirty years.

20 And then you said, I don't want thirty years;
21 right?

22 A. Yes, sir.

23 Q. And then you decided to plead guilty anyway after
24 that, after some more discussions with Ms. Hines?

25 A. Yeah.

Ronald Smith
Cross-Examination by Mr. Mitchell
October 27, 2014

1 That's when she say about if I don't take the
2 thirty, I would receive sixty to life and that would make me
3 plea.

4 Q. Did Ms. Hines go over the possible sentence that
5 murder carries?

6 A. Yes, sir.

7 Q. She did?

8 A. Yes.

9 Q. She told you that it carries life?

10 A. Yeah.

11 Q. Did she go over your constitutional rights?

12 A. I don't think so.

13 Q. Did she go over your rights when you decided to
14 plea, when y'all were discussing whether you should plea, like
15 that --

16 A. No, sir.

17 Q. -- you would give up rights by pleading guilty?
18 Did she discuss that with you?

19 A. No, sir. The judge told me that.

20 Q. So the judge told you that you were waiving certain
21 rights by pleading guilty --

22 A. Yes, sir.

23 Q. -- is that right?

24 So like rights to confront witnesses; right?

25 A. Yes, sir.

Ronald Smith
Cross-Examination by Mr. Mitchell
October 27, 2014

1 Q. Right to a jury trial. You're waiving trial.
2 Right?

3 A. Yes, sir.

4 Q. So the judge went over your right to remain silent
5 was waived?

6 A. No, sir.

7 Q. He didn't go over that?

8 A. No, sir.

9 Q. What about confronting witnesses and that was
10 waived? Did he go over -- did Judge Dixon go over that with
11 you, too?

12 A. Not about witnesses.

13 Q. Not about confronting the witnesses and having
14 them -- that you have a right to have them testify before you?
15 Did he go over that with you at the guilty plea?

16 A. No, he didn't.

17 Q. Did he ask you how you wish to plea at the guilty
18 plea?

19 A. Yes, sir.

20 Q. And you told him guilty?

21 A. Yes, sir.

22 Q. Is that right?

23 A. Yes, sir.

24 Q. Did he ask you if anybody had made any promises or
25 threats against you in order to plead guilty?

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1 A. Yes, sir.

2 Q. And you told him, no, you thought?

3 A. Yes, sir.

4 Q. Did he ask if you were under the influence of any
5 drugs or alcohol at the guilty plea hearing?

6 A. No, sir.

7 Q. He didn't ask you that?

8 A. No, sir.

9 Q. Did he ask you if you had any competency issues?

10 A. What you mean?

11 Q. Like have you ever been treated for mental health.
12 Did Judge Dixon ask you anything about your mental health?

13 A. No, sir.

14 Q. He didn't ask you? Okay.

15 Did he ask if you were pleaing free and
16 voluntarily?

17 A. Yes, sir.

18 Q. He did ask you that?

19 A. Yes, sir.

20 Q. Did the State go through and read what they thought
21 they could prove at trial, like the facts of what happened?

22 A. No, sir.

23 Q. So the State -- was it Solicitor Pascoe or was it
24 Solicitor Sorenson?

25 A. Yeah, it been Sorenson and Pascoe.

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1 Q. Who did the guilty plea hearing?

2 A. I think Pascoe.

3 Q. So did he go through and read -- or did he go
4 through and tell the jury what he thought occurred that night?

5 A. When they seen it on the screen, he told them.

6 Q. Not the jury. I'm talking about just the guilty
7 plea. Did he go through and say, this is what I believe we
8 can prove at trial?

9 A. Yes, sir.

10 Q. And did you agree to the facts, as the way he
11 stated them, of what happened?

12 A. No.

13 He just been going through on what he been -- he
14 been saying, well, this here is what happened. He ain't
15 proved the facts. He ain't had no facts. I pled out before
16 the investigative report even came about.

17 Q. Right. Right.

18 But back to that real quick. When he went over the
19 facts with you, did you agree -- did Judge Dixon ask you if
20 you agree with what Mr. Pascoe said?

21 A. I can't remember.

22 Q. Did Ms. Hines speak on your behalf, asking the
23 judge to give you a fair look in the sentencing?

24 A. No, sir.

25 Q. So she didn't offer any mitigation, or evidence, or

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1 she didn't make any mitigation arguments on your behalf?

2 A. She really ain't -- she really ain't argued too
3 much. She just let the solicitor have his way.

4 Q. But towards the end, usually you would have an
5 opportunity to say something to the judge. Did you do that?

6 A. Yes, sir.

7 Q. And you admitted to pleading guilty to murder, that
8 they could prove that you -- they could prove the elements to
9 convict you of murder?

10 A. Yes, sir.

11 MR. MITCHELL: One second, Your Honor.

12 THE COURT: Take your time.

13 Q. [Mr. Mitchell] Did Judge Dixon go over a potential
14 sentence for murder, like the max, at the guilty plea hearing?
15 Did he tell you that you could get life?

16 A. No, sir.

17 He didn't say. He just let me plead to the thirty.
18 That's it. He never said nothing else.

19 Q. He didn't tell you that you could get life, I could
20 choose to give you life, if I wanted to?

21 A. No, he didn't say that.

22 Q. So he gave you thirty years -- or thirty-one years?

23 A. Thirty-one.

24 Q. Thirty-one years. Okay.

25 MR. MITCHELL: That's all the questions I have.

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1 Thank you.

2 THE COURT: Redirect?

3 MR. JACKSON: No, ma'am.

4 THE COURT: You may step down. Thank you.

5 [Whereupon, Mr. Smith is excused and exits the
6 witness stand]

7 THE COURT: Call your next witness.

8 MR. JACKSON: I call Margaret Hines.

9 [Whereupon, Ms. Hines comes forward]

10 THE CLERK OF COURT: Please raise your right hand.
11 State your full name for the record.

12 MS. HINES: Margaret Elizabeth Hines.

13 [Whereupon, Ms. Hines is duly sworn by the clerk of
14 court as follows: do you solemnly swear or affirm to
15 tell the truth, the whole truth, and nothing but the
16 truth, so help you God]

17 THE WITNESS: I do.

18 MR. JACKSON: Good morning, Ms. Hines. How are
19 you?

20 THE WITNESS: I'm fine. Thank you.

21
22
23 - - -
24 - - -
25 - - -

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MARGARET E. HINES,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. JACKSON:

Q. You got appointed to represent Ronald Smith; is that correct?

A. That's correct.

Actually, Doug in the office, Mr. Mellard, was appointed first and I believe there was a conflict situation, so I was then appointed after that.

Q. Did that have to do with the fact there were multiple defendants?

A. Correct.

Q. And you work for the Orangeburg Public Defender's Office; is that correct?

A. Correct.

Q. And how long have you been there?

A. I'm in my eighteenth year.

Q. Now, the times -- do you have -- do you know when you first met with Mr. Smith?

A. The first time I met -- would have met with him would have been on October 20th of 2010.

Q. And what was he actually arrested for?

A. He was arrested for two counts of attempted murder.

MIA PERRON, CVR-CM-M

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1 Q. And that changed along the way; is that right?

2 A. It did.

3 Q. Why did that change?

4 A. It basically changed because as the investigation
5 went on and as more information came in, the solicitor's view
6 of the case changed.

7 Q. And he decided that Mr. Smith was more culpable
8 than they originally thought; is that correct?

9 A. That's correct.

10 Q. And was this Mr. Harman also charged?

11 A. He was.

12 Q. Was he charged with murder, as well?

13 A. He was charged with murder I believe initially.

14 And even into I want to say October and November,
15 Mr. Harman had a bond hearing and the solicitor at that point
16 was arguing that he was the shooter. But his position
17 actually changed further on.

18 Q. Let me show you this report that I offered earlier
19 and ask if you can identify that as something that was in your
20 file.

21 [Whereupon, the witness reviews documents]

22 A. I would have to go through it page by page. I
23 don't -- I wouldn't say -- I can't say I recall seeing it, but
24 it should be part of the discovery, yes.

25 Q. [Mr. Jackson] Let me ask you this. Is that --

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1 does that look like a normal Orangeburg County Sheriff's
2 Office report?

3 A. Absolutely.

4 Q. And detective Sheppard [sic] --

5 A. Shumpert.

6 Q. -- Shumpert was the -- he's an investigator at
7 Orangeburg County Sheriff's Office: is that correct?

8 A. Correct.

9 Q. And it appears that he's watching the video of the
10 situation that Mr. Smith was involved in --

11 A. Correct.

12 Q. -- is that correct?

13 A. That's correct.

14 Q. And does it, in fact, show, according to what
15 he said the video showed, that Mr. Harman actually shot
16 Mr. Sims? Is that correct?

17 A. It does say that.

18 But the date on this is June 14th, 2010. My
19 understanding is the video -- which you have to understand was
20 quite complex. This happened at the Bojangles in Orangeburg,
21 which is also a gas station and convenience store. They had
22 multiple cameras so when you're looking at the video, I
23 believe it was six different camera positions.

24 Even given that, it was not an easy video to watch.
25 I believe later, at the preliminary hearing, at some point I

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1 think the number was tossed around that Shumpert actually
2 watched it more than fifty times. And it was a video that had
3 to be watched numerous times to really get a sense of what was
4 going on.

5 MR. JACKSON: Your Honor, I would go ahead and
6 offer this report, Applicant's Exhibit 1.

7 MR. MITCHELL: No objection.

8 THE COURT: Applicant's 1 into evidence without
9 objection at this time. Thank you.

10 [Whereupon, Plaintiff's Exhibit Number 1 is
11 admitted into evidence by the Court]

12 Q. [Mr. Jackson] But at least in regards to that
13 report and the initial charges, there was at least initially
14 evidence that it was Mr. Harman that did the fatal shooting;
15 is that correct?

16 A. Correct.

17 And that's why Mr. Smith wasn't charged with murder
18 initially. He was charged with attempted.

19 Q. So I guess if you can tell us, what changed so that
20 Mr. Smith was charged with murder and Mr. Harman was cut a
21 deal?

22 A. Basically, the ballistics.

23 Q. And what did the ballistics show?

24 A. I'm not an expert, but I did engage an expert. I
25 hired a man by the name of Don Gert to go over the ballistics

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1 reports.

2 And basically, when you put together the videos,
3 you can see where people were standing around the parking lot
4 when this was happening. When you put that together with the
5 ballistics report, there was going to be testimony at the
6 trial that it would have been from Mr. Smith's gun that the
7 fatal shot was fired.

8 Q. So the police had Mr. Smith's gun?

9 A. No.

10 Q. They did not?

11 A. It had to do with where the casings were recovered.

12 Q. Did they ever have Mr. Smith's gun?

13 A. To my knowledge, no.

14 Q. If he had a gun?

15 A. Correct.

16 Q. Did they have Mr. Harman's gun?

17 A. I don't believe they had any guns in evidence.

18 Q. So when you say the ballistics report, it's not
19 really ballistics; right? It's more where the casings --

20 A. Correct.

21 Q. -- ended up and that sort of thing?

22 A. Correct.

23 Q. Still, how did they know that it was Mr. Smith's
24 gun?

25 A. They could tell from -- the argument would have

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1 been from where people were standing and where the shell
2 casings would have been ejected to, that the people were far
3 enough apart and in distinctly differently places that the
4 testimony was going to be it had to come from Mr. Smith's gun.

5 Q. And what was your assessment of all this evidence?

6 A. My assessment was that that was not good,
7 basically.

8 Q. I mean, was it believable, in your opinion?

9 A. Was it believable that it came from his gun?

10 A. Or was it believable such that a jury would
11 understand it and believe it?

12 A. Yes, I -- I was afraid they would.

13 Q. In regards to Mr. Smith's initial decision to go to
14 trial, what was discussed between you and him in regards to
15 that?

16 A. Basically, there never was an offer on Mr. Smith.
17 Obviously, that was part of the problem. Obviously, he didn't
18 want to plead straight up on either attempted murder or
19 murder.

20 Q. Was that discussed with him?

21 A. Everything was discussed along the way. We
22 discussed -- in my meetings with him, we went over all the
23 discovery. He saw the videos. I believe we sat one time and
24 watched it three times in a row. Everything along the way was
25 discussed with him.

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1 Q. Did you go over all of his constitutional rights
2 and all that sort of thing?

3 A. Absolutely throughout the process.

4 But on the day that he pled, I had him sign a
5 checklist, also, to make sure there wasn't anything that we
6 had forgotten.

7 Q. And that's the standard form y'all used --

8 A. Uh-huh. Yes.

9 Q. -- when people plead guilty?

10 A. Yes.

11 Q. And you just sort of go down it and check off that
12 you've discussed all their rights with them; is that correct?

13 A. Correct. And then they sign.

14 Q. What changed that caused Mr. Smith to plead guilty
15 in this case?

16 A. Basically, after day one ended, day two they
17 brought Mr. Harman in to testify. He testified I believe that
18 morning.

19 That changed Mr. Smith's idea. I mean, at that
20 point he said I don't want a trial, I want to plea, and it was
21 at that point that I went and talked to the judge.

22 Q. So whose idea was it to plead guilty?

23 A. His.

24 Q. Not something you suggested to him?

25 A. We talked about it and I -- it was his idea to

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1 plead guilty.

2 Q. When he said that, what did you do?

3 A. I went and spoke to the judge to find out, and the
4 solicitor to find out, what could be done for Mr. Smith.

5 Q. And what did you find out?

6 A. The judge indicated to me that he would give him
7 thirty-one years.

8 Q. Why thirty-one?

9 A. My personal opinion, I think the one -- the thirty
10 would have been the minimum. The one was a ding for taking up
11 a day in court.

12 Q. So how far -- again, in terms of that next morning
13 that we don't have a transcript for, you say that Mr. Harman
14 testified --

15 A. Yes.

16 Q. -- against -- for the State and against --

17 A. Correct.

18 Q. What did he -- what did he tell the jury that was
19 damaging to Mr. Smith?

20 A. Basically, he was setting up more of where
21 everybody was at.

22 The facts in this case, pretty much everybody had a
23 gun and everybody was firing. Therefore, Mr. Harman, having
24 knowledge of where people were actually standing, and being in
25 the middle of it, was corroborating and explaining what was on

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1 the video.

2 Q. So he never really testified that Mr. Smith shot
3 the man?

4 A. To the best of my recollection, no, I don't think
5 anybody -- any one of them knew who.

6 Q. But when it came down to brass tacks, after Mr.
7 Harman testified, you're telling us that Mr. Smith decided
8 then it was time to take the plea --

9 A. I am.

10 Q. -- or seek a plea; is that correct?

11 A. Yes.

12 Q. After you got him the thirty-one years, what did he
13 say?

14 A. He said that he would take that, and we went and
15 did a guilty plea.

16 Q. And did you then have a guilty plea?

17 A. Yes.

18 Q. I assume the jury was sent out while the guilty
19 plea took place?

20 A. That would be normal procedure.

21 Q. And what happened at the guilty plea?

22 A. If you're asking me do I remember line for line
23 what happened, of course I don't.

24 We went through the colloquy and Mr. Smith pled
25 guilty.

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1 Q. Is it your testimony, Ms. Hines, that Mr. Smith did
2 know or did not know about the fact that, according to this
3 report that Shumpert looked at, that it appeared Mr. Harman
4 did the shooting?

5 A. He knew that, because in the early stages of this
6 case he was in a much better, more favorable position. We had
7 discussed what the evidence was against him. We had looked at
8 the videos. But --

9 Q. He actually saw the videos, as well?

10 A. He actually saw the video multiple times.

11 Q. How many videos were there? You said there were
12 five or six camera angles. There was a video from each one?

13 A. I don't remember if there were six different CDs.
14 But, yeah, there were five or six camera angles.
15 You could look amongst all of the cameras. Some of them
16 caught more than others.

17 To the best of my knowledge, because I haven't
18 looked at them lately, there was I think two that showed more
19 of everything that was going on than the other four.

20 MR. JACKSON: Thank you, ma'am. Please answer any
21 questions the attorney general may have.

22 MR. MITCHELL: Good morning, Ms. Hines.

23 THE WITNESS: Good morning.

24 - - -

25 - - -

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CROSS-EXAMINATION

1
2 BY MR. MITCHELL:

3 Q. So you were appointed on this case?

4 A. I was.

5 Q. Is that right?

6 And you were working with the Orangeburg County
7 Public Defender's Office?

8 A. That would be correct.

9 Q. And that is where you are currently employed; is
10 that right?

11 A. Correct.

12 Q. Did you go over the discovery received in this
13 case --

14 A. Right

15 Q. -- with the applicant?

16 A. I did.

17 Q. So you went over that video.

18 You had a copy of that video that was used at the
19 beginning of the trial; isn't that right?

20 A. That's correct.

21 Q. And you went over that with the applicant?

22 A. I did.

23 Q. And I think you said you went over it with him, at
24 least three times in a row, over and over?

25 A. I did.

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1 Q. So he understood that the -- the evidence that they
2 were going to present against him?

3 A. That would be correct.

4 Q. With regards to the video, at least; right?

5 A. Yes.

6 Q. So this was an incident that occurred at Bojangles;
7 is that right?

8 A. Yes.

9 Q. It was kind of like outside in the parking lot,
10 there were different groups of people and there was kind of a
11 gunfight; is that right?

12 A. Yes.

13 Q. I believe in the opening I think Solicitor Pascoe
14 said something about wild-wild-west gunfight comes to St.
15 George; is that right?

16 A. There were multiple people basically stationed
17 around the parking lot and there was multiple shots fired.
18 Correct.

19 Q. So there was multiple guns involved?

20 A. Yes.

21 Q. And the victim was a bystander; is that right?

22 A. The victim, as far as we can tell, was just
23 somebody who happened to be at the wrong place at the wrong
24 time.

25 Q. Did you review -- you reviewed the applicant's

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1 constitutional rights with him; is that right?

2 A. I did.

3 Q. And you went over that with him before the trial
4 started?

5 A. That's the first thing that I do when I meet with a
6 client. And go through that as we're discussing the case.

7 And, additionally, went through the guilty plea
8 checklist with him, which goes through all the rights, in
9 addition to that.

10 So I knew that absolutely everything was clear and
11 I hadn't forgotten anything, and that he was aware of what he
12 was doing.

13 Q. Did you go over potential defenses with him?

14 A. I did.

15 Q. What were those defenses that you thought were
16 strongest?

17 A. Basically, the strongest defense was going to be
18 that nobody -- you know, nobody could really tell whose bullet
19 killed who, and hope that the -- or the forensic people who
20 would testify would be confusing and not be able to as
21 strongly put the weapon in Mr. Smith's hand and ultimately
22 kill Mr. Sims.

23 I mean, basically I was going to say there was five
24 other -- four other people charged and how can there not be
25 reasonable doubt.

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1 I would have stuck on the fact that Mr. Harman was
2 alleged to have been the shooter initially, and ultimately
3 they let him plea to something else.

4 So that would have been the gist of trial.

5 Q. Did you go over with him the hand of one, the hand
6 of all?

7 A. I did.

8 Q. And that he could be convicted under accomplice
9 liability?

10 A. Yes.

11 Q. So you hired an expert in this case?

12 A. I did.

13 Q. And the expert concluded that the gun that killed
14 the victim was from Mr. Smith's gun; is that correct?

15 A. He had concerns about what could be said.

16 I did not get a report from him. This was verbal.
17 But it was not good news.

18 Q. So was it -- you didn't think the expert was going
19 to be able to offer any favorable testimony?

20 A. No.

21 Q. So he was initially charged with attempted murder,
22 isn't that right, and then as the investigation went on he was
23 charged with murder?

24 A. Correct.

25 Q. So the further the investigators dug and the more

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1 evidence came to light, the more culpable Mr. Smith looked in
2 the State's eyes; is that right?

3 A. That's correct.

4 Q. Did you agree with that view?

5 A. Certainly things got worse.

6 Q. Back to that video. Did you -- you challenged that
7 video in a pretrial motion, didn't you?

8 A. I believe I did.

9 Q. I think you challenged its admission at the very
10 beginning; is that right?

11 A. That would be correct.

12 Q. Mr. Smith talked about third-party guilt. I mean,
13 that was kind of the theme of your defense; isn't that right?

14 A. Third and fourth and fifth --

15 Q. Right.

16 A. -- and everybody else that was there, yeah.

17 Q. Moving to the plea. This was done before Judge
18 Dixon; right?

19 A. Correct.

20 Q. The whole -- all these proceedings were done before
21 Judge Dixon; isn't that right?

22 A. Correct.

23 Q. And you've been before Judge Dixon a number of
24 times; is that right?

25 A. Correct.

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1 Q. Are you very familiar with his colloquy?

2 A. I am. He's one of our resident judges.

3 Q. So you have done numerous guilty pleas before Judge
4 Dixon?

5 A. Yes.

6 Q. Is that right?

7 A. Yes.

8 Q. Although we do not have a transcript, is it Judge
9 Dixon's normal colloquy to go through and read the indictment?

10 A. Yes.

11 Q. Did he do that in this case?

12 A. I don't have a recollection of that exact date, but
13 I'm sure -- I would -- the only thing I can say is if he
14 hadn't, I would have noticed. So, yes, I would believe he
15 did.

16 Q. You think that would have stuck out in your head if
17 he did not read the indictment to the --

18 A. Correct.

19 Q. -- applicant?

20 Does he normally go over the potential sentence and
21 the -- the potential sentence?

22 A. Yes.

23 As well as in something like this, the fact that it
24 was most serious and the consequences of that.

25 Q. So he would normally go over that. Do you remember

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1 if he did in this case?

2 A. Again, I can't say that I remember it, but I'm sure
3 he must have.

4 Q. Did he go over whether there -- whether the
5 applicant was promised, or threatened, coerced, into pleading
6 guilty?

7 A. That is part of his normal colloquy.

8 Q. Do you remember if he did that in this case?

9 A. I don't remember.

10 Q. Do you remember if -- does he normally go over
11 whether he's entering the plea free and voluntarily?

12 A. Absolutely.

13 Q. Do you remember if he did in this case?

14 A. As I said, I cannot tell -- sit here and tell you I
15 absolutely remember the plea.

16 Q. I understand. I'm going to be going through a
17 couple of these, so I apologize for any repetitive answers.

18 But would he normally go through constitutional
19 rights that they would be waiving by pleading guilty?

20 A. Yes.

21 Q. Do you remember if he did in this case?

22 A. I don't remember. I assume he did.

23 Q. And if he didn't, would you have -- you would --
24 you already testified you advised him of that earlier; is that
25 correct?

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1 A. That's correct.

2 Q. So he knew what he was waiving in order to plead
3 guilty?

4 A. Absolutely.

5 Q. Do you remember the State -- do you remember the
6 State went over their recitation of the facts at the guilty
7 plea?

8 A. Again, I don't remember, but that would be normal
9 procedure.

10 Q. Would Judge Dixon normally go through the
11 applicant's -- or the defendant's prior record at that
12 point?

13 A. Yes.

14 Q. Do you remember if he did in this case?

15 A. I don't.

16 Q. Do you remember if you offered any mitigation in
17 Mr. Smith's defense at the guilty plea hearing?

18 A. I believe that the biggest mitigation would have
19 been that he had never been in any -- absolutely any trouble
20 before. I mean, he had like I think a couple of magistrate
21 things, but certainly nothing violent, certainly nothing of
22 this nature. I believe I spoke about that.

23 Q. If you saw any problems with the guilty plea, would
24 you have objected?

25 A. Yes.

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1 Q. Would you have attempted to withdraw that plea if
2 you saw anything that was --

3 A. Yes.

4 Q. -- patently wrong with the proceeding?

5 A. Yes.

6 Q. Do you remember there being anything wrong with the
7 proceeding?

8 A. I do not.

9 Q. Do you have any notes of anything going wrong where
10 he says, I don't want to plead guilty, or anything like that?

11 A. I do not.

12 MR. MITCHELL: One second, Your Honor.

13 [Whereupon, Mr. Mitchell reviews documents]

14 MR. MITCHELL: No further questions.

15 MR. JACKSON: I don't have anything further, Your
16 Honor.

17 THE COURT: Ms. Hines, I have a couple of questions
18 for you.

19 THE WITNESS: Yes, ma'am.

20 THE COURT: In preparing for today's hearing, did
21 the fact that there was not a transcript impact you in
22 any way?

23 THE WITNESS: I don't believe so.

24 THE COURT: You indicated that there were several
25 things that you didn't remember. Do you believe that

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1 there would have been anything that would have assisted
2 you? Of course, that would be the best-case scenario.
3 But Judge Dixon is your resident judge; is that correct?

4 THE WITNESS: That's correct.

5 THE COURT: And he typically does his colloquy in a
6 standard way and if he had deviated from that in any
7 way, would you have brought that to his attention?

8 THE WITNESS: Absolutely.

9 THE COURT: Based upon my questions, anything else?

10 MR. JACKSON: No, ma'am.

11 MR. MITCHELL: No, Your Honor.

12 THE COURT: Thank you. You may step down.

13 THE WITNESS: Thank you.

14 [Whereupon, Ms. Hines is excused and exits the
15 witness stand]

16 THE COURT: Call your next witness.

17 MR. JACKSON: That's all I have, Your Honor.

18 THE COURT: Do you have any witnesses?

19 MR. MITCHELL: The State has no witnesses.

20 THE COURT: I'll be happy to hear from you
21 regarding argument.

22 MR. JACKSON: Your Honor, you've heard everything.
23 I'm not going to make a long argument.

24 We believe that Mr. Smith did not fully understand
25 his defenses, he did not understand the report that he

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1 says he did not see, and therefore his guilty plea was
2 not voluntarily and freely made.

3 We would ask the Court to grant the application and
4 also to consider the fact that there is no transcript of
5 it as a factor in this matter. Thank you.

6 THE COURT: Thank you.

7 MR. MITCHELL: Your Honor, it's the State's
8 position that his application should be denied.

9 I don't think anything that's been presented today
10 shows any unreasonableness on behalf of counsel. I
11 don't think there's been any evidence that shows any
12 prejudice to the applicant.

13 And I note, citing Tate v. State and citing Pringle
14 v. State, that there's a presumption of regularity in
15 all proceedings, and that without the transcript I think
16 we can go off the testimony of Ms. Hines that if there
17 were any problems in Judge Dixon's colloquy, that she
18 would have brought it to the attention of that judge.
19 or -- and withdrawn the plea, or at least have
20 remembered that there was a serious problem, but we
21 submit that there is not.

22 THE COURT: Mr. Mitchell --

23 MR. MITCHELL: Yes.

24 THE COURT: -- am I correct this case was on direct
25 appeal to the Court of Appeals and was reviewed and

Margaret E. Hines
Cross-Examination by Mr. Mitchell
October 27, 2014

1 dismissed for failure to identify any appealable issue?

2 MR. MITCHELL: That's right.

3 THE COURT: And so --

4 MR. MITCHELL: That's right.

5 THE COURT: And so wouldn't that, at that time,
6 have been an issue, that there was not a sufficient
7 transcript to conduct a meaningful full review?

8 MR. MITCHELL: I'm sorry. I'm not sure I
9 understand the question.

10 MR. JACKSON: Can I respond to that, Your Honor --

11 THE COURT: You may.

12 MR. JACKSON: -- because I've had that happen where
13 I've appealed a guilty plea.

14 What the Court does now is send you a letter and
15 requires you to provide them with some specific issues
16 on why they should hear an appeal of a guilty plea. And
17 unless you provide them, they dismiss it. And they do
18 that quite regularly, so that's even before you get to
19 ordering a transcript.

20 MR. MITCHELL: Well, I think that that shows that
21 if there were any issues, that they would have been
22 brought to the Court's attention at that point because,
23 you know, that's closer in time.

24 So if there were serious problems, then Ms. Hines
25 would have had an opportunity to present that, as well

Margaret E. Hines
Cross-Examination by Mr. Mitchell
October 27, 2014

1 as Mr. Smith at that time.

2 THE COURT: All right. Anything further?

3 MR. JACKSON: No. No, ma'am.

4 THE COURT: I'll take the matter under advisement.

5 Please submit proposed orders within ten days of
6 today's date.

7 Good luck to you, sir.

8 MR. JACKSON: Thank you.

9 THE COURT: One last question, Mr. Smith, before
10 you go.

11 You've said it several times, and you understand
12 that the potential for this sentence is life. You
13 understand?

14 MR. SMITH: Yes, ma'am.

15 THE COURT: Should I grant your application for
16 post conviction relief, it doesn't mean that this case
17 goes away. It simply goes back and you would either
18 have to have another trial or enter into a plea.

19 Do you understand that?

20 MR. SMITH: Yes, ma'am.

21 THE COURT: And so I understand that you're twenty-
22 seven. Your proposed max-out date is August of 2041.
23 You understand that thirty-one years, based upon your
24 life expectancy in the state of South Carolina, is
25 substantially less than life in prison.

Margaret E. Hines
Cross-Examination by Mr. Mitchell
October 27, 2014

1 Do you understand that, sir?

2 MR. SMITH: Yes, ma'am.

3 THE COURT: And you still wish to go forward and
4 have me consider the proposed orders?

5 MR. SMITH: Yes, ma'am.

6 THE COURT: All right. Good luck to you, sir.

7 MR. JACKSON: Thank you, Your Honor.

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State vs. Ronald Smith

C E R T I F I C A T E

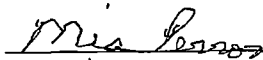
STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the post conviction relief hearing held before the Honorable Kristi L. Harrington, on Monday, October 27, 2014.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 16th day of February, 2016.


Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM-M

-56-

Date: 6/16/10
Time: 14:33:06

ORANGEBURG CO SO
Offense Report

Page:
Program: CMS301

1-10-007041 (Continued)

back to the doctor on Monday.

***** N A R R A T I V E # 12 *****

*** SUPPLEMENT DETAILS ***

Report Emp/Dte/Time. : SHUMPERT, JAMES

6/14/10 14:09

VIEWING VIDEO

Reported By: SHUMPERT, JAMES

6/14/

BASED ON THE VIDEO IT SHOWS THAT DONALD HARMON GOES OUTSIDE AND GET INTO DANIELLE STROMAN S CAR. HE STAYS IN THE CAR FOR AWHILE WHEN BRANDON BRADLEY COMES OVER AND SPEAKS TO HIM. BRADLEY IS WEARING A DARK COLOR SHIRT WITH A RED BANDANA AROUND HIS NECK. BRADLEY LEANS UP AGAINST THE CAR WHILE HARMON IS SPEAKING TO ANOTHER SUBJECT. SHORTLY THERE AFTER A GRAY IMPALA PULLS UP AND ORLANDO LANKY HAYNES, RONALD FIVE SMITH, AND JARROD ROCKY JACQUES EXIT THE VEHICLE AND THEY APPROACH THE VEHICLE THAT HARMON IS SITTING IN AND BRADLEY IS LEANING ON. HAYNES AND JACQUES APPROACH THE VEHICLE FLANKING BRADLEY. BRADLEY STARTS TO BACKSTEP WHEN BOTH SUBJECT APPROACH HIM. ONCE HAYNES AND JACQUES TURN THEIR BACKS BRADLEY IS SEEN PULLING OUT A WEAPON AND START FIRING IT AT THE SUBJECTS. AFTER SHOOTING SEVERAL TIMES BRADLEY RUNS UP HIGHWAY 33. AT THE SAME TIME THE VEHICLE THAT HARMON WAS SITTING IN STARTS TO BACK UP AND AS THE CAR GET CLEARED THE GAS PUMPS HARMON JUMPS OUT OF THE VEHICLE DROPPING HIS CELL PHONE. AT THIS TIME HAYNES, JACQUES, AND SMITH ARE TRYING TO GET INTO THE IMPALA. HOWEVER, JUST BEFORE SMITH GET INTO THE CAR YOU CAN SEE HIS ARM EXTENDS AND FIRE A SHOT TOWARDS HARMON. SAMUEL SIMS (DECEASED) ALREADY EXIT HIS VEHICLE IN ORDER TO SEEK COVER RAN AROUND HIS VEHICLE BUT JUST AS HE GET AROUND THE VEHICLE HARMON TURNS TO RETURN FIRE AT THE IMPALA SHOOTING SIMS IN THE BACK OF HIS HEAD. SIMS FALLS TO THE GROUND LIFELESS. THEN HARMON RUNS ACROSS THE STREET AND IS NEVER SEEN AGAIN. I INTERVIEW WITNESSES WHICH IS IN THE CASE JACKET AND I WAS ABLE TO DEVELOP THIS INDIVIDUALS AS SUSPECTS

***** END OF REPORT *****

EXHIBIT
#1

MAILED

12/23/15 TRB

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Ronald Smith, #347780

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

CASE NO.: 2012-CP-38-01015

ORDER OF DISMISSAL

FILED FOR RECORD
WINNIE B. CLARK
CLERK OF COURT
ORANGEBURG, SC

2015 FEB -4 PM 12:29

THIS MATTER COMES BEFORE THE COURT pursuant to an application for post-conviction relief (PCR) filed June 26, 2012. Respondent made its Return on November 29, 2012, requesting an evidentiary hearing be convened. James B. Jackson, Jr., Esquire, was appointed by the Orangeburg County Clerk of Court. On April 16, 2013, Applicant filed a Motion to Relieve Counsel. A hearing was held on said Motion on November 1, 2013, at the Dorchester County Courthouse. Applicant and Counsel Jackson were present. After questioning Applicant and counsel, this Court denied Applicant's Motion to Relieve Counsel. A formal Order was issued on January 7, 2014.

South Carolina Court Administration informed Respondent by written letter on June 12, 2014, that a transcript of Applicant's guilty plea hearing could not be produced. Respondent made six different requests for this transcript to be produced. Applicant then filed a Motion to Grant Post Conviction Relief on June 2, 2014. Applicant argued that since a transcript could not be produced, that relief should be summarily granted. Respondent filed a Return to Applicant's Motion to Grant Post-Conviction Relief on July 2, 2014. Respondent argued that summary relief should not be granted as Applicant did not cite any case law, statutes, or any authority to support

ATTEST: ~~TRUE COPY~~

Winnif B. Clark
CLERK OF COURT
ORANGEBURG COUNTY

Page 1 of 10

Applicant, his trial counsel, and other witnesses without reliance on a transcript of the proceeding.

An evidentiary hearing was held on October 27, 2014, at the Dorchester County Courthouse. Applicant was present and represented by Counsel Jackson. J. Clayton Mitchell, Esquire of the South Carolina Attorney General's Office represented Respondent.

Applicant testified on his own behalf at the PCR hearing. Also testifying was Applicant's plea Counsel, Margaret E. Hinds, Esquire. The Court had before it the Orangeburg County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, and the appellate records.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. Applicant was indicted during the May 2011 term of the Orangeburg County Grand Jury for Murder (2011-GS-38-1076). Applicant was represented by Margaret Hinds, Esquire.

On September 13, 2011, Applicant proceeded to trial before the Honorable Edgar W. Dickson. On September 14, 2011, after a number of witnesses testified, Applicant pleaded guilty. Judge Dickson sentenced Applicant to confinement for a period of thirty-one years.

A Notice of Appeal was filed with the South Carolina Court of Appeals. An Order of Dismissal was issued on November 23, 2011, for failure of Appellant to identify an appealable issue. The Remittitur was issued on December 14, 2011.

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

1. Ineffective assistance of counsel in that counsel failed to adequately investigate the case.
2. Involuntary guilty plea.

ATTEST: TRUE COPY

Winniford B. Clark

CLERK OF COURT
ORANGEBURG COUNTY, SC

and collateral consequences, whether the defendant was promised or threatened to plead guilty, whether defendant was pleading guilty freely and voluntarily, Constitutional rights that must be waived, the defendant's prior record, the State's recitation of the facts, and any mitigation offered by a defendant. Counsel testified that if she believed there were any problems with the plea proceeding, she would have objected or made a motion to withdraw the plea. She stated that was not the case here and that Applicant knew what rights he was waiving by pleading guilty. She also testified that Judge Dickson would not have accepted the plea or allowed the plea to go forward if any issues arose.

APPLICABLE LAW

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Strickland*, 466 U.S. 668. Applicant must overcome this presumption in order 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. *Id.* at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. *Id.* Under this prong, courts measure an attorney's performance by its "reasonableness

under prevailing professional norms." *Id.* (citing *Strickland*, 466 U.S. at 688). Second, any 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." *Id.* at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, Applicant's appellate records, the transcript of the first day of Applicant's trial, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

Plea Transcript

This Court finds that, although a transcript of the guilty plea proceeding was not available for review, it is not necessary to its determinations and ruling. *See Lomax v. State*, 379 S.C. 93, 665 S.E.2d 164 (2008) (In determining guilty plea issues in a PCR proceeding, it is proper to consider the plea transcript *as well* as evidence at the PCR hearing.) (emphasis added). A presumption of regularity attaches to proceedings in the Court of General Sessions. *Weathers v. State*, 319 S.C. 59, 62, 459 S.E.2d 838, 839 (1995) (citing *Pringle v. State*, 287 S.C. 409, 411, 339 S.E.2d 127, 128 (1986) *State v. Jones*, 211 S.C. 319, 45 S.E.2d 29 (1947)). It is incumbent

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Winnifred B. Clark
 CLERK OF COURT
 ORANGEBURG COUNTY

upon one who challenges a proceeding to prove his claims. See *Bannister v. State*, 333 S.C. 298, 509 S.E.2d 807 (1998). Applicant argues relief should be granted because the Court is without the full record of the plea proceeding. Applicant has presented no evidence other than his own self-serving testimony that the plea was not proper and that he did not knowingly and voluntarily plead guilty. This allegation is without merit as Counsel's testimony was persuasive to this issue. It is important to note that Applicant pled guilty before Judge Dickson, the resident Orangeburg circuit court judge, with whom Counsel Hinds has appeared before numerous times. Counsel is familiar with the structure of Judge Dickson's normal plea proceedings and testified that there is no reason to think Applicant's plea deviated from those practices. Applicant's testimony supports this finding. Applicant testified that he was asked a number of questions at the plea hearing including whether he wished to waive his Constitutional rights, whether he agreed with the solicitor's recitations of the facts, and whether he was threatened or promised anything in exchange for his plea. Therefore, this Court finds that the plea transcript is not necessary to its ruling.

Involuntary Guilty Plea

Applicant's allegation that he did not knowingly and voluntarily plead guilty is without merit.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of a plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial.

Rolen v. State, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009). "The voluntariness of a guilty plea is not determined by an examination of a specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea, and

also from the record of the PCR hearing." *Holden v. State*, 393 S.C. 565, 573, 713 S.E.2d 611, 615 (2011).

Applicant claims that he would not have pled guilty if he knew the investigative report authored by Investigator Shumpert existed. In this report, Investigator Shumpert states that it appears Harmon shot the victim in the back of the head. Based on the evidence presented, this Court can find no way in which Counsel's performance was deficient, or how such an alleged deficiency resulted in prejudice to Applicant. This report was done early in the investigation, but as more evidence and information was collected, the State's case against Applicant became stronger. The State obtained additional video surveillance of the shooting which strongly implicated Applicant. Counsel had this report in her file and was aware that Donald Harmon was initially implicated as the one who fired the shot which killed the victim. This report just gives an initial account of the events that took place from video surveillance which Applicant was intimately familiar with. Applicant had seen the video surveillance footage before trial and reviewed it extensively with Counsel. Counsel's testimony reflects that she gave Applicant all of the necessary information and advice necessary to make a knowing, intelligent and voluntarily decision whether to enter a plea of guilty. Counsel reviewed the various rights Applicant would be waiving by pleading guilty by going through a checklist she reviews with her clients. Applicant has failed to show that he did not voluntarily and intelligently plead guilty. This allegation is denied and dismissed with prejudice.

Failure to Investigate

Applicant's allegations that Counsel was ineffective for failing to investigate is unfounded. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent

investigation of the facts and circumstances of the case.” *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011). To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. *Jackson v. State*, 329 S.C. 345, 495 S.E.2d 768 (1998).

Applicant makes a vague allegation that Counsel failed to investigate the report authored by Investigator Shumpert. Counsel hired a ballistics expert in an attempt to challenge Investigator Shumpert’s report. The expert concluded that Applicant did fire a gun that night, which is clearly not helpful to his case. The investigative report referenced by Applicant is merely an account of what was captured by video surveillance. Applicant reviewed this video in detail with Counsel prior to trial. The State also played this video for the jury on the first day of trial. Applicant has not shown that Counsel failed to investigate any matters that could have been pursued.

Applicant testified that he did not share with Counsel all of the details of what occurred at the scene. “The reasonableness of counsel’s actions may be determined or substantially influenced by the defendant’s own statements or actions. Counsel’s actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant. In particular, what investigation decisions are reasonable depends critically on such information.” *Strickland v. Washington*, 466 U.S. at 691. “The reasonableness of the investigation involves ‘not only the quantum of evidence already known to counsel, but also whether the known evidence would lead a reasonable attorney to investigate further.’” *St. Aubin v. Quarterman*, 470 F.3d 1096, 1101 (5th Cir. 2006), quoting in part *Wiggins*, 539 U.S. at 527; see also *Taylor v. State*, 404 S.C. 350, 745 S.E.2d 97 (2013). Applicant has failed to show what

material evidence Counsel was unaware of that was critical to his defense. Applicant has also failed to show that Counsel's investigation into the incident was unreasonable. Applicant has failed to show that further investigation of the incident, which was captured by video surveillance, undermined confidence in the outcome of the case and creates a reasonable probability that the result of the proceeding would be different. This allegation is denied and dismissed with prejudice.

CONCLUSION

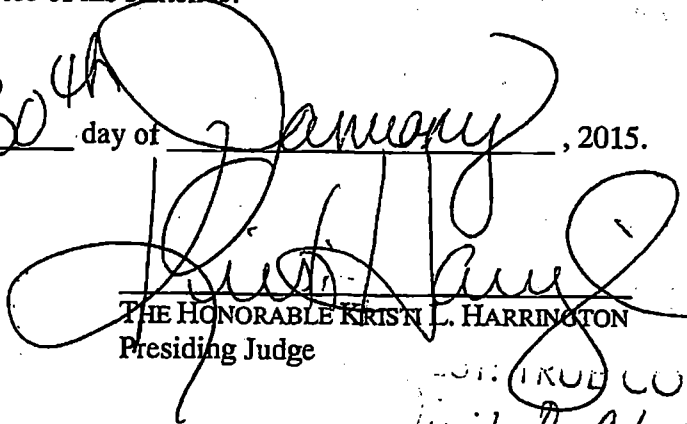
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate Counsel's performance was unreasonable under prevailing professional norms or that the outcome of his plea would have been different had Counsel performed differently. *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625; *Stalk v. State*, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief is denied and dismissed with prejudice.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 30th day of January, 2015.

Charles, South Carolina


THE HONORABLE KRISTIN L. HARRINGTON
Presiding Judge

TRUE COPY
Lynetta B. Clark
CLERK OF COURT
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

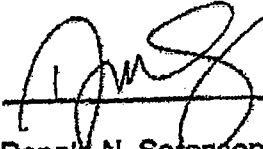
INDICTMENT
2011GS38-1076

At a Court of General Sessions, convened on May 23, 2011 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about June 12, 2010, with malice aforethought, the defendant, Ronald Smith did kill one Samuel Sims by means of a gunshot wound to the head. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

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


Donald N. Sorenson, Solicitor

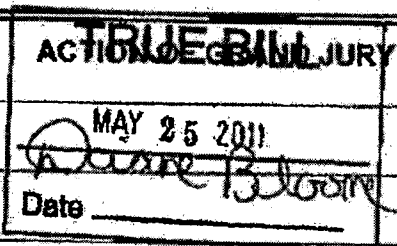
WITNESSES

James Shumpert

Orangeburg County Sheriff

ARREST WARRANT NUMBER
2011ORB43

Arrested: June 17, 2010



Foreperson of Grand Jury
Date: May 25, 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011GS38-1076

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 23, 2011 TERM

THE STATE
vs.

Ronald Smith

Indictment for

MURDER

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WINNIE B. CLARK
CLERK OF COURT
ORANGEBURG, SC
2011 MAY 25 A 11:27

STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg
STATE VS
Ronald SmithAKA: _____
Race: B Sex: M Age: 24
SS#: _____Address: _____
Orangeburg, SC 29115

DL#: _____ SID#: _____

CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was:

TO: MurderIn violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial) _____The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: _____ 9512 Ronald Smith _____ 11759
Sorenson, Donald N. SC Bar# _____ Ronald Smith Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 31 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services, standard conditions of probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Dept. of Corrections
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.**Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.**
SPECIAL CONDITIONS:☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____ days/hours Public Service EmploymentTotal: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____☐ set by SCOPPPS _____

Recipient: _____

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce, Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$60	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (If paid in installments)	\$	\$ 3.90
TOTAL		\$ 133.90

Ver netha Glenna
Clerk of Court/Deputy Clerk
Court Reporter: Harry Dot Walker

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS38-1076
A/W#: 2011ORB43
Date of Offense: 6/12/2010
S.C. Code § 16-3-10
CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]

Judge Code: 2153

Sentences Date: September 14, 2011
SCCA/217 (06/2010)