

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

J. Michael Baxley, Circuit Court Judge

RECEIVED

APR 17 2013

S.C. Supreme Court

MARQUES ANTHONY DURANT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-212964

A P P E N D I X

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INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT DATED JANUARY 4, 2010	1
APPLICATION FOR POST-CONVICTION RELIEF	20
SUPPLEMENTAL APPLICATION FOR POST-CONVICTION RELIEF	28
RETURN	29
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JULY 30, 2012	34
ORDER DENYING POST-CONVICTION RELIEF	78
INDICTMENT	87
SENTENCING SHEET	89
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RECORDS	90

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

COURT OF GENERAL SESSIONS
2009-GS-23-1644

ORIGINAL

STATE OF SOUTH CAROLINA

PLAINTIFF)

vs.

TRANSCRIPT OF RECORD

MARQUES ANTHONY DURANT

DEFENDANT)

January 4, 2010
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, Judge.

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

HOWARD STEINBERG, ASSISTANT SOLICITOR
Attorney for the State

TIMOTHY SULLIVAN, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

INDEX OF WITNESSES

MARQUES DURANT

Examination By The Court 4

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Sentencing 19

Certificate of Reporter 19

1 THE CLERK: Your Honor, this is Indictment
2 2009-GS-23-1644, Marques Anthony Durant, indicted for
3 murder, pleading to voluntary manslaughter. It is a true
4 bill.

5 Please raise your right hand.

6 MARQUES DURANT, after being duly sworn,
7 testified as follows:

8 THE COURT: How many jail days does he get?

9 MR. STEINBURG: 493, Your Honor.

10 EXAMINATION

11 BY THE COURT:

12 Q All right, in the last 24 hours have you had any
13 drugs, alcohol, medication?

14 A No, sir.

15 Q Have you ever been treated for the abuse of alcohol,
16 drugs or mental illness or emotional problems?

17 A No, sir.

18 Q Sober today?

19 A Yes, sir.

20 Q All right. You're up here on this Indictment
21 09-1644, alleges you did, Greenville County,
22 August 28, '08, unlawfully with malice aforethought
23 kill Christopher Duckett by means of beating him with
24 a solid object and he died as a proximate result
25 thereof. Pleading to voluntary manslaughter, carries

1 from two to 30 years. This is a most serious
2 offense. If you get convictions for two or more most
3 serious offenses you're eligible for life in prison
4 without parole. It's also a violent offense which
5 means it's a non-parolable offense, do you understand
6 all of that?

7 A Yes, sir.

8 Q Understanding all of that, the nature of the charge
9 against you and the maximum possible punishment, how
10 do you want to plead?

11 A Guilty.

12 Q Anybody forced you in any way or coerced you,
13 threatened you, promised you anything to get you to
14 enter that plea?

15 A No, sir.

16 Q Do you understand that you have an absolute right to
17 a trial by jury where you would be presumed innocent
18 unless and until the State could prove you guilty
19 beyond any reasonable doubt of each and every element
20 of the offense which you're charged with? You would
21 have the right to confront and cross-examine the
22 witnesses and the evidence put up against you by the
23 State. You would have the right to use the subpoena
24 power of the State to compel in court all relevant
25 and competent evidence in your own defense. Or you

MARQUES DURANT-EXAMINATION BY THE COURT

5

1 can remain silent. Your silence could not be held
2 against and you can never be compelled to incriminate
3 yourself. Do you understand all those rights?

4 A Yes, sir.

5 Q Additionally, I don't know if you made a statement in
6 this case but if you did, you enter this plea and I
7 accept it, you give up your right to challenge the
8 Constitutional propriety of that statement, do you
9 understand that?

10 A Yes, sir.

11 Q And the same is true with respect to the seizure of
12 evidence. I don't know if there's any issue with
13 respect to the seizure of evidence but if you enter
14 this plea and I accept it then you give up your right
15 to challenge the Constitutional propriety of the
16 seizure of any evidence in the case, do you
17 understand that?

18 A Yes, sir.

19 Q All right, understanding all those rights, do want to
20 give them all up to enter this plea?

21 A Yes, sir.

22 Q Are you guilty?

23 A Yes, sir.

24 Q Are you totally and completely satisfied your lawyer?

25 A Yes, sir.

1 Q Do you have any complaints you want to make against
2 anybody with respect to how you've been treated in
3 this case?

4 A No, sir.

5 Q Have you had enough time to review the evidence that
6 the State has against you?

7 A Yes, sir.

8 THE COURT: Okay, tell us about it.

9 MR. STEINBURG: Thank you, Your Honor. On
10 August 28th of 2008, this defendant was involved in a
11 fight at Casablanca's Nightclub on Augusta Road. The
12 victim, Christopher Duckett, appeared to be defending
13 himself. He certainly did not start this fight according
14 to the witnesses and the video tape evidence. Mr. Durant
15 was punching and kicking Mr. Duckett who later went into
16 unconsciousness. The co-defendant, Robert Moore, then
17 used a table to hit Mr. Duckett in the head.

18 Medical examiner stated that his death was
19 caused by blunt force trauma to the head. The video
20 evidence shows that Mr. Duckett did nothing to instigate
21 this fight. He was very inebriated at the time but he did
22 not do anything to start this fight. He was actually in
23 the process of trying to leave the bar when he was
24 intercepted by Mr. Durant. At which point after
25 Mr. Durant and Mr. Duckett had started fighting, later on

1 Mr. Moore came in and at that point it was two on one.

2 Mr. Durant does have a prior record, Your Honor.

3 THE COURT: Okay, what's that?

4 MR. STEINBURG: He has a 2005, strong armed
5 robbery which he received a YOA. 2006, simple assault and
6 battery and a 2006 indecent exposure.

7 PROBATION AGENT: And he's currently on
8 probation, Your Honor.

9 THE COURT: Okay, what's the status of that?

10 PROBATION AGENT: It's ABHAN, indecent exposure
11 and two strong armed robberies. He received that on
12 July 31st of '08.

13 THE COURT: '08? So he's got aggravated assault
14 and battery.

15 PROBATION AGENT: Indecent exposure, two counts
16 of strong armed robbery.

17 THE COURT: Okay.

18 MR. SULLIVAN: He did some active time on those,
19 Judge, when he was released on parole or probation.

20 THE COURT: All right, was he in violation other
21 than this?

22 MR. SULLIVAN: I don't think he'd been home very
23 long, Judge.

24 How long you been home?

25 MR. DURANT: I ain't violated parole.

1 MR. STEINBURG: Your Honor, the ABHAN according
2 to our records was pled guilty in front of Judge Hawley so
3 it had to be simple assault and battery. Unless the
4 probation department has something different.

5 THE COURT: Okay.

6 BY THE COURT:

7 Q All right, well while she's checking on all that, is
8 all that true?

9 A Yes, sir.

10 THE COURT: Okay. Well I'll accept the plea as
11 being freely, voluntarily and intelligently made with the
12 advice of a very competent attorney with whom he states
13 he's well satisfied. And there's a substantial, factual
14 basis for the plea.

15 PROBATION AGENT: He pled in front of Judge Few.

16 THE COURT: To all those charges?

17 PROBATION AGENT: I think the ABHAN was six
18 years, suspended to three years probation and the
19 probation was to begin when he was released on YOA parole.
20 And it looks like it began in July of '08.

21 THE COURT: Okay. All right. Is there any
22 victim input in this case?

23 MR. STEINBURG: Yes, sir, Your Honor. The
24 victim was married and a father. He served in the
25 military to include being called up on active duty in

1 Iraq. The victim's family is present. They've been
2 actively involved in this case from the beginning. They
3 would like to speak. The victim's wife, Jasmine Duckett,
4 is here as well as other family members who would like to
5 speak as well as Reverend Lewis Duckett.

6 Jasmine Duckett.

7 THE COURT: If you would, just state your name
8 for the record, please, ma'am.

9 MS. DUCKETT: Yes, sir, my name is Jasmine
10 Duckett, I'm Christopher's wife. We have a six year-old
11 daughter together. My husband did about seven years
12 military. He worked four years at his job. He was
13 murdered on his day off. The week after my daughter
14 started kindergarten. The first week of school and, you
15 know, she wakes up every night crying. And all I can do
16 is hold her because I can't really do anything. And I
17 just think it's just wrong to actually come home and to be
18 killed here when he was fighting for everybody in here.

19 Even you and your children and your family--

20 THE COURT: Ma'am, please just address me. I
21 understand your emotions.

22 MS. DUCKETT: That's it.

23 THE COURT: All right.

24 MR. DUCKETT: Judge, I'm Lewis Duckett, Reverend
25 Lewis Duckett, father. My son did serve his time in the

1 Marines, he was an Iraq veteran. He worked at Michelin.
2 The impact that it's had on my family, this situation, my
3 wife is here, has sleepless nights. Holidays just passed.
4 I mean, it was just a total diaster. It was uncalled for.
5 Through the grace of God he has allowed us to go on in the
6 name of Jesus Christ our Lord. I ask for the maximum
7 sentence. There's always consequences for our actions.
8 And regardless of what state of mind these men was in I
9 think he deserves the maximum.

10 THE COURT: All right. Thank you, very much.
11 Okay, Mr. Sullivan.

12 MR. SULLIVAN: Judge, I think Mr. Durant would
13 like to make a statement to the family then I...

14 THE COURT: All right.

15 MR. DURANT: I want to say the Duckett family
16 and friends --

17 THE COURT: Well you say it to me, Mr. Durant.

18 MR. DURANT: Okay.

19 THE COURT: Don't address them personally.

20 MR. DURANT: All right. To the Duckett family
21 and friends, I want to the say I'm truly sorry for the
22 death of Mr. Christopher Duckett. You know, Exodus
23 Chapter 20 verse 13 says, That shall not kill. And I'd
24 never, ever intentionally take a man's nor woman's life.
25 But most importantly take him away from his family and

1 friends.

2 What went on that night was a accident and was
3 not done on purpose. I'm not that type of person. Again,
4 I want to say I'm sorry. I know I'm sorry can't fix
5 everything but I am sorry for my wrongdoings that got me
6 before this Court today. I take full responsibility for
7 my actions. And I want to ask the family to forgive me.
8 And I ask you to be lenient as possible on my sentence,
9 Judge Miller.

10 THE COURT: All right, Mr. Sullivan.

11 MR. SULLIVAN: Judge, what happened on this, a
12 group of people were at the bar part of Godiva's. And
13 there was a little dust up and Mr. Duckett left. I think
14 with Mr. Durant's cousin and they were taking him home.
15 So Mr. Duckett told the fellow to take him home, he was a
16 Marine and they couldn't make him leave, he wasn't afraid
17 of anybody, no I wasn't going home. They took Christopher
18 Duckett home.

19 He called a friend from his home, 1:30, said,
20 I'm going back to the club. He came in the backdoor, we
21 don't know what happened, it's kind of like a cowboy
22 fight. A fight broke out. A friend of Marques hit him
23 with a beer bottle. Then Marques and Christopher were
24 into it. He knocked Mr. Duckett down and hit him with a
25 stool. Mr. Moore jumped in, no plan and hit him in the

1 head with a table. They left, the fight broke up. And
2 the next morning when Marques found out that Mr. Duckett
3 was deceased, he turned himself into the police. Had his
4 cousin take him down there and gave a full and complete
5 statement of what his involvement was and Mr. Moore's.

6 The Solicitor's Office went to Columbia and met
7 with Mr. Moore, he's doing time down there. And he gave a
8 statement also admitting that Mr. Duckett had hit -- that
9 Mr. Durant had hit Mr. Duckett in the legs and he had used
10 a table that hit him in the head. And that was the cause
11 of death, blunt force trauma to the head.

12 The problem I have with the case as far as
13 trying this type thing, if a jury believed that Mr. Moore
14 and Mr. Durant were acting together, then you're looking
15 at the hand of one, the hand of all. I look at it more
16 like a ballroom brawl, everybody is just hitting
17 everybody. And if Mr. Moore didn't jump in with a table,
18 this thing's over and maybe everybody's alive. So that's
19 why I would be afraid to try it.

20 They made an offer to Mr. Moore, who hit him
21 with the table, of cap of 22. We decided to go with that
22 kind of a bench warrant, straight up plea. I think if
23 Mr. Moore didn't jump in, you're looking at assault and
24 battery high and aggravated by using a table on somebody's
25 legs. That's a 10 year sentence. If you pump it up

1 you're looking at assault and battery with intent to kill
2 which is 20. So I would hope with the statements of the
3 co-defendant, who admitted he used a table on the head,
4 and he turned himself in, gave a complete statement, that
5 you would consider something in the range of 10 to 20
6 years. There's a cap on the, I was told the killer, of
7 22.

8 MR. STEINBURG: Your Honor, could I address--

9 THE COURT: Yeah, I'd like to hear.

10 MR. STEINBURG: I agree with a number of things
11 opposing counsel has stated. However, when the victim
12 came back into the bar, we have him on video tape. He is
13 not starting a fight. He said, I am a Marine, I am not
14 going to run from these young guys. He walked back in
15 that bar, he did bother standing his ground. He sat down
16 and bothered no other person on this planet. All our
17 witnesses, everybody says, the video tape shows, he was
18 drunk and maybe a wise man would have left, but he decided
19 he's going to go back into a public bar. He's not kicked
20 out by bouncers, he's not kicked out by management. He
21 only went back in to finish drinking the beers he's
22 allowed to and did not start a fight.

23 As far as the actual assault, I agree that
24 Mr. Durant did come in and give his story the first day.
25 Mr. Durant did more than just hit him on the legs. I

1 think that was after he hit the ground. What caused him
2 to hit the ground were multiple punches and hitting by
3 Mr. Durant and Mr. Moore. I do agree that Mr. Moore did
4 come in with at least -- we know at least he used a solid
5 object to assault.

6 THE COURT: Well why is his recommendation a cap
7 of 22?

8 MR. STEINBURG: He is a cap of 22 in order to
9 get him to cooperate and to lock in exactly how this went
10 down. As part of my continued negotiations. He's already
11 pleaded guilty. He's having his sentence suspended or
12 deferred until, Your Honor, can sentence him I think the
13 next time he comes up. You actually took his plea I
14 believe in early December.

15 MR. SULLIVAN: Judge, we never -- we discussed
16 the offers and we never threatened to go to trial on it,
17 it never got that far. I was out for a good while then
18 Mr. Steinburg sent me this letter on December 9th saying
19 that Mr. Moore, they took his statement and he was going
20 to testify and offer him a cap of 22.

21 THE COURT: Well let me ask you this, why would
22 you -- if this defendant made a full, complete confession,
23 why did you need to deal with the other guy?

24 MR. STEINBURG: His confession left him -- left
25 loopholes that he could argue for something, for example,

1 involuntary manslaughter. This case has some of the
2 elements of involuntary manslaughter. And potential
3 assault causing unsuspected death, that would be his
4 primary argument.

5 THE COURT: Well is there anything in his
6 statement that's untrue?

7 MR. STEINBURG: It's not untrue but it does not
8 go so far as to say that I along joined with Robert Moore.
9 He said, this may well be correct, I was fighting
10 Christopher Duckett then Robert Moore joined in. We
11 couldn't charge lynching because of that under the case
12 law of lynching. Otherwise we would have charged
13 lynching. Because of that the suspect still had the
14 argument, I'm responsible for my actions, I'm not
15 responsible for Robert Moore's subsequent actions.

16 THE COURT: This is a fairly fact-intensive
17 decision for me.

18 MR. SULLIVAN: Judge, our position is that
19 without Mr. Moore we wouldn't be here on a murder charge.
20 Maybe assault --

21 THE COURT: Well I know that's your position.
22 What does the autopsy say about the cause of
23 death?

24 MR. STEINBURG: Repeated blows but the primary
25 cause of death was blunt force trauma to the head. They

1 don't necessarily say caused by a particular object but
2 they do say blunt force trauma to the head.

3 THE COURT: Does the video show that this
4 defendant--

5 MR. STEINBURG: No, sir. The video tape shows
6 my suspect -- pardon me, the victim staring at the floor
7 and then a fight starts. Somebody else throws a beer
8 bottle. Not at a person, just spilled on a person.
9 Everybody ran towards the door. We have the victim
10 running towards the door. We don't see exactly who else
11 is running after him, it wound up being Mr. Durant. The
12 next video camera shows Mr. Durant and Mr. Duckett
13 fighting. Stand up fighting man to man. The next video,
14 unfortunately, is blocked by an air vent so you can't see
15 above the waist. We see another person running, who
16 because of his clothes, identified as Robert Moore. Who
17 believed Mr. Moore was running up with the table over his
18 head per the victims statements.

19 THE COURT: Was he already on the ground?

20 MR. STEINBURG: No, sir, we can't tell where
21 Mr. Duckett was because of the angle of the video camera.

22 MR. SULLIVAN: Mr. Moore's statement agree that
23 the fact he did hit him with a table. And that he hit him
24 in the legs with the stool.

25 THE COURT: Do you have his statement, Durant's

1 statement?

2 MR. STEINBURG: I'm not sure if I have it on me,
3 Your Honor. No, sir, I don't have it the file.

4 MR. SULLIVAN: I got Mr. Moore's. I can get it,
5 it's downstairs in a thick file like that. I didn't bring
6 the whole file.

7 THE COURT: Well I tell you, I accepted the
8 plea, I'm going to defer the sentence. I want to review
9 this. Okay.

10 MR. STEINBURG: Yes, sir.

11 MR. SULLIVAN: What would you like for me to
12 furnish, if anything, to you?

13 MR. STEINBURG: I can get that even quicker to
14 you.

15 THE COURT: Statements. I want to know what the
16 relative conduct is. What's Moore's -- what his prior
17 criminal history too.

18 MR. STEINBURG: Yes, sir.

19 THE COURT: Okay. Okay, all right. I'm going
20 to review some of the facts in this case before I make a
21 decision about my sentence. So I'm -- I've accepted his
22 plea, he's been judged guilty but I'm going to sentence
23 him probably be after lunch now, okay.

24 MR. STEINBURG: Yes, sir.

25 THE COURT: Thank you.

1 (WHEREUPON, a short break was taken.)

2 MR. SULLIVAN: I've got one more thing I'd like
3 to be heard, he's well aware of it.

4 THE COURT: Well aware of what?

5 MR. SULLIVAN: This is -- that's the
6 co-defendant, Mr. Moore. He's doing 15 straight, adult.
7 His 22 is concurrent with that.

8 THE COURT: All right. Well I reviewed all of
9 this. Anything else anybody wants to say?

10 MR. STEINBURG: Nothing from the State, Your
11 Honor.

12 MR. SULLIVAN: Nothing from the defense, Your
13 Honor. You got the statements.

14 SENTENCING

15 THE COURT: While I know that nothing can bring
16 your son and husband back and my heart goes out to you, I
17 am inclined to treat these defendants the same. And if
18 the other one has a 22 year negotiation then I'm going to
19 give this defendant 22 years. All right, good luck.

20 MR. SULLIVAN: Thank you, Your Honor.

21 (WHEREUPON, the proceedings were concluded.)
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the fourth day of January, 2010.

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

January 25, 2011

APRIL P. HERRON, Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

County of GREENVILLE)

IN THE COURT OF COMMON PLEAS

MARQUES DURANT 319613)

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

v.)

State of South Carolina)

RESPONDENT)

APPLICATION FOR)

POST-CONVICTION RELIEF)

2010-CP-23- 9660

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention LIEBER CORR. INST.
2. Name and location of Court which imposed sentence GREENVILLE COUNTY GENERAL SESSION FOR THE THIRTEENTH JUDICIAL C.
3. Name(s) of co-defendant(s) (if any) ROBERT JAMES MOORE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) I-476152

- (b) _____
 (c) _____

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

- (a) JANUARY 4TH 2010
 (b) 22 YEARS
 (c) _____

6. Check whether a finding of guilty was made:

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

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

NO

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

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

- i. _____
 ii. _____
 iii. _____

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

- i. _____
 ii. _____
 iii. _____

(c) the date of each such result:

- i. _____
 ii. _____
 iii. _____

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

- i. _____
 ii. _____
 iii. _____

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

- (a) MY LAWYER DID NOT KEEP CONTACT WITH ME.

- (b) MY LAWYER DID NOT TELL ME NOTHING ABOUT APPEAL
 (c) _____

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

- (a) INEFFECTIVE ASSIST OF COUNSEL
 (b) _____
 (c) _____

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

- (a) MY LAWYER DIDNT APPEAL NOTHING AND HE TOLD ME IT WAS A CAP ON A SENTENCE BUT I GOT OVER THE CAP.
 (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? _____
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
 (d) any other petitions, motions or applications in this or any other Court? _____

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. _____

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

- i. _____
 ii. _____
 iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

NO

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) _____
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? YES
- (b) your trial, if any? NO
- (c) your sentencing? NO
- (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. TIMOTHY SULLIVAN
305 E. NORTH STREET, SUITE 123
- ii. GREENVILLE S.C. 29601
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. TIMOTHY SULLIVAN REPRESENTED ME AT
MY PEEK HEARING.
- ii. _____
- iii. _____

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

I'M ASKING FOR A RE-TRIAL OR JURY TRIAL LIKE I WANT
AT FIRST BUT THAT LAWYER TRICKED ME TO SIGNING A
PLEA WHICH WAS 0 TO 20 ^(YRS) BUT I GOT 22 YEARS.

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

NO

Revised 3/200

STATE OF SOUTH CAROLINA

County of GREENVILLE

VERIFICATION

I, MARQUES DURANT #319613, 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.

Marques Durant

SWORN to and subscribed before me this 20th
day of October, 2010

Sylvia Jones (L.S.)
Notary Public

My Commission Expires: 1/24/2018

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

I, MARQUES DURANT #319613, 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.

Marques Durant
Applicant

SWORN or affirmed to and subscribed before me this

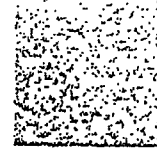
10th day of October, 2010.

Sylvia Jones
Notary Public

My Commission Expires: 1/24/2013

MARQUES DURANT-319013
LIEBER CORR INST. MB-233
P.O. BOX 205
RIDGEVILLE S.C. 29472

FULL CLASS



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Mm Jm
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GREENVILLE S.C. 29601

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Marques Anthony Durant,)
 Plaintiff,)
)
 v.)
)
 State of South Carolina)
 Defendant.)

IN THE COURT OF COMMONS PLEAS

C/A 2010-CP-23-9660

SUPPLEMENT TO APPLICATION FOR
 POST-CONVICTION RELIEF

FILED-CLERK (CAG)
 GREENVILLE SC
 PAUL E. WILSON, CLERK

2012 JUL 11 PM 2:51

The Plaintiff filed his Application for Post-Conviction Relief alleging ineffective assistance of counsel. The filing is supplemented to include the following:

1. That there was withholding of discovery;
2. That there exists newly discovered evidence contained in the Patient Care Summary Report (Incident# 082410015, Report# 0829510, dated 08/28/2008) that Plaintiff believes indicates mistreatment by EMS of the decedent, Christopher Duckett, and an alternative explanation for Mr. Duckett's death, which Plaintiff's trial counsel should have investigated, examined, and made known;
3. That trial counsel failed to subpoena alibi witnesses;
4. That trial counsel waived a preliminary hearing without the Plaintiff's consent; and,
5. That trial counsel made insufficient contact with Plaintiff about his case and did not properly counsel the Plaintiff;

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2010-CP-23-9660
COUNTY OF GREENVILLE	)	
	)	
Marques Anthony Durant,	)	
S.C.D.C. No. 319613,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed November 22, 2010, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the March 2009 term of General Sessions for murder (2009-GS-23-1644). C. Timothy Sullivan, Esquire represented the Applicant.

On January 4, 2010, the Applicant pled guilty to voluntary manslaughter. The Honorable Edward W. Miller sentenced the Applicant to twenty-two (22) years imprisonment. The Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript.

II.

In his application for post-conviction relief the Applicant alleges he is being held in

custody unlawfully for the following reason:

- I. Ineffective assistance of counsel:
 - a. "My lawyer didn't appeal nothing and he told me it was a cap on my sentence but I got over the cap."

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v.

State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

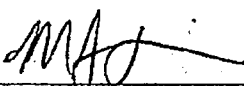
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: 
Attorneys for Respondent

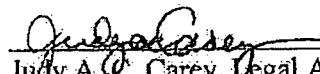
March 7, 2011

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2010-CP-23-9660
	)	
MARQUES ANTHONY DURANT, 319613	)	
	)	
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:

Marques Anthony Durant, 319613
 Lieber Correctional Institution
 Post Office Box 205
 Ridgeville SC 29472

DATED this 7th day of March, 2011.


 Judy A. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

MARQUES A. DURANT,

APPLICANT,

-VS-

STATE OF SOUTH CAROLINA,

RESPONDENT.

2010-CP-23-09960

TRANSCRIPT OF RECORD

JULY 30, 2012
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE J. MICHAEL BAXLEY

APPEARANCES:

ATTORNEY FOR APPLICANT:

MATTHEW P. HEAD, ESQUIRE

ATTORNEY FOR RESPONDENT:

KAREN C. RATIGAN
ASSISTANT ATTORNEY GENERAL

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

INDEX

<u>WITNESS</u>	<u>PAGE NO.</u>
C. TIMOTHY SULLIVAN	
DIRECT BY MR. HEAD -----	9
CROSS BY MS. RATIGAN -----	20
MARQUES DURANT	
DIRECT BY MR. HEAD -----	22
CROSS BY MS. RATIGAN -----	35
CERTIFICATE OF REPORTER -----	44

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
P-1	Patient Care Summary -----	27	27

1 (Whereupon Lonnie Crisp, Marques Durant and Michael
2 Robinson were brought before the Court)

3 **THE COURT:** Come in, gentlemen. Please come in and be
4 seated over in the jury box, if you will. Hello, gentlemen.
5 How are you? Good afternoon. My name is Judge Baxley.

6 And each of you are here today because you have filed a
7 Post Conviction Relief claim. And let's see who we have.
8 Which of you is Mr. Lonnie Crisp.

9 (Whereupon Mr. Crisp raised his hand)

10 **THE COURT:** All right, Mr. Crisp. How are you, sir?

11 **MR. CRISP:** (Affirmative nod).

12 **THE COURT:** And which of you is -- is it Marques
13 Durant?

14 (Whereupon Mr. Durant raised his hand)

15 **THE COURT:** Mr. Durant, how are you?

16 **MR. DURANT:** (Affirmative nod).

17 **THE COURT:** And, Mr. Michael Robinson.

18 (Whereupon Mr. Robinson raised his hand)

19 **THE COURT:** Good afternoon. All right. Gentlemen, I
20 asked that y'all come in and we sit down and talk for a
21 moment before we started Post Conviction Relief just so we
22 would have an understanding of how this process works
23 because I've not spoken with you previously in this process.

24 Again, my name is Judge Baxley. I'm actually from
25 Darlington County. I'm assigned here today to conduct these

1 Post Conviction Relief hearings. And the reason you're here
2 is because you have filed a Post Conviction Relief
3 application, and it's been called for a hearing this
4 afternoon. What I wanted to do was just talk with you a
5 moment or two to make sure we all had the same understanding
6 about Post Conviction Relief, how it works, and what it is
7 and really what it isn't.

8 When you file a Post Conviction Relief claim you are
9 saying that your lawyer below, that is who represented you
10 in the criminal charges, either he or she was ineffective,
11 that is, their performance was deficient. It fell below the
12 standard we require of criminal lawyers practicing here in
13 South Carolina.

14 So you have to prove that your lawyer's performance was
15 below the standard, and you have to prove that you were
16 prejudiced by that. And prejudice basically means that the
17 outcome would have been different but for your lawyer's poor
18 performance.

19 Now, those are the issues at PCR. And the Legislature,
20 who sets the rules for this process has limited, limited PCR
21 to those issues only. So if today you have a complaint
22 about a condition of confinement, or your max-out date, or
23 where you may be housed, even if I wanted to help you, I'm
24 not authorized to do that and cannot. The only thing I can
25 determine is whether you had ineffective assistance of

1 counsel below.

2 Now, just a little bit about that. If your PCR claim
3 today, if you're successful, you don't walk out the door and
4 go home. What happens is you go back to the -- either
5 Greenville County Detention Center or whatever county where
6 the charges arose, and it starts all over again. You go
7 back to square one as if the earlier prosecution never even
8 happened.

9 And so if when you first got a plea or a conviction, if
10 other charges were dismissed when the judge entered a
11 sentence, I just want to make sure you understand, if we go
12 back to square one, all those charges come back on the
13 table. So there are benefits to PCR if you're successful
14 and you go back and get another trial, but there are risks
15 as well because you could get PCR granted, go back, have
16 greater charges all put back on the table and end up worse
17 than you are before you started this whole process.

18 I don't say that as a threat. And please understand,
19 I'm not part of the State's response to your application and
20 I'm not part of your application. One of the parts of our
21 system is the judge is not aligned with either party. But I
22 just want to make sure we all understand the risks and the
23 benefits of potential benefits of PCR.

24 Now, let me ask if based on what I've discussed with
25 you if any of you wish to talk to your lawyer before we call

1 your case and go forward today. If you do, just raise your
2 hand, please, if you want to have -- if you need any further
3 time with your attorney.

4 (No response)

5 THE COURT: I see that no one's raised their hand. So
6 what we'll do is we're going to send you back downstairs,
7 and we'll call your cases one at a time. I see one -- all
8 right. Sir, did you wish to speak to your attorney?

9 MR. ROBINSON: Yes, sir.

10 THE COURT: All right. And you're Mr. Robinson?

11 MR. ROBINSON: Yes, sir.

12 THE COURT: All right. Well, we'll give you an
13 opportunity to do that then. And Mr. Robinson's attorney is
14 present?

15 MR. BELL: (Affirmative nod).

16 THE COURT: All right. Very good. We'll give you an
17 opportunity to talk a moment. And which case did you want
18 to call first?

19 MS. RATIGAN: We're going to call Lonnie Crisp, Your
20 Honor.

21 THE COURT: Tell me that one more time.

22 MS. RATIGAN: Lonnie Crisp.

23 THE COURT: Mr. Crisp? All right. Then, Mr. Crisp,
24 we'll let you remain with us. And, Mr. Robinson, we'll let
25 you talk to your attorney. And then, Mr. Durant, we're

1 going to send you back downstairs for a few minutes, all
2 right, sir?

3 (Whereupon the applicants exited the courtroom at 2:07
4 pm)

5 THE COURT: All right. Are you Mr. Marques Durant?

6 MR. DURANT: Yes, sir.

7 THE COURT: How are you, sir?

8 MR. DURANT: Fine.

9 THE COURT: All right. What we're going to do is we're
10 going to begin your Post Conviction Relief hearing with our
11 Attorney General giving us a history, that is, a procedural
12 history of how we found -- find ourselves here today. And
13 then we'll come back to you to put up your case, all right?
14 So go ahead, Ms. Ratigan.

15 MS. RATIGAN: Thank you, Your Honor. May it please the
16 Court. This is the case of Marques Anthony Durant versus
17 the State. The docket number is 2010-CP-23-9660. Mr.
18 Durant was indicted for murder. He was represented on that
19 charge by Mr. Sullivan, who's seated to my right.

20 On January 4th of 2010 he pled guilty to voluntary
21 manslaughter before Judge Miller. He received a twenty-two
22 year sentence. He did not file an appeal.

23 I would note for the record and for Your Honor's
24 information, we have members of the victim's family here
25 today. They're seated back behind me to my right. The

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

9

1 striped top is Jasmine Duckett. That is the victim's widow.
2 And on either side of her are the Reverend Lewis and Jackie
3 Duckett, the victim's parents. And they're here today to
4 observe.

5 THE COURT: Very good. And to Ms. Duckett and to
6 members of the family who are present, thank you for being
7 here today. It's a difficult situation to be the victim of
8 crime in the first place, but then to have the passage of
9 time, come back and relive it here and have it reopened in
10 the courtroom is a difficult thing. I appreciate your
11 courage in being present today. Thank you for your
12 willingness to come forward.

13 Now, let's move forward to Mr. Head. And is there any
14 objection to the history that was given to us by Ms.
15 Ratigan?

16 MR. HEAD: No, Your Honor.

17 THE COURT: Okay. And are you ready to proceed in your
18 case?

19 MR. HEAD: I am, Your Honor.

20 THE COURT: Please call your first witness.

21 MR. HEAD: I would like to call Timothy Sullivan.

22 THE COURT: All right. Mr. Sullivan, please come
23 forward and take the oath of a witness.

24 C. TIMOTHY SULLIVAN,
25 being duly sworn testified as follows:

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

10

1 MADAME CLERK: Thank you. Please be seated. And state
2 your full name for the record.

3 MR. SULLIVAN: C. Timothy Sullivan.

4 THE COURT: And, counsel, please go ahead.

5 MR. HEAD: Thank you, Your Honor.

6 Direct Examination by Mr. Head:

7 Q. Mr. Sullivan, you represented Mr. Durant with respect
8 to his State Court charges?

9 A. I did.

10 Q. And when did you get this case?

11 A. I was appointed -- let's see if I have my sheets here.
12 Looks like in December of '08.

13 Q. And you said you were appointed to the case. Do you
14 handle cases for the Public Defender's Office?

15 A. Yes. I'm a part-time public defender and part-time
16 private. This was an appointed case through the Public
17 Defender's Office.

18 Q. Approximately how many cases do you handle or were
19 handling at that time for the Public Defender's Office?

20 A. I could not hazard to guess, Mr. Head. It was a good
21 many. It still is.

22 Q. Was it more than ten?

23 A. Oh, yeah.

24 Q. Okay. More than fifty?

25 A. Probably a hundred, two hundred.

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

11

1 Q. Having that many cases did you feel that you had
2 adequate time to spend preparing and reviewing this case?

3 A. Yes. We had complete discovery. I gave Marques a
4 copy. He signed -- I've got a signed thing where he had the
5 discovery also. And then there were two confessions in the
6 case. Marques gave a confession as to his part in the
7 incident. And the co-defendant gave a confession also.

8 Q. And during the case did you meet with Mr. Durant?

9 A. Yes, I did.

10 Q. Okay. Approximately how many times did you meet with
11 Mr. Durant?

12 A. I'd have to look at the computer. I don't have -- I
13 don't have those with me. I have it in the computer. I met
14 with him initially. And then we got the discovery. I gave
15 it -- provided it to him and we talked about it. Then they
16 made a couple of offers, and we discussed those. So
17 probably four or five times.

18 Q. And did you have any investigators meet with Mr.
19 Durant?

20 A. I don't know if JC ever went to see him or not. I
21 doubt it because of the confessions.

22 Q. The discovery that you mentioned, what was in that
23 discovery?

24 A. All the police reports, his letter dated February 16th,
25 2009 where he signed receipt for a copy of the discovery.

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

12

1 It would have been the police report, witness statements,
2 various things like that. Everything the State had.

3 Q. In that discovery was there an EMS report or something
4 called a patient care summary report?

5 A. I don't recall it.

6 MR. HEAD: May I approach, Your Honor?

7 THE COURT: You may.

8 MR. HEAD: I'd like to show the witness a copy to
9 refresh his memory.

10 A. I don't have an independent recollection of it. I do
11 know that from reviewing the medical that the killing blow
12 was not struck by Mr. Durant, that Mr. Moore struck Mr.
13 Duckett in the head. I do remember that.

14 Q. Do you remember reviewing any EMS notes?

15 A. Not independently, no, sir, I do not.

16 Q. Okay. Do you remember having a discussion with Mr.
17 Durant about the EMS treatment of Mr. Duckett?

18 A. I don't recall that either. Probably -- we discussed
19 it on a broader basis like there was the fight, and then Mr.
20 Duckett went down, and, I think, Mr. Moore hit him in the
21 head with a table, and Marques hit him in the legs and that
22 the killing blow came from Mr. Moore. I think we discussed
23 it to that extent, but as far as treatment and things like
24 that on the scene, I don't remember.

25 Q. Okay. Did anyone ever examine the time table involved

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

13

1 with the EMS care of Mr. Duckett?

2 A. I didn't -- I don't recall if I did.

3 Q. Did Mr. Durant discuss with you obtaining an autopsy,
4 an independent autopsy ---

5 A. An independent?

6 Q. Yes, independent, the medical exam.

7 A. No. Well, I mean, it was -- the autopsy came back, it
8 was in favor of him, that his blow did not do the actual
9 killing, that he had hit Mr. Duckett in the legs and that
10 Mr. Moore hit him in the head. And so I thought that was in
11 his favor.

12 Q. Did you explain to Mr. Durant the legal basis of -- he
13 was charged with murder, correct? Mr. Durant?

14 A. Hand of one, hand of all.

15 Q. Did you explain that to Mr. Durant?

16 A. Yeah, I certainly did. The only way they could charge
17 him with murder even though he didn't strike the killing
18 blow, he was involved with a co-defendant who did at the
19 same time during the assault.

20 Q. And when you talked to him about this did he appear to
21 understand this?

22 A. Yes. He knew with the murder charge he was looking at
23 thirty to life. And our goal was to get it, especially with
24 his participation, under the murder charge.

25 Q. And did you have any discussion with Mr. Durant about

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

14

1 any mental illness that he would have had or any reasons for
2 a -- or a mental evaluation?

3 A. He never exhibited it, and the family never told me
4 anything about any kind of prior mental history, no mental
5 problems. He seemed to understand our conversations.

6 Q. Do you have a practice of asking about mental problems?

7 A. Yeah. I do that when I have my initial interview,
8 things like physical, mental problems, medications. I have
9 no on my notes.

10 Q. Let's talk about the plea bargain in this case.

11 A. Okay.

12 Q. When you spoke with the Solicitor's Office what kind --
13 what discussions did you have with the Solicitor's Office?
14 What were the charges being mentioned?

15 A. Okay. The first offer was received from -- Howard
16 Steinberg was the solicitor, was reducing it from murder to
17 voluntary manslaughter with a cap of twenty-two. And this
18 is to Mr. Durant. And he was going to offer that to the co-
19 defendant, Mr. Moore. That was on October the 12th of 2009.

20 Then later, I think, Mr. Moore pled. And I have
21 another letter from Howard dated December 9th, 2009 where he
22 would let Mr. Duckett [sic] plead to a cap of twenty years.
23 Mr. Moore pleaded to twenty-two, voluntary, and Mr. Durant
24 would plead to twenty, with a cap of twenty to the charge.
25 And I discussed that with him.

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

15

1 Q. Was that offer accepted?

2 A. Well, we discussed it. And I thought that there was a
3 chance I could get it below the twenty because of two things
4 in the case I thought were in his favor. The victim had
5 left the club and had gone home.

6 The guy who took him home, in the discovery, he wanted
7 to take him back. He was an ex-marine. And he said, they
8 can't run me out of there. And -- but he said, no, we've
9 had too much to drink. I'm taking you home.

10 The victim called somebody to take him back to the
11 club. And that's when the ruckus started. So I had him
12 kind of initiating it and then Marques not striking the
13 killing blow, I thought Judge Miller might go down to maybe
14 fifteen, eighteen, in that range.

15 I said, we can take the twenty or you can let me try
16 and talk it down. And so he decided that we would try and
17 talk it down. And he gave him the twenty-two, the same as
18 the co-defendant, I guess, hand of one, hand of all. So it
19 cost him two years by not taking the two year -- the twenty
20 year cap.

21 Q. So when you went into the plea hearing that day there
22 was no sentence guarantee?

23 A. No.

24 Q. Did Mr. Durant know this?

25 A. Yes, because we discussed we could take the twenty.

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

16

1 And I thought -- I told him, you know, with my experience,
2 with him not striking the killing blow, and the victim
3 initiating part of the contact that Judge Miller might, you
4 know, I didn't think he would do any worse than what Moore
5 got. I thought I might get him a little better deal, and it
6 just didn't work out.

7 Q. Did -- do you believe -- did you explain to Mr. Durant
8 how much time he could potentially get?

9 A. Thirty on the manslaughter. And then on the murder,
10 thirty to life. Manslaughter -- whatever he got would have
11 been eighty-five percent sentence as I understood it.

12 Q. Did ---

13 A. But I didn't project any release date. I don't do that
14 because the Department of Corrections have their own rules.

15 Q. Did you make any guarantees to Mr. Durant about the
16 amount of time he'd get?

17 A. Never. I don't have a black robe on. I can't
18 guarantee anything.

19 Q. During your investigation in your case did Mr. Durant
20 ask you to subpoena witnesses?

21 A. I don't think so because once we got down to discussing
22 the plea, then we knew it would probably not go to trial
23 especially with a confession and Mr. Moore was going to be a
24 witness against him. So ...

25 Q. Did, to your knowledge, did anyone come forward or

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

17

1 suggested to you as a mitigating witness that ---

2 A. Not that I recall because of his confession and Mr.

3 Moore's confession that Chris Duckett was knocked down and

4 then Mr. Moore hit him in the head with a table, and Mr.

5 Durant hit him in the leg.

6 Q. Did you request a preliminary hearing in this case?

7 A. I don't recall. With a confession I usually don't

8 because I could spend more time working on the case than

9 sitting up here at a preliminary that I know the judge is
10 going to send up anyway.

11 Q. Did you explain to Mr. Durant that you wouldn't be
12 requesting a preliminary?

13 A. When I initially see somebody, that's one of the first
14 questions I ask, did you give a confession? Were you messed
15 up? Were you drunk? Were you on drugs or whatever? If
16 they say, no, I gave it voluntarily, I say, okay, I'm not
17 asking for a preliminary because they're just going to read
18 your confession, that's it, you can't even put up any
19 witnesses. I explain that on the first visit. I don't do
20 many preliminaries because of that.

21 Q. What's the harm in asking for a preliminary? Is there
22 any?

23 A. With the case load that I have, if I did a preliminary
24 in every case, I'd be more behind than I am now.

25 Q. I understand the case load. What would be the harm to

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

18

1 the defendant of having a preliminary hearing?

2 A. He'd just hear -- he would just hear the statement read
3 back to him and the officer's report, and that would be it.

4 He couldn't say a word. I couldn't put up any evidence.

5 So, I mean, what benefit -- I don't see any benefit to it.

6 And he's going to get full discovery.

7 Q. Would it be possible to get additional evidence or
8 preview the evidence earlier by having a preliminary
9 hearing?

10 A. No, they just give enough for probable cause. They're
11 going to give me -- up here we have a pretty good
12 Solicitor's Office. They give us total discovery. We have
13 very few arguments here, unlike in Greenwood, about getting
14 discovery from the Solicitor's Office.

15 Q. Did you discuss the ramifications of a plea with ---

16 A. I go over a plea with any defendant. I always give
17 them -- I don't tell them how to answer, but I tell them --
18 basically they'll ask them you are so and so, how old are
19 you, how far did you go in school, can you understand the
20 English language, if they've had any drugs or alcohol in the
21 last forty-eight hours, been treated for mental illness,
22 drug abuse or alcohol abuse, you know you do not have to
23 have a trial, I mean, you know, you don't have to plead
24 guilty today, you have a right to a trial and explain the
25 trial process, if you plead guilty you waive that right, do

C. TIMOTHY SULLIVAN - DIRECT EXAMINATION BY MR. HEAD

19

1 you want to plead guilty, are you pleading guilty because
2 you are guilty, anybody forced you, promised you anything
3 other than the reduced sentence from murder to voluntary
4 manslaughter.

5 I go through the whole process with them so when they
6 walk in the courtroom, it may not be in the same order, but
7 I go through it with them. But they know the questions that
8 are going to be asked. I never suggest how they answer
9 them, but they know what they're going to face.

10 Q. The -- following the plea did you have any discussion
11 or any contact with Mr. Durant about appeal or advise him of
12 a right to appeal?

13 A. I'd have to look at the record. Usually the judge will
14 say it or I'll say it. But an appeal was not filed in this
15 case, I know that. Nobody called me, the family. I didn't
16 get a letter from him and he didn't tell me at the time.
17 Usually I ask them at the time, do you want me to file one?
18 I may not have in this case. I don't have any independent
19 recollection of it.

20 Q. Were there any notes that may reflect that you might
21 have informed him of his right to appeal or ...

22 A. I don't have any in my file, no, sir. I went through
23 -- back through it.

24 Q. So you don't know for sure or not if you told him to
25 appeal or told him of his right to appeal?

C. TIMOTHY SULLIVAN - CROSS EXAMINATION BY MS. RATIGAN

20

1 A. I know if he told me he wanted an appeal, I would have
2 filed it. I've never not filed an appeal.

3 Q. Have you had any contact with Mr. Durant following that
4 day at the guilty plea?

5 A. None. No phone calls. And I don't think the family
6 called me.

7 Q. You had this case -- again, is there anything you would
8 have done differently?

9 A. Not with the two confessions that were voluntarily
10 made. I mean, you could try to go to trial with it and get
11 the confessions thrown out, but Mr. Moore already pled, and
12 his confession matched up with Marques'. And I tried to get
13 the best deal I could for him under those circumstances.
14 There was no question the guy was killed and he was involved
15 in it. So it was a matter then of what we could do for him.

16 MR. HEAD: I have nothing further for this witness,
17 Your Honor.

18 THE COURT: All right. Cross examination.

19 MS. RATIGAN: Thank you, Your Honor.

20 **Cross Examination by Ms. Ratigan:**

21 Q. Just a few quick questions, Mr. Sullivan. You would
22 have reviewed all those discovery materials with Mr. Durant?

23 A. Sure.

24 Q. Would you have reviewed the elements of the charges?

25 A. Yeah, we -- yeah, we went over the, you know, the

C. TIMOTHY SULLIVAN - CROSS EXAMINATION BY MS. RATIGAN

21

1 murder, the hand of one, hand of all and then trying to get
2 it down to the best we could, which, I thought, was
3 voluntary.

4 Q. You also would have discussed with him the
5 minimum/maximum sentences on both murder and voluntary
6 manslaughter?

7 A. Murder would have been thirty to life, the voluntary, I
8 think, is from three to thirty.

9 Q. And did you discuss with Mr. Durant the impact that
10 those confessions had on your case?

11 A. Well, I told him that they, you know, between him and
12 Mr. Moore there was -- that was it.

13 Q. Is it your general practice during the course of your
14 representation to advise your client of the right to appeal?

15 A. Usually I tell them or the judge will tell them.

16 Q. And you testified if he or a member of his family had
17 asked you to file a notice, you would have done so?

18 A. I would have. I filed one last week.

19 Q. In your opinion were there any appealable issues from
20 that guilty plea hearing?

21 A. No. I think reviewing the record he answered all the
22 questions Judge Miller asked him. He was sworn in and went
23 through complete -- with that serious of charges, Judge
24 Miller's pretty thorough. He answered all the questions of
25 Judge Miller. And then I tried to talk him down below the

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

22

1 twenty, and it didn't work.

2 MS. RATIGAN: That's all I have, Your Honor.

3 THE COURT: All right. Sir, you may -- you may step
4 down, Mr. Sullivan. Thank you.

5 A. Thank you, Judge.

6 THE COURT: Please call your next witness.

7 MR. HEAD: I'd call Marques Durant.

8 THE COURT: All right. Mr. Durant, please come forward
9 and take the oath of a witness.

10 MARQUES DURANT, being
11 duly sworn testified as follows:

12 MADAME CLERK: Thank you. You may be seated. Please
13 state your full name for the record.

14 MR. DURANT: Marques Anthony Durant.

15 Direct Examination by Mr. Head:

16 Q. Mr. Durant, Mr. Sullivan -- was Mr. Sullivan your
17 attorney?

18 A. Yes, sir.

19 Q. And after you were arrested how many times did you meet
20 with Mr. Sullivan ---

21 A. Twice.

22 Q. When were -- when were those two meetings?

23 A. When I first -- when I first got incarcerated and like
24 a week before he brought the plea down.

25 Q. The plea brought down -- how long after your arrest was

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

23

1 the first meeting?

2 A. Give it like three weeks.

3 Q. Did you discuss at all a preliminary hearing?

4 A. No, sir.

5 Q. Did you discuss any confessions?

6 A. No, sir.

7 Q. Did you discuss what you were charged with?

8 A. Yes, sir.

9 Q. How long did Mr. Sullivan spend with you?

10 A. Maybe ten minutes.

11 Q. Where was the meeting at?

12 A. Greenville County Detention Center.

13 Q. Have you been incarcerated or in the Detention Center
14 since you -- since you were arrested originally?

15 A. Pardon me?

16 Q. I'm sorry. Have you been incarcerated the entire time
17 since you've been arrested?

18 A. Yes, sir.

19 Q. Did you tell Mr. Sullivan to waive a preliminary
20 hearing?

21 A. No, sir.

22 Q. Would you liked to have had a preliminary hearing?

23 A. Yes, sir.

24 Q. Have you had an opportunity to review discovery in this
25 case?

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

24

1 A. Yeah, I had an opportunity.

2 Q. When did you review the discovery?

3 A. While I was incarcerated in the Greenville County
4 Detention Center before I pled out.

5 Q. How long -- how long before you pled out did you get to
6 review the discovery?

7 A. Maybe -- maybe about a week.

8 Q. So you received discovery one week before the plea
9 hearing?

10 A. No, I received discovery in -- I don't remember what
11 month that I had received the discovery. I think it was
12 like -- I got locked up in August 2008. And I maybe
13 received the discovery about 2009, like the middle of 2009
14 or -- I don't remember what month.

15 Q. And do you recall when reviewing that discovery what
16 documents were in the discovery you reviewed?

17 A. Patient care summary report, statements, police report.
18 That's about it.

19 MR. HEAD: May I approach, Your Honor?

20 THE COURT: You may.

21 Q. Mr. Durant, I'll show you these documents. Can you
22 identify this for me?

23 A. It's a patient care summary report.

24 Q. Okay. And where do those documents come from?

25 A. Greenville County EMS.

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

25

1 Q. Okay. And that's a typed report, correct?

2 A. Correct.

3 Q. And there's some handwritten notes on there?

4 A. Correct.

5 Q. Whose notes are those?

6 A. Mine.

7 Q. Okay. Do you believe that to be an authentic report?

8 A. No, sir.

9 Q. What's inauthentic about it?

10 A. During the process of the Greenville County EMS
11 receiving Mr. Christopher Duckett, they arrived on the scene
12 at 2:03. It took twenty-eight minutes to depart the scene,
13 which, I guess, they was reviving him, which the note show
14 they was. They arrived at they destination at 2:42. Eight
15 minutes later he died.

16 Q. Mr. -- I'm only asking you, is this the report that you
17 received?

18 A. Yes, sir.

19 Q. Okay. These are the same reports you received in
20 discovery?

21 A. Yes, sir.

22 MR. HEAD: All right. Your Honor, I move that this
23 would be admitted as Plaintiff's exhibit 1.

24 THE COURT: Okay. Is there any objection?

25 MS. RATIGAN: I would object to that, Your Honor. It

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

26

1 hasn't been authenticated. While Mr. Durant states that he
2 received this in discovery, Mr. Sullivan had no recollection
3 of that being in discovery, therefore, we would object to --
4 it's really -- it's not been authenticated as being an
5 accurate, proper document.

6 THE COURT: All right. Tell me, for what purpose do
7 you offer it?

8 MR. HEAD: Your Honor, I offer the document -- Mr.
9 Durant disputes that this report was accurately
10 investigated. And that's part of his claim of ineffective
11 assistance of counsel.

12 THE COURT: May I see the document, please. And the
13 one you wish to put in has copies of handwritten notes on it
14 as well?

15 MR. HEAD: Yes, Your Honor.

16 THE COURT: All right. I'm going to overrule your
17 objection as to foundation. For completeness of the record,
18 in case there would be review of these proceedings, we're to
19 place the document into evidence over objection.

20 MR. HEAD: Thank you, Your Honor.

21 THE COURT: Let's take a moment and give -- is this the
22 one you wish to put into ---

23 MR. HEAD: Yes, Your Honor.

24 THE COURT: Let's take a moment and let our court
25 reporter mark it then.

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

27

1 (Whereupon Plaintiff's exhibit 1 was marked and
2 admitted into evidence)

3 THE COURT: Thank you.

4 Direct Examination by Mr. Head Continued:

5 Q. Mr. Durant, did you have a discussion with Mr. Sullivan
6 about this report?

7 A. No, sir.

8 Q. Why not?

9 A. He had -- I had inadequate contact with him. My people
10 tried to get in touch with him. I tried to get in touch
11 with him. I couldn't get in touch with him. I only seen
12 him two times in sixteen months.

13 Q. How many times would you say you tried to contact him?

14 A. Maybe fifty times or better.

15 Q. Were those by telephone calls, writing?

16 A. Telephone calls.

17 Q. What was the result of those telephone calls?

18 A. Call back, Mr. Sullivan's not in.

19 Q. Somebody called you back?

20 A. No, sir.

21 Q. Did anybody ever return any of those calls?

22 A. I'd have to -- I was incarcerated. So I can't receive
23 no phone calls. I was on a payphone. But you can ask my
24 people though.

25 Q. Did anybody write you any letters?

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

28

1 A. No, sir.

2 Q. What did you want to tell Mr. Sullivan about this
3 report?

4 A. There was a lot of mistreatment with Christopher
5 Duckett in the EMS. I mean, it shows it in black and white.
6 It don't take a rocket scientist to see that.

7 Q. Did you ever discuss those issues with Mr. Sullivan?

8 A. No, sir.

9 Q. Did you want him to investigate those issues?

10 A. Yes, sir.

11 Q. Okay. What do you believe those issues were?

12 A. I believe he was mistreated by the EMS. I mean, they
13 stated at 2:10 he was shocked with three hundred watts of
14 the defib machine. They also stated again at 2:10 they was
15 inserting an air line at the same time as being revived.
16 That's impossible. That's suffocation.

17 I mean, he was shot up with multiple medications. He
18 was discharged from the army for medical problems. He was
19 intoxicated at the bar. Alcohol level was zero point
20 twenty-eight (0.28). I mean, that's overdose.

21 Q. Did you have a discussion of any of those issues with
22 Mr. Sullivan?

23 A. No, sir.

24 Q. Were you able to?

25 A. No, sir.

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

29

1 Q. When you spoke with Mr. Sullivan did you talk to him
2 about any history of mental illness?

3 A. No, sir.

4 Q. Did he ask you about mental illness?

5 A. No, sir.

6 Q. Did you request him to perform -- have performed a
7 separate autopsy, independent autopsy?

8 A. Yes, sir.

9 Q. And when did you make that request?

10 A. Maybe 2009 after I reviewed the documents of the
11 autopsy, which was the main -- the three things, blunt force
12 trauma to the head, acute ethanol (phonetics) intoxication,
13 and blunt force trauma to the thorax (phonetics). Which the
14 court order motion or confession, he said that there wasn't
15 no reason for it because the confession, but the independent
16 autopsy would tell everything. I mean, I ain't never
17 received that.

18 Q. Mr. Sullivan testified that the original autopsy seemed
19 favorable to you. Why ask for another autopsy?

20 A. Independently. Received the killing blow, he said
21 there wasn't no reason.

22 Q. But your reason, sir, why did you want an independent
23 autopsy?

24 A. Because all this ambulance report and the over-dosage.

25 Q. And was there another autopsy done?

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

30

1 A. No, sir.

2 Q. Did you make that request to Mr. Sullivan during one of
3 your meetings or did ...

4 A. I made that request to the lady that he sent down here,
5 which is, I guess, his investigator that had brought me the
6 motion of discovery at the Detention Center at the time.

7 But he didn't bring the motion of discovery. I think his
8 investigator may have brought it.

9 Q. How many times did you meet with his -- this lady, his
10 representative?

11 A. One time when she brought the motion.

12 Q. Did you have discussions with Mr. Sullivan about the
13 status of plea bargaining?

14 A. Excuse me?

15 Q. Did you have any discussion with Mr. Sullivan about the
16 status of plea bargaining?

17 A. Yes, sir.

18 Q. Did he convey an offer to you?

19 A. Yes, sir.

20 Q. Okay. What was the offer he made to you?

21 A. Zero to twenty years with a cap.

22 Q. Did you indicate that you'd accept that offer?

23 A. Yes, sir.

24 Q. When you went -- did he explain the legal basis of the
25 things you were charged with?

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

31

1 A. Yes, sir.

2 Q. Did he explain the hand of one and the hand of all?

3 A. At a jury trial he said maybe the hands of one, hands
4 of all could be possible, but me and him speaking at the
5 Detention Center in the proview (phonetics) room, I mean,
6 that was never -- that was never mentioned.

7 Q. Okay. Did you understand why you were charged with
8 murder?

9 A. Yes, sir.

10 Q. When you decided to go to the plea hearing did you
11 think you had a sentence guarantee?

12 A. Yes, sir.

13 Q. What was your understanding of the maximum you could
14 get that day?

15 A. Twenty years with a cap.

16 Q. Did you think that you would be pleading or you could
17 get more time at the discretion of the judge?

18 A. No, sir.

19 Q. Had you known you could get more time than twenty years
20 would you have gone forward with your plea agreement?

21 A. Excuse me?

22 Q. Had you known that you would get more time or could get
23 more time than twenty years would you have gone forward with
24 the plea that day?

25 A. No, sir. I would have withdrawn my plea.

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

32

1 Q. Why would you have withdrawn it?

2 A. Twenty years is already too much to be signing a plea
3 for, but he said he would ask for ten. And even though my
4 blow wasn't the killing blow, which I was supposed to been
5 charged with assault and battery high and aggravated nature,
6 not the murder, but, you know, South Carolina got hands of
7 one, hands of all.

8 That's why I signed the plea 'cause he say he could
9 make a good recommendation for ten years for assault and
10 battery high and aggravated nature, but I took my gamble. I
11 took a chance. Say I couldn't get no more than twenty
12 years. My co-defendant got twenty-two. So I signed for the
13 zero to twenty, not zero to thirty.

14 Q. So if you had understood it'd be zero to thirty, what
15 would you have done?

16 A. I would have went to jury trial.

17 Q. However, you entered a plea of guilty, correct?

18 A. Yes, sir.

19 Q. And the judge asked you if that was voluntary, correct?

20 A. Yes, sir.

21 Q. Why did you enter a plea of guilty?

22 A. That he could have made a good -- a good opinion on
23 assault and battery high and aggravated nature since I was
24 in favor, which the man left the bar and came back to the
25 bar and then knowing my blow wasn't the killing blow. So I

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

33

1 didn't think Judge Miller was going to give me twenty-two
2 years or go over the cap.

3 Q. Did Mr. Sullivan explain to you that the judge would
4 have discretion?

5 A. No, sir.

6 Q. Following your guilty plea did you have any further
7 contact with Mr. Sullivan after you left the courtroom?

8 A. None at all.

9 Q. Were you advised by anyone of your right to appeal?

10 A. No -- no, sir.

11 Q. Did Mr. Sullivan advise you of your right to appeal?

12 A. No, sir.

13 Q. Did you appeal?

14 A. No, sir.

15 Q. Had you known of the time limit involved with appealing
16 would you have appealed?

17 A. Yes, sir.

18 Q. What would you have appealed?

19 A. The sentence.

20 Q. And why would you have appealed your sentence?

21 A. To try -- try to get a new sentence. I would have
22 appealed the decision that was made at court. I mean, if
23 I'm signing a plea for zero to twenty and that's capped up,
24 why would I get twenty -- why would I get twenty-two years?
25 If that's the case, I would have never signed the plea. I

MARQUES DURANT - DIRECT EXAMINATION BY MR. HEAD

34

1 would have went to jury trial from the top.

2 Q. And did you have any contact with Mr. Sullivan where he
3 explained why you got twenty-two years?

4 A. Mr. Sullivan didn't, no. No, sir. He didn't talk to
5 my family after court or nothing. I just walked out the
6 court to the Detention Center down the road.

7 Q. Did you inform Mr. Sullivan of any other witnesses?

8 A. Yes, sir.

9 Q. Okay. And who were those witnesses?

10 A. A couple of females that was in the bar that witnessed
11 the fight. It really wouldn't matter because everything was
12 on tape. And me and you just talked about that.

13 Q. Did you ask Mr. Sullivan to get statements from those
14 witnesses?

15 A. I didn't ask Mr. Sullivan. I asked his -- some dude
16 that be answering the Public Defender phone named JC. I
17 want to think his name is JC. Mr. Sullivan was out. I
18 think he had health problems or something.

19 Q. But did you ask somebody from the Public Defenders
20 Office about it?

21 A. Yes, sir.

22 Q. And were any of those witnesses' statements taken as
23 far as you know?

24 A. No, sir.

25 Q. Is there anything further you'd like to inform the

MARQUES DURANT - CROSS EXAMINATION BY MS. RATIGAN

35

1 Court of?

2 A. No, sir.

3 Q. Thank you. I have no further questions.

4 THE COURT: And now cross examination.

5 MS. RATIGAN: Thank you, Your Honor.

6 Cross Examination by Ms. Ratigan:

7 Q. So, Mr. Durant, you stated you had two meetings with
8 Mr. Sullivan before you pled guilty? You need to answer so
9 she can ---

10 A. Yes, ma'am.

11 Q. And you stated that first meeting was about three weeks
12 after your arrest?

13 A. Yes, ma'am.

14 Q. All right. What did you talk about during that first
15 meeting?

16 A. He came down with the prelim papers. Like he waived
17 the preliminary hearing, he needed me to sign this paper.
18 And that was it. He left.

19 Q. So you didn't review any of the evidence, none of the
20 facts, nothing like that?

21 A. He didn't have no motion or nothing. I don't even
22 think the motion was done yet.

23 Q. And so when was your second meeting with Mr. Sullivan?

24 A. Like -- maybe like a week and a half, two weeks before
25 I pled.

MARQUES DURANT - CROSS EXAMINATION BY MS. RATIGAN

36

1 Q. And what did you talk about during that second meeting
2 with Mr. Sullivan?

3 A. The plea bargain.

4 Q. That's the zero to twenty with a twenty year cap?

5 A. Yes, ma'am.

6 Q. So when did you talk to him about the discovery such as
7 the patient care summary report? When did you talk to him
8 about that?

9 A. I never did speak to him about that.

10 Q. Okay. What about the other discovery? You never
11 reviewed that with him?

12 A. No, ma'am.

13 Q. Okay. And your testimony is that you told some lady
14 who came to see you about wanting that independent autopsy?

15 A. Yes, ma'am.

16 Q. You told JC in the Public Defender's Office about
17 taking witness statements?

18 A. Yes, ma'am.

19 Q. But that you basically had two meetings in which you
20 never discussed your case?

21 A. Yes, ma'am.

22 Q. Were you unhappy with the way he had not come to see
23 you to talk to you about the case?

24 A. Very unhappy.

25 Q. Okay. Well, then why did you tell Judge Miller that

MARQUES DURANT - CROSS EXAMINATION BY MS. RATIGAN

37

1 day you were satisfied with Mr. Sullivan?

2 A. We had spoke about the zero to twenty and the ten year
3 sentence that he may could have got me. I mean, I was
4 satisfied with that.

5 Q. So basically you just -- you were satisfied that the
6 plea was going forward that -- with that cap?

7 A. Yes, ma'am.

8 Q. Okay. But you were really unhappy with his
9 performance?

10 A. Yes, ma'am.

11 Q. And so that second meeting was when y'all talked about
12 this offer?

13 A. Yes, ma'am.

14 Q. When did you discuss with Mr. Sullivan the concept of
15 hand of one is hand of all?

16 A. I never -- the second meeting. He was like if I go to
17 trial maybe the jury may look at it -- the jury may and the
18 jury may not want to hit me with the hands of one, hands of
19 all.

20 Q. And did Mr. Sullivan ever tell you the possible
21 sentences you could get for either murder or voluntary
22 manslaughter?

23 A. Yes, ma'am.

24 Q. Okay. And when did he talk to you about that?

25 A. The second meeting.

MARQUES DURANT - CROSS EXAMINATION BY MS. RATIGAN

38

1 Q. And you never -- your testimony is you never got to
2 review your confession or your co-defendant's confession
3 with Mr. Sullivan?

4 A. Yes, ma'am.

5 Q. So when you were given that plea offer, it was about a
6 week or two before you pled?

7 A. Yes, ma'am.

8 Q. Now when he told you about that plea offer did Mr.
9 Sullivan guarantee that you would get zero to twenty or did
10 he tell you the judge could give more or less than that?

11 A. I asked Mr. Sullivan several times before I signed the
12 plea -- it took me like an hour to sign the plea. But I
13 asked him before I signed the plea will I get over twenty
14 years? His statement was, no, you won't get more than ten.
15 It's a cap -- I mean, twenty years. It's a cap on the
16 sentence. The judge can't go over the cap. That's the
17 reason why I signed the plea.

18 Q. And your testimony today is that you were never given a
19 twenty-two year offer, just this twenty year offer?

20 A. Just the twenty year, yes, ma'am.

21 Q. And, I believe, you testified that the issue you wanted
22 to appeal was, I mean, basically that you got too much time?

23 A. Correct.

24 Q. Okay.

25 MS. RATIGAN: That's all I have, Your Honor.

1 THE COURT: All right. Any redirect?

2 MR. HEAD: No, Your Honor.

3 THE COURT: All right. Sir, you may step down. And
4 please return to your table. Thank you. And please call
5 your next witness.

6 MR. HEAD: If I might have one moment, Your Honor, to
7 confer with my client.

8 THE COURT: Very good. You may.

9 (Pause)

10 MR. HEAD: I have nothing further, Your Honor.

11 THE COURT: All right. Anything now from the Attorney
12 General?

13 MS. RATIGAN: Your Honor, we would rest on the record
14 and Mr. Sullivan's testimony.

15 THE COURT: All right. And let me ask if either of you
16 wish to make any sort of summary or closing comment? I
17 believe you say no. Ms. Ratigan, you say you rest. Mr.
18 Head, do you have any final comments you wish to make based
19 on the testimony today?

20 MR. HEAD: Yes, Your Honor, just briefly. I would
21 request that the Court pay special attention to my client's
22 testimony about where he indicated his -- the number of
23 times trying to contact Mr. Sullivan's office and that he
24 would not have entered into the plea agreement if he thought
25 he could get twenty-two years. He understood the cap to be

1 twenty and, therefore, his plea agreement would not have
2 been voluntary if he understood he could get twenty-two
3 years.

4 THE COURT: All right. Just one moment, please.

5 (Pause)

6 THE COURT: Mr. Head, do you have the -- a copy of the
7 statement that was given by Mr. Durant to the police? Do
8 you have that in your records?

9 MR. HEAD: I believe I do, Your Honor.

10 MS. RATIGAN: Your Honor, Mr. Sullivan can loan you his
11 copy for a second if you need to look at it.

12 THE COURT: Okay. May I look at that, please?

13 (Whereupon the statement was handed to the Court)

14 (Pause)

15 THE COURT: All right. Thank you. I'm going to give
16 that back. Just one moment.

17 (Pause)

18 THE COURT: All right. I'm prepared to rule at this
19 time. Mr. Durant, there are two things you have to prove at
20 Post Conviction Relief. And the burden of proof is by a
21 preponderance of the evidence. That means that it's more
22 likely than not -- what you seek to prove is more likely
23 true than not is the standard.

24 And you must prove two things. Number one, that your
25 lawyer was deficient, as I mentioned to you before. And,

1 secondly, that the outcome -- that you were prejudiced by
2 your lawyer's deficient standard or deficient performance.
3 What that really means here is that the outcome of the case
4 was different because your lawyer was deficient.

5 And in the context of a guilty plea, which is what
6 happened here, it means that but for your lawyer's poor
7 performance you would not have pled guilty. In other words,
8 you would have insisted on going to trial.

9 And, Mr. Durant, I find that you have failed to prove
10 either one of these prongs of proof. And let me tell you
11 why.

12 First of all, you say that your lawyer led you to
13 believe that you had a cap of twenty, that you wanted to
14 take the cap of twenty. Your attorney explains that rather
15 than have a cap he made the strategic decision to attempt to
16 talk the judge into reducing your sentence, perhaps even
17 below twenty, but that in the end the judge sentenced you to
18 the same thing that Mr. Moore, your co-defendant, got.
19 Well, that was a -- a trial or a plea strategy, which
20 apparently was not successful, but the Court does not find
21 that that was a deficient performance.

22 While I hear that you say you were unable to get your
23 attorney, I don't have any evidence before me today that
24 you're either innocent or that you did not participate in
25 this crime. What I do have is a statement before me which

1 shows that clearly you participated in the crime.

2 You were charged originally with murder. The hand of
3 one, the hand of all is the law in South Carolina. And,
4 thus, the Court finds that you found yourself at great risk
5 and decided to enter a plea and received a sentence of
6 twenty-two years, which is longer than you wanted, but,
7 nevertheless, it's not as great as it could have been.

8 I don't find any appealable issues before me. For all
9 these reasons the Court is going to deny your Post
10 Conviction Relief claim.

11 I also will tell you that I've reviewed the ambulance
12 report, which you put into evidence, a patient care summary.
13 I don't have any evidence before me today that something
14 other than the beating caused Mr. Duckett's death. You have
15 some speculation on that, but there's no evidence to that
16 end. Again, for all these reasons the Court denies your
17 application.

18 Now, Mr. Durant, you can appeal this decision. Let's
19 talk about how that works. You have thirty days from the
20 date I sign an order in this case, not from today. And I'm
21 going to ask Ms. Ratigan to prepare an order and submit it
22 to me within thirty days.

23 I will get that order, I will review it, I'll sign it,
24 I'll return it to her and she serves it on your lawyer. And
25 from that date, the day it's served on your lawyer, you have

1 thirty days to appeal. Do you understand that, Mr. Durant?

2 MR. DURANT: Yes, sir.

3 THE COURT: All right, sir. Well, then I wish you
4 well, sir. And I'm going to return you at this time back to
5 the Detention Center. All right.

6 And members of the Duckett family, Ms. Duckett and
7 members of the family, reverend, thank you for being here
8 today. Best wishes to you. And members of Mr. Durant's
9 family as well who are present, thank you for being here
10 today. Good luck to you.

11 (Hearing Ended at 3:19 pm)

12 (End of Requested Transcript of Record)

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STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Marques Anthony Durant,
S.C.D.C. No. 319613,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT
C.A. No. 2010-CP-23-9660**ORDER DENYING
POST-CONVICTION RELIEF**

7/27/12 2:53 PM
JUL 27 2012
CLERK OF COURT
JUL 27 2012

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed November 22, 2010. Respondent made its return on March 7, 2011. An evidentiary hearing into the matter was convened on July 30, 2012, at the Greenville County Courthouse. Applicant was present at the hearing and represented by Matthew P. Head, Esquire. Karen C. Ratigan, Esquire, of the South Carolina Attorney General's office represented Respondent.

Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's plea counsel, C. Timothy Sullivan, Esquire. The victim's widow, Jazmine Duckett, and the victim's parents, Reverend Lewis and Jackie Duckett, were also present for the PCR hearing. The Court had before it the transcript of the guilty plea hearing, the records of the Greenville County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, Respondent's return, and Applicant's Exhibits.

PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders

of commitment from the Greenville County Clerk of Court. Applicant was indicted at the March 2009 term of the Greenville County Grand Jury for murder (2009-GS-23-1644). He was represented by C. Timothy Sullivan, Esquire.

On January 4, 2010, Applicant pled guilty to voluntary manslaughter. The Honorable Edward W. Miller sentenced Applicant to twenty-two (22) years imprisonment. Applicant did not appeal.

ALLEGATIONS

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

1. Ineffective assistance of counsel:
 - a. "My lawyer didn't appeal nothing and he told me it was a cap on my sentence but I got over the cap."

In a "Supplement to Application for Post-Conviction Relief" filed July 11, 2012, the Applicant made the following allegations:

- JHB*
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1. "[W]ithholding of discovery."
 2. Newly-discovered evidence in the form of a Patient Care Summary Report.
 3. Ineffective assistance of plea counsel:
 - a. Failed to subpoena alibi witnesses.
 - b. Waived a preliminary hearing without Applicant's consent.
 - c. Made "insufficient contact" with Applicant about his case and did not properly counsel Applicant.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and heard the testimony and arguments presented at the PCR hearing. This Court further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by

S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, Applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

At the hearing Applicant testified he had only two meetings with plea counsel before he pled guilty, and that counsel did not return his phone calls. Applicant stated they discussed waiving the preliminary hearing only during the first meeting. Applicant stated that, during the second meeting, they discussed the minimum and maximum sentences he was facing, the theory of "hand of one is hand of all," and the State's plea offer. Applicant stated that he and plea counsel did not discuss the Patient Care Summary Report (Applicant's Exhibit 1) that was completed by the EMS workers and included in the discovery materials. Applicant stated that this report indicated EMS inappropriately treated the victim and Applicant wanted plea counsel to investigate. Applicant stated that plea counsel never asked him about his psychiatric history

and plea counsel failed to obtain an independent autopsy of the victim. Applicant stated plea counsel failed to interview some women who witnessed the fight that led to the criminal charges. Applicant stated plea counsel told him the State made a plea offer of a twenty (20) year cap and Applicant accepted this offer. Applicant stated plea counsel said he would receive no more than twenty years, but plea counsel did not tell him the plea judge would have discretion in sentencing. Applicant stated plea counsel never advised him of the right to appeal and that he wanted an appeal because his sentence was too harsh.

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Plea counsel testified that he had four or five meetings with Applicant in which they discussed the discovery materials, the facts of the case, the elements of the charge, possible sentences, and the impact of Applicant's voluntary statement. Plea counsel testified they discussed that Applicant did not actually deliver the killing blow in this case, but plea counsel explained the theory of "the hand of one is the hand of all." Plea counsel testified that he does not recall the Patient Care Summary Report. Plea counsel testified that he always asks about a client's psychiatric history during the first meeting and neither Applicant nor his family indicated there was any such history, nor did he perceive a mental health issue in his dealings with Applicant. Plea counsel testified he did not recall discussing an independent autopsy, but the State's autopsy worked in Applicant's favor because Applicant hit the victim in the legs, but the killing blow was to the victim's head. Plea counsel testified Applicant did not ask him to contact witnesses. Plea counsel testified he discussed two plea offers with Applicant: the first offer in October 2009 was to reduce the charge to voluntary manslaughter and recommend a twenty-two (22) year cap, and the second offer in December 2009 was to reduce the charge to voluntary manslaughter and recommend a twenty (20) year cap. Plea counsel stated Applicant refused both offers and pled guilty without a recommendation. Plea counsel stated his general practice

was to advise clients of the right to appeal and that he did not recall Applicant asking to appeal. Regardless, plea counsel stated there were no appealable issues from Applicant's guilty plea hearing.

FACTUAL FINDINGS AND CONCLUSIONS OF LAW

Regarding Applicant's claims of ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proof. This Court finds Applicant's testimony is not credible, while also finding plea counsel's testimony is credible. This Court further finds plea counsel adequately conferred with Applicant, conducted a proper investigation, and was thoroughly competent in his representation.

Applicant admitted to the plea judge that he was guilty and that the facts recited by the solicitor were true. (Plea transcript, p.5; p.8). Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.4-6).

This Court finds Applicant failed to meet his burden of proving plea counsel should have challenged the Patient Care Summary Report prepared by the EMS workers. Initially, this Court notes that, contrary to Applicant's assertion in the amended PCR application that this item was after-discovered evidence, this document is not after-discovered evidence. See State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009). Regardless, Applicant has failed to present any evidence that investigation of this report, if presented, would have changed the outcome of his case. Applicant gave a statement to police in which he admitted that he and his co-defendant got into a fight with the victim, that Applicant struck the victim's legs, and the co-defendant struck the victim's head. As such, Applicant was clearly guilty of the killing under the theory of accomplice liability. See State v. Langley, 334 S.C. 643, 515 S.E.2d 98 (1999) (under this

theory, "one who joins with another to accomplish an illegal purpose is liable criminally for everything done by his confederate incidental to the execution of the common design and purpose"). This Court finds there has been absolutely no evidence presented that the victim's death resulted from any mistreatment by EMS.

This Court finds Applicant failed to meet his burden of proving plea counsel did not investigate his psychiatric history. Plea counsel testified he asks about his client's psychiatric history during the first meeting and was never informed of any such history. This Court finds plea counsel's testimony on this point is credible. Regardless, this Court cannot speculate on this matter because Applicant failed to present evidence of a current or prior psychiatric condition, or any testimony from an expert witness on this point. See e.g., Dempsey v. State, 363 S.C. 365, 370, 610 S.E.2d 812, 815 (2005) (finding that, as the applicant failed to have an expert testify at the evidentiary hearing, "any finding of prejudice is merely speculative"). Similarly, this Court cannot speculate on the impact of either an independent autopsy or eyewitness statements on the defense case because such evidence was not introduced at the PCR hearing. See e.g., Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (the South Carolina Supreme Court "has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial.") (emphasis in original).

This Court finds Applicant failed to meet his burden of proving plea counsel did not properly discuss the plea offer. Plea counsel testified he received two plea offers from the State and reviewed both of them with Applicant. Plea counsel testified they decided to decline pleading guilty to a plea offer and instead chose for Applicant to plead guilty without a sentence recommendation, in the hopes plea counsel could argue for a lesser sentence. This Court finds

plea counsel's testimony is credible and that this is a reasonable plea strategy. This Court finds plea counsel properly conveyed the plea offers to Applicant and discussed them, and Applicant made the decision to reject the offers. This Court finds plea counsel fulfilled his responsibilities in this regard. See Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009) (holding counsel's failure to convey the State's plea offer to defendant constituted deficient performance). This Court finds plea counsel's advice to Applicant to plead without a recommendation (in order to argue for a sentence less than his co-defendant), was a strategic decision based upon Applicant's role in the crime. See Roseboro v. State, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995) (finding where trial counsel articulates a valid reason for employing a certain strategy, such conduct should not be deemed ineffective assistance of counsel). This Court finds Applicant agreed to this decision. This Court notes plea counsel outlined Applicant's role in the altercation to the plea judge, noted the co-defendant received a twenty-two (22) year sentence, and asked for Applicant to receive a ten to twenty (10-20) year sentence. (Plea transcript, pp.11-13). Applicant failed to meet his burden of proving plea counsel was ineffective.

This Court finds Applicant failed to meet his burden of proving plea counsel did not advise him of his appellate rights. Plea counsel testified he generally reviewed the right to appeal with his clients and that no one asked him to file an appeal in this case. This Court finds plea counsel's testimony is credible on this point as well. Regardless, plea counsel has a constitutionally imposed duty to consult with the defendant about an appeal only when there is reason to think either: (1) that a rational defendant would want to appeal or (2) that this defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S. Ct. 1029, 1036 (2000). In order to make this determination, "[C]ourts must take into account all the information counsel knew or should have known." Id.

(citing Strickland, 466 U.S. at 690, 104 S. Ct. at 2066). Although not determinative, a highly relevant factor will be whether the conviction follows a trial or a guilty plea, both because a guilty plea reduces the scope of potentially appealable issues and because a plea may indicate the defendant seeks an end to judicial proceedings. Id. Even assuming arguendo that Applicant was not advised of his appellate rights, the thorough and complete guilty plea colloquy makes it unlikely that a rational defendant would have wanted to appeal. This Court further notes Applicant failed to articulate a meritorious appealable issue.

Accordingly, this Court finds Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of Applicant. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

This Court concludes Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds that Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds that Applicant waived such allegations and failed to meet his burden of proof regarding them; therefore, they are hereby denied and dismissed.

CONCLUSION

Based on the foregoing, this Court finds and concludes that Applicant has not established

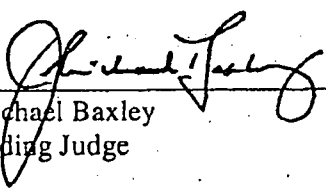
any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and Applicant was not prejudiced by counsel's representation; therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed, with prejudice; and
2. That Applicant must remain in the custody of Respondent for the completion of his sentence.

AND IT IS SO ORDERED this 9th day of August, 2012.


J. Michael Baxley
Presiding Judge

Greenville, South Carolina.

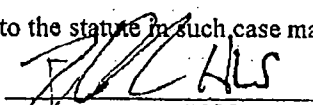
STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on **MAR 17 2009** the Grand Jurors of Greenville
County present upon their oath:

That MARQUES ANTHONY DURANT did in Greenville County, on or about the 28th day of August, 2008,
unlawfully and with malice aforethought kill CHRISTOPHER DUCKETT by means of beating him with a solid
object, and that CHRISTOPHER DUCKETT died as a proximate result thereof. This is in violation of §16-03-
0010 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

Antonio Bailey

Greenville County Sheriffs Office

8/28/2008

ARREST WARRANT NUMBER

1476152

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-23-
HLS

001694

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2009

THE STATE

VS.

MARQUES ANTHONY DURANT

Indictment for

MURDER

VIOLATION § 16-03-0010

STATE OF SOUTH CAROLINA

SOLICITOR'S OFFICE

Fax: 864-467-8610

Dec 23 2009 11:27am P002/002

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Greenville

VS.

Marques Anthony Durant

AKA:

Race: B

Sex: M

Age: 22

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City/State/Zip: Greenville, SC 29605

DL#: 100569676

SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Manslaughter, Voluntary (ps)

INDICTMENT/CASE#: 2009GS2301644

A/W#: 1476152

Date of Offense: 8/28/2008

S.C. Code §: 16-03-0010, 0020

CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

In violation of § 16-03-0050

of the S.C. Code of Laws, bearing CDR Code # 0217

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, MD (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Howard Steinberg

14082

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 27 ~~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 Department of Corrections. 493 DAYS☐ 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 ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47.12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

§ 90.7 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL:

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (11/2009)

Paul B. WislenskiHerman

PTUP

 days/hours Public Service EmploymentObtain 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 FundOther: ☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk,
during probation.

Presiding Judge

Judge Code:

Sentence Date:

Edward W. Miller21301-4-10

CMT13301

SCDC OFFENDER MANAGEMENT SYSTEM
RELEASE DATE SCREEN

OMCOMITA

SCDC# > 9319613

LOC: LIEBER

DURANT, MARQUES ANTHONY

SCDC CLASSIFICATION... VIOLENT

OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE

SEXUAL REGISTRY...: N

SEXUAL PREDATOR...: NOT APP

DNA STATUS...: COMPLETE

GPS REQUIREMENT...: N

PREA DECISION...:

CURRENT SENTENCE: 022-00-000

CONSECUTIVE SENTENCE ...: N

022-00-000

CURRENT SENT START DATE: 08/29/2008

PROJECTED COMPLETION DATES

MAXOUT DATE ...: 08/31/2028

YOA SIX YEAR DATE: / /

INITIAL PAROLE DATE: 00/00/0000

CURRENT EWC ...: NOT CURRENTLY EARNIN

CURRENT EEC ...: NOT CURRENTLY EARNIN

NEXT PAROLE HEARING DATE: 00/00/000

TOTAL GT DAYS EARNED ...: 000069

LABOR CREW/WORK PROG DATE: 99

TOTAL EARNED WORK CREDITS ...: 000014

LABOR CREW DISQ REASON:

TOTAL EDUCATION CREDITS ...: 000000

CATEGORY 4 OR 5 OFFENSE

TOTAL EXTRA EARNED CREDITS ...: 000

TOTAL SERVICE TIME EARNED ...: 000843

PFKEYS: 5: HISTORY OF DATE CHANGES