

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

Honorable Brooks P. Goldsmith, Circuit Court Judge

LASHEDA COKLEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000822

APPENDIX

LANELLE CANTEY DURANT
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
COUNTY OF SUMTER)	2010-GS-43-0649
)	
)	
)	
State Of South Carolina))
)	
vs.)	TRANSCRIPT OF RECORD
)	
Lasheda Chantel Cokley))
<u>DEFENDANT</u>)	June 16, 2015
		Sumter, SC

B E F O R E:

THE HONORABLE W. JEFFREY YOUNG, JUDGE.

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

JOHN MEADORS, ASSISTANT SOLICITOR
Attorney for the State

JACOB MCFADDEN, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KESHIA REED
Official Court Reporter

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I N D E X

(WHEREUPON, no witnesses were called.)

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
C-1	Photograph		9
C-2	Photograph		9
C-3	Photograph		9

1 THE COURT: Okay. Where are we?

2 MR. MCFADDEN: Your Honor, my client indicates
3 she wishes to plead guilty.

4 THE COURT: Okay. Come forward. All right.
5 Mr. McFadden, you represent Ms. Lasheda Cokely under
6 indictment 2010-GS-43-649?

7 MR. MCFADDEN: I do, Your Honor.

8 THE COURT: Have you had an opportunity to
9 explain to her the charges contained in the indictment,
10 the possible punishment she faces and her Constitutional
11 Rights?

12 MR. MCFADDEN: Yes.

13 THE COURT: And you think she's understood what
14 you've told her?

15 MR. MCFADDEN: I have.

16 THE COURT: And does she intend to plead guilty
17 or not guilty?

18 MR. MCFADDEN: She indicates she wishes to plead
19 guilty.

20 THE COURT: And based upon your review of the
21 facts and the circumstances, do you believe that's the
22 right decision for her to make?

23 MR. MCFADDEN: Yes, Your Honor.

24 THE COURT: And do you think with all that the
25 State has that you seen -- I mean, there's been no

1 discovery issues that if this case were to go to trial
2 that there will be a substantial likelihood that she could
3 be found guilty of assault and battery with intent to
4 kill?

5 MR. MCFADDEN: A substantial likelihood, yes,
6 sir.

7 THE COURT: Okay. All right. And, Ms. Cokley
8 -- is she under oath?

9 BAILIFF: Raise your right hand and state your
10 name.

11 THE DEFENDANT: Lasheda Cokely.

12 BAILIFF: Do you solemnly swear or affirm your
13 testimony to the Court should be the truth, the whole
14 truth and nothing but the truth so help you God?

15 THE DEFENDANT: Yes.

16 BAILIFF: Thank you.

17 THE COURT: All right. Ms. Cokely, I need to
18 ask you a series of questions to make sure that you're
19 entering into this plea freely, voluntarily, knowingly and
20 intelligently. The first question I have is are you under
21 the influence of alcohol or drugs?

22 THE DEFENDANT: No.

23 THE COURT: Are you taking any medication that
24 would cloud your judgment?

25 THE DEFENDANT: No.

1 THE COURT: All right. Are you aware of any
2 physical, emotional or nervous condition that would keep
3 you from understanding what's going on in this courtroom
4 right now?

5 THE DEFENDANT: No.

6 THE COURT: All right. It's my understanding
7 that you now wanted to plead guilty to the charge of
8 assault and battery with intent to kill with a negotiated
9 ten years is my understanding; is that correct?

10 THE DEFENDANT: Actually say yes.

11 THE COURT: Say what?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. And the indictment says that
14 Lasheda C. Cokely did in Sumter County on or about
15 December 29th 2009, committed an unlawful act of violent
16 injury with malice and the intent to kill by cutting
17 Lakietha Vaughn about the face, neck and chest with a
18 sharp object, thus committing the crime of assault and
19 battery with intent to kill in violation of section
20 16-3-620 of the South Carolina code of laws 1976 as
21 amended and the common law of the State of South Carolina.
22 Is what's stated in this indictment the truth?

23 MR. MCFADDEN: Your Honor, may I?

24 THE COURT: You may.

25 (WHEREUPON, a pause in the proceedings.)

1 THE COURT: And is she pleading guilty to the
2 assault and battery with intent to kill with a ten year
3 cap?

4 MR. MEADORS: A negotiated ---

5 THE COURT: For a negotiated ten year?

6 MR. MEADORS: Yes, sir.

7 (WHEREUPON, a pause in the proceedings.)

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. Solicitor, what are the
10 facts?

11 MR. MEADORS: If it please, Your Honor --

12 THE COURT: And I know a lot of them, so you
13 don't have to go into great detail.

14 MR. MEADORS: December 29th as Your Honor said
15 2009 in the block of Dibert Street I think it would
16 be -- we believe the evidence shows outside the residence
17 of one . Your Honor, the victim in this
18 case Ms. Lakietha, who is with me raise your hand,
19 Lakietha, and a lady name Shonta Helton were at McDonald's
20 earlier this evening of this day December 29th 2009.
21 Ms. Helton was going to buy some food for Ms. Vaughn's
22 children. She realize that her money was missing from her
23 purse, Judge. At that point I think Ms. Helton thought in
24 her mind that the defendant had taken some or her children
25 had because she been at her house earlier that day. That

1 resulted in Ms. Helton and Ms. Vaughn going to the
2 defendant's house or the defendant's father's house Frank
3 Cokley on Dibert Street. They were let in. They began
4 discussing the money with the defendant. They being
5 Ms. Helton and the victim, Ms. Vaughn, asking if she had
6 taken it, that lead them to a verbal discussion if you
7 will, verbal assault however you want to describe it. I
8 think at some point Mr. Cokely may have asked everybody to
9 leave. There were children in the house.

10 They leave. They're going outside. They being
11 Ms. Helton, Ms. Vaughn, Ms. Cokley. Once they get
12 outside, I think they're still yelling. Judge, obviously,
13 they're, you know, at each other. And at that point they
14 were leaving. I think what's important for this case and
15 for the castle doctrine hearing hopefully would have been
16 successful. They are leaving the residence. At that
17 point story may differ a little, but Ms. Vaughn's
18 testimony would be that she is cut approximately five
19 times with what we believe was a box cutter. She goes to
20 leave. I think they're screaming between Ms. Helton and
21 the defendant. Ms. Helton calls 9-1-1. The victim in
22 this case goes to law enforcement -- goes to the Tuomey
23 Hospital with a friend of hers but decides not to be
24 treated because she's scared of needles.

25 Judge, with the Court permission and defense

1 counsel has seen these. I like to at some point to mark
2 these Court's 1, 2, 3, but these show some of her
3 injuries, Judge, the victim, so Your Honor can see.
4 Miraculously, Ms. Vaughn went home. The first thought she
5 just had a cut on her face. She's a beautiful lady. She
6 still looks beautiful, but she's got a cut she will live
7 with the rest of her life right here on her face. She
8 thought that was it. She gets home and she sees these
9 other injuries, Judge. And at that point the next day she
10 calls to law enforcement, goes back to Tuomey and they
11 treat it as best they can. Briefly, Mr. Miller is going
12 to describe these injuries for the record.

13 (WHEREUPON, Court's Exhibit Nos. 1, 2 and 3 were
14 marked for the record.)

15 THE COURT: Mr. Miller.

16 MR. MILLER: Your Honor, for the record, Mr.
17 Meadows has asked me to describe these because I was a
18 paramedic for 14 years understanding the medical
19 terminology. But the laceration to the face, Your Honor,
20 was through and through completely through the cheek. The
21 one going down the neck was an eighth of an inch from the
22 jugular vein. Had that been cut, this may be a completely
23 different issue. It went through the fat in the neck and
24 into the muscle tissue and the same can be said for the
25 lacerations on the chest area, Your Honor.

1 MR. MEADORS: Judge, after the incident, police
2 did respond because of Ms. Helton's call according to the
3 defendant's statement. She saw the police and ran, didn't
4 talk to the police that night. We don't know where the
5 weapon is. So we think that flight would have also gone
6 toward evidence we think favorable for the State. She was
7 arrested. Judge, she did give a statement that she had
8 cut her and gave a statement about the altercation. I
9 think in her statement she says that the victim was
10 grabbing for her phone, but she did admit to cutting her
11 over time and this is 2009 case. We're working on our
12 docket best we can. I think Ms. Catherine Fann had this
13 originally over next few years and I told Mr. McFadden
14 this in our preparation in getting ready. The victim
15 would see -- the defendant would see the victim. She use
16 to do her hair. She use to do her hair years ago. They
17 knew each other and she see her out on the streets if you
18 will. And she apologize to her over the last several
19 years and even up to last week and she apologize. The
20 victim, as I understand, said I still like to go forward
21 and want justice. All this occurred in Sumter County. I
22 know you said you want a brief overview, but I think
23 that's enough for the record I hope.

24 THE COURT: Okay. Ms. Cokely, do you agree with
25 the facts as stated by the Solicitor?

1 THE DEFENDANT: No.

2 THE COURT: What difference is there?

3 THE DEFENDANT: On the day that he's talking
4 about, they came knocking on my door. It was both of
5 them.

6 THE COURT: Well, let me cut to the chase. Are
7 you admitting guilt in this case?

8 THE DEFENDANT: Yes, I did cut her.

9 THE COURT: Okay. And you realize that by you
10 saying you cut her -- are asserting any defenses? You
11 can't plead guilty and assert any defenses. If you want
12 to assert defenses, you can do it from that table with
13 that jury over there, but you can't assert any defenses.
14 I don't take conditional pleas in other words because
15 either you're guilty or you're not guilty.

16 MR. MCFADDEN: May I speak with her for a
17 second?

18 THE DEFENDANT: Yes.

19 (WHEREUPON, a pause in the proceedings.)

20 THE COURT: Yes, ma'am.

21 THE DEFENDANT: Yes.

22 THE COURT: Okay. So you agree with the facts
23 as stated by the Solicitor?

24 THE DEFENDANT: Yes.

25 THE COURT: You do?

1 THE DEFENDANT: Yes.

2 THE COURT: Now, you understand that the maximum
3 possible sentence if you take it to trial would be 20
4 years under a violent sentence. You understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: They have negotiated with your
7 lawyer and you a ten year sentence. Do you understand
8 that?

9 THE DEFENDANT: Yes.

10 THE COURT: So I don't get to change that. I
11 can either accept it or not accept it. Do you understand
12 that?

13 THE DEFENDANT: Yes.

14 THE COURT: And do you understand with this
15 being a violent offense, that you will have to serve at
16 least 85 percent of that ten years which would put you
17 doing at least eight and a half years in jail. Do you
18 understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. And knowing that you still
21 want to plead guilty?

22 THE DEFENDANT: Yes.

23 THE COURT: Now, you understand that when you
24 plead guilty, you waive certain rights. The first right
25 you waive is your right against self-incrimination not in

1 this court or any other court would you ever be required
2 to testify against yourself. However, when you plead
3 guilty, you're doing that. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you wish to waive your right
6 against self-incrimination at this time? No, you want to
7 talk with her.

8 (WHEREUPON, a pause in the proceedings.)

9 THE COURT: So you wish to waive your right
10 against self-incrimination?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. You also waiving your right
13 to have a jury trial. We have the jury coming in in 20
14 minutes who could try this case. You also have motions
15 for defenses that you could bring up. When you plead
16 guilty, you don't get to ask any questions about the
17 evidence and the State doesn't have to prove anything. Do
18 you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. And during the course of the
21 trial, you wouldn't have to take the witness stand.
22 Mr. McFadden could cross-examine the witnesses, could call
23 witnesses on your behalf and assert any defenses. But
24 when you plead guilty, you don't get to do any of that.
25 Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: So you wish to waive your right to
3 have a jury trial and confront the witnesses against you?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. Has anybody threatened you
6 with physical harm to get you to plead guilty?

7 THE DEFENDANT: No.

8 THE COURT: Has anybody promised you anything
9 other than a negotiated sentence to get you to plead
10 guilty?

11 THE DEFENDANT: No.

12 THE COURT: Is the only reason that you're
13 pleading guilty is because you are in fact guilty of
14 assault and battery with intent to kill?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay. Now, are you satisfied with
17 the services of your attorney?

18 THE DEFENDANT: Yes.

19 THE COURT: Has he done everything that you've
20 asked him to do?

21 THE DEFENDANT: Yes.

22 THE COURT: And, I mean, you think he's had
23 enough time to review the evidence and go over everything
24 to properly advise you?

25 THE DEFENDANT: Yes.

1 THE COURT: Okay. Have you understood all of my
2 questions today?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And do you have any questions for
5 the Court? I'm going to give you an opportunity to speak,
6 but do you have any questions at this time?

7 THE DEFENDANT: No, sir.

8 THE COURT: And you understand that if you're
9 unhappy with the fact that you pled guilty or you don't
10 like the sentence, you think about it tonight. You only
11 going to have ten days in which to file an appeal. Do you
12 understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Okay. For the record, one more time
15 under this indictment which is indictment 2010-GS-43-649
16 charging you with assault and battery with intent to kill
17 how do you plead guilty or not guilty?

18 THE DEFENDANT: Guilty.

19 THE COURT: All right. I find there's
20 substantial factual basis for the plea. I find the
21 defendant has entered into it freely and voluntarily,
22 knowingly and intelligently. She has had the advice of
23 counsel who she says she is well pleased. I will accept
24 the plea. What is her criminal history?

25 MR. MEADORS: Shoplifting, Your Honor.

1 THE COURT: That's it.

2 MR. MEADORS: Yes, sir.

3 THE COURT: Is that correct?

4 THE DEFENDANT: Yes.

5 THE COURT: Would the victim like to say
6 anything?

7 MR. MEADORS: Before we get through, I want to
8 thank E.C. Johnson who came back today. He took the
9 advice of rights, also Irene Culich with the police
10 department. Judge, the victim is here. I want to thank
11 her for her patience. This is 2009. So I first of all I
12 want to thank her for her patience. She's glad that she
13 has closure and I don't think she wants to address the
14 Court. I also want to thank the Court also. Judge, I
15 wouldn't be asking you to consider this. I know we've had
16 several things together. If I didn't have law enforcement
17 and the victim on board and they are on board on this
18 negotiated sentence and we respectfully ask Your Honor to
19 consider negotiated ten years.

20 THE COURT: And I think I told you this would
21 probably be lighter than what I would have normally given.

22 Yes, sir, Mr. McFadden.

23 MR. MCFADDEN: Thank you, Judge. Ms. Cokely is
24 here in Sumter. She lived with her father at this
25 residence at the time.

1 THE COURT: Is your father the Minister Frank
2 Cokley the minister?

3 THE DEFENDANT: No, sir.

4 THE COURT: Okay.

5 MR. MCFADDEN: Your Honor, this all took place
6 on December 29th of 2009. The defense's theory of the
7 facts altered as a bit different only in that -- and for
8 the purposes of mitigation Ms. Vaughn and another young
9 lady Shonte Helton were let into the house by Ms.
10 Cokley's father for the purpose's of confronting -- well,
11 they intended to confront Ms. Cokely regarding some money
12 that was allegedly stolen. They went upstairs. They
13 entered a bedroom where she was with her children. A
14 verbal argument, altercation ensue and continued in the
15 bedroom and down the stairs. And then right -- we would
16 argue that actual physical altercation took place
17 somewhere right at the threshold of the home here and that
18 there was participation by both parties, but ultimately
19 that that resulted in use of force by Ms. Lasheda Cokely.
20 Again, as the Solicitor said, she has originally no
21 criminal record. She has several children. She has four
22 children. And we ask the Court to accept the plea.

23 THE COURT: Would your client like to say
24 anything? She doesn't have to if she doesn't want to.

25 MR. MCFADDEN: No, Your Honor.

1 THE COURT: Did she spend any time in jail after
2 she was arrested?

3 THE DEFENDANT: Like two days.

4 THE COURT: Two days. Okay. All right.
5 Anything further from the State or the defense?

6 MR. MEADORS: No, sir. Thank you, Your Honor.

7 MR. MCFADDEN: Nothing.

8 THE COURT: The sentence of the Court is that
9 the defendant be committed to the state department of
10 corrections for a period of ten years.

11 MR. MEADORS: Thank you, judge.

12 END OF REQUESTED TRANSCRIPT

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FORM 5

STATE OF SOUTH CAROLINA)
)
 County of Sumter)
Lasheda Chantel Cokley)
 Full name and prison number (if any) of Applicant)
)
 v.)
)
 State of South Carolina)
)
)
)

RECORDED CERTIFIED TRUE COPY
 IN THE COURT OF COMMON PLEAS ORIGINAL FILE
 SEP 8 PM 12:33
 James C. Campbell
 CLERK OF COURT DEPUTY CLERK OF COURT
 SUMTER COUNTY, S.C. SUMTER COUNTY SOUTH CAROLINA
 2015-C7-43-2121

APPLICATION FOR
 POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to 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 Leath Correctional Institution

2. Name and location of Court which imposed sentence Sumter County
Courthouse 215 N. Harvin street

3. Name(s) of co-defendant(s) (if any) _____

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) M001963

 - (b) _____

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) June 16 2015 10 year nego sentence / violent
 - (b) 84 no-parole
 - (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. Sumter County Courthouse 215 N. Harvin St
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. this matter is dismissed
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. August 19 2015
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. has failed to provide a sufficient explanation as
 - ii. required.
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) _____
 - (b) _____

(c) _____

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

(a) Castle doctrine

(b) misrepresented

(c) negligence

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

(a) _____

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? no

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no

(d) any other petitions, motions or applications in this or any other Court? no

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

a. castle doctrine - code of law 16-11-410, 16-11-420

b. misrepresented

c. negligence

⑪ state concisely and in the same order the facts which support each of the grounds set out in 10:

a. an exception to the retreat rule allowing the use of deadly force by a person who is protecting his or her home and its inhabitants from attack, trespasser who intends to commit a felony or inflict serious bodily harm


- 16-11-420 Code of law the general Assembly finds that it is proper for law-abiding citizens to protect themselves, their families and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others.

b. Timothy Murphy - was my first Public Defender, (Murphy) and I discuss getting probation and PTI my first charge, never been in trouble. (Murphy) filed to get charge dismissed under castle doctrine to a lesser charge.

my charge got drop ~~Castle doctrine~~. about 6 $\frac{1}{2}$ yrs went by. Haven't heard anything, got a letter in May 2015 that (McFadden) is my new lawyer. (McFadden) never study my case enough (time). He say wasn't no plea. (McFadden) didn't argue the fact of the castle doctrine in my behalf. (McFadden) say I had no other choice to agree to excessive

amount of time (10 yrs). No knowledge he had. Agree to this with the ~~attorney~~ solicitor. I told (McFadden) no. that am not taking 10 yrs. He say I have no choice. I told (McFadden) he is not my best intrust at heart, I don't want him to represent me. (McFadden) say it was to late and the case 6 1/2 yrs old that I have to take this plea. He never argue the excessive amount of time for this charge. (McFadden) never ~~said~~ ^{stated} the fact that these female came to my house threatening/argueing with me in ^{and} bedroom ~~and~~ my kids and that she struck me first, and I was protecting myself and kids, that I was afraid for my life and kids I was scared.

C. My ABWIK charge is 6 1/2 yrs old. (McFadden) did nothing to my case to help me. They reindict my case in 2 weeks am doing a 10 yr sentence. My first time, no previous charges. ~~attorney~~ Didn't ask for any recommender to get a sentence reduction. Didn't take me in court while the charge was drop to lesser charge. Didn't let me know my lawyer change till time for me to go to court. from Dec 29, 2009 to June 2015 my case has been neglected 6 1/2 yrs, Never ~~say~~ that (Murphy) filed to get this charged dis mi


Lashida C. Key

(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) castle doctrine (My knowlegde of PCR) only recently in position to file
- (b) misrepresented (My knowlegde of PCR) only recently in position to file.
- (c) negligence (My knowlegde of PCR only in position to file,

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? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? no
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
no

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Jacob E. Mcfadden, Sumter Public Defender 215 North main st Rm 151 Sumter SC 29150
 - ii. Timothy Murphy, Sumter Public Defender 215 North main st Rm 151 Sumter SC 29150
 - iii. _____

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

- i. Timothy Murphy represented me first, He was not the one I want to court with on my (ABWIK) ~~_____~~
- ii. Jacob Mcfadden represendted me. He took me up in court. on my (AWIK). Lawyers changed, Murphy to Mcfadden.
- iii. _____

19. State clearly the relief you seek in filing this application:
lesser sentence, time served and probation


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

no

STATE OF SOUTH CAROLINA)
County of _____)

VERIFICATION

i, Lasheda Cokley, 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.



SWORN to and subscribed before me this 26 day of August, 2015.

Sandra S. Dodson (L.S.)
Notary Public

My Commission Expires: 10 30 2019

RECORDED
2015 SEP -8 PM 12:33

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


JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C

I, Losheda Okley, 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.


Applicant

SWORN or affirmed to and subscribed before me this
26 day of August, 2015.


Notary Public

My Commission Expires: 10.30.2019

THE BOOZER LAW FIRM, LLCRECORDED
2016 FEB 18 PM 2:07**Lance S. Boozer, Esq.***
*Also admitted in Florida807 Gervais Street, Suite 203
Columbia, SC 29201Telephone: 803-608-5543
Fax: 803-926-3463JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.Email: lsb@boozerlawfirm.com
Website: www.boozerlawfirm.com

February 16, 2016

The Honorable James C. Campbell
Clerk of Court
141 N. Main St.
Sumter, SC 29150**RE: Lasheda Cokley, #363399, v. State of South Carolina**
2015-CP-43-2121

Dear Honorable Clerk:

I represent Ms. Cokley in the above-referenced action. Please clock and file the enclosed document considered an Amendment to her prior Application and return a clocked copy to me in the envelope provided.

Should you have any questions or concerns, please do not hesitate to contact me. I appreciate your assistance in this matter.

Yours very truly,



Lance S. Boozer

cc: Daniel Gourley, AAG
Lasheda Cokley, #363399

RECORDED

STATE OF SOUTH CAROLINA)
 2015 FEB 18 PM 2:07)
 COUNTY OF SUMTER)
 J. L. CAMPBELL)
 CLERK OF COURT)
 Lasheda Cokley, #364399, SUMTER COUNTY, S.C.)

))
 Applicant,))
))
 v.))
))
 State of South Carolina,))
))
 Respondent.))

IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT
 C/A NO: 2015-CP-43-2121


**FIRST AMENDMENT TO PRIOR
 APPLICATION FOR PCR**

The Applicant, at her request and through appointed counsel below, makes the following additional claim and amendment to her prior application for post-conviction relief filed

September 8, 2015:

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 - (i) Involuntary Guilty Plea; and
 - (ii) Prosecutorial misconduct.

THE BOOZER LAW FIRM, LLC


 Lance S. Boozer
 Attorney for Applicant
 807 Gervais Street, Suite 203
 Columbia, SC 29201
 Phone: (803) 608-5543

February 16, 2016

STATE OF SOUTH CAROLINA)
 COUNTY OF SUMTER)
 Lasheda Cokley, #364399,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

AFFIDAVIT OF SERVICE

RECORDED
 2016 FEB 18 PM 12:07
 JUDGE: LANCE BOOZER
 CLERK OF COURT
 SUMTER COUNTY S.C.

IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT
 C/A NO: 2015-CP-43-2121

I, the undersigned of the Boozer Law Firm, LLC, Attorney for Applicant, do hereby certify that I served the foregoing First Amendment to Prior Application for PCR upon the persons below-listed by placing a copy, postage prepaid, in the United States Mail, addressed as follows:

Daniel Gourley
 Assistant Attorney General
 P.O. Box 11549
 Columbia, SC 29211

THE BOOZER LAW FIRM, LLC



Lance S. Boozer
 Attorney for Applicant
 807 Gervais Street, Suite 203
 Columbia, SC 29201
 Phone: (803) 608-5543
 Fax: (803) 926-3463

Columbia, South Carolina
 February 16, 2016

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER)	FOR THE THIRD JUDICIAL CIRCUIT
)	
Lasheda Chantel Cokley, #364399,)	2015-CP-43-2121
)	
Applicant,)	
)	
v.)	RETURN
)	
State of South Carolina,)	
)	
Respondent.)	
<hr/>		

The Respondent, making its Return to the application for post conviction relief (PCR) filed September 8, 2015, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was true bill indicted at the June 2015 term of the Sumter County Grand Jury for assault and battery with intent to kill (2010-GS-43-0649). Jacob E. McFadden, Esquire represented Applicant. On June 16, 2015, Applicant pled guilty before the Honorable W. Jeffrey Young. Judge Young sentenced Applicant pursuant to negotiations to a ten year term of imprisonment.

A timely Notice of Appeal was filed on Applicant's behalf. By Order filed August 19, 2015, the South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203(d)(B)(iv) for failing to provide a sufficient explanation. The Remittitur was issued on September 4, 2015.

Attached herewith and incorporated herein are the records of the Sumter County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, appellate records, and the plea transcript will be sent upon receipt. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel
 - a. Failing to argue counsel doctrine
 - b. "negligence"
 - c. "misrepresented"

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

III.

The Respondent asserts the Applicant's allegation that her 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 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.

Applicant must specify any claims she intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the

inmate, is the only one authorized to file amendments: SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

V.

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

VI.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

DANIEL GOURLEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

November 17, 2015.

STATE OF SOUTH CAROLINA)
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 COUNTY OF SUMTER)
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 LASHEDA C. COKLEY, #364399,)
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 Applicant,)
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 vs)
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 STATE OF SOUTH CAROLINA,)
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 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

2015-CP-43-2121

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Lance S. Boozer, Esquire
The Boozer Law Firm, LLC
807 Gervais Street, Suite 203
Columbia, SC 29201

DATED this 17th day of November, 2015.



Caroline Collins, Legal Assistant
 For Respondent

State of South Carolina)	In the Court of Common Pleas
)	Third Judicial Circuit
County of Sumter)	2015-CP-43-2121

Lasheda Cokley,)	
)	
Applicant,)	
)	
vs.)	Transcript of Record
)	
State of South Carolina,)	
)	
Respondent.)	
)	
)	
)	

March 14, 2016
Sumter, South Carolina

B E F O R E:

The Honorable Brooks P. Goldsmith, Judge

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

Lance S. Boozer, Esquire
Attorney for Applicant

Daniel F. Gourley, II, Esquire
Attorney for Respondent

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

I N D E X

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Proceedings 4

Lasheda Cokley,

 Direct Examination by Mr. Boozer 7

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Jacob McFadden, Esq.,

 Direct Examination by Mr. Gourley 25

 Cross-Examination by Mr. Boozer 29

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E X H I B I T S

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
P-1	Indictment Form		15

TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 2:37 p.m.)

THE COURT: Ready?

MR. GOURLEY: This is *Lasheda Cokley v. State of South Carolina*, Docket No. 2015-CP-43-2121. She is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. She was true-bill indicted at the June 2015 term of the Sumter County Grand Jury for assault and battery with intent to kill. Mr. McFadden represented her.

On June 16th, 2015, she pled guilty before the Honorable W. Jeffrey Young. And Judge Young sentenced the applicant, pursuant to a negotiation, of a 10-year term of imprisonment. Timely notice of appeal was filed on applicant's behalf. And by order filed August 19th, 2015, the South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203(d)(B)(iv) for failing to provide a sufficient explanation, and the remittitur was issued on September 4th, 2015.

She subsequently filed a timely application for postconviction relief on September 8th, 2015, alleging ineffective assistance of counsel for failing to argue a counsel -- castle doctrine, negligence, misrepresented. And amended application was filed on February 16th, 2016, alleging involuntary guilty plea and a prosecutorial

1 misconduct. The state filed its return on November 17th,
2 2015. And she is represented by -- by Mr. Boozer.

3 THE COURT: And you're ready to proceed, then, Mr.
4 Boozer?

5 MR. BOOZER: Your Honor, if it pleases the Court:
6 Judge, Ms. Cokley, she has been really wrestling, I guess,
7 with the idea of -- of what -- whether to proceed with her
8 case, as well as what it is that this Court can do. In
9 addition to that, a lot of sort of questions that I can't
10 answer for her, regarding if she were to be granted relief,
11 whether the solicitor's office would entertain some sort of
12 plea at that point down the road or whether the solicitor's
13 office would enter into some sort of negotiation. And
14 there's certainly always the chance that the solicitor's
15 office may say, "You want a new trial, you're getting a new
16 trial, and that's what we'll do."

17 So there's sort of a lot of questions that I cannot
18 give a definitive answer to her. And I've kind of let her
19 know sort of what it is, respectfully, that this Court can
20 do for her, which is just put her back to get a new trial.

21 She does have some -- a little bit of an interesting
22 issue that I really have not seen before that she will --
23 we'll be arguing today. So I do think that she is a little
24 bit nervous about, if her case were granted, sort of what
25 would then occur. And I have told her that Your Honor may

1 explain to her what it is that this Court can do for her
2 and what it can't do. And I think that I may have covered
3 all that now. But sometimes it ---

4 THE COURT: I -- yeah. I think you may have covered
5 it.

6 MR. BOOZER: Okay.

7 THE COURT: But, you know, some times just can't be
8 answered. I mean, they -- you know, there's -- there's
9 some things you just don't know the answer to. Can't
10 change the sentence. All we can do is just grant a new
11 trial or -- or not.

12 And what happens if a new trial is granted -- of
13 course, one thing, I guess, could happen that we hadn't
14 mentioned: The state could appeal. So the new trial could
15 be taken away or delayed for some period of time.

16 Other than that, I'm not sure I know what exactly it
17 is to -- to say to Ms. Cokley.

18 (Whereupon, Mr. Boozer and the applicant conferred.)

19 MR. BOOZER: Your Honor, at this time we'd call Ms.
20 Cokley to the stand. She'd like to proceed with her ---

21 THE COURT: Okay.

22 MR. BOOZER: --- with her case.

23 THE COURT: All right.

24 (Whereupon, the applicant came forward.)

25 LASHEDA COKLEY, having been first duly sworn,

DIRECT EXAMINATION BY MR. BOOZER - LASHEDA COKLEY 7

1 testified as follows:

2 DIRECT EXAMINATION

3 BY MR. BOOZER:

4 Q Ms. Cokley, how you doing today?

5 A I'm doing good. How are you?

6 Q I'm fine. Are you a little bit nervous today?

7 A Just a little bit.

8 Q Okay. And, you know, we've had a discussion here this
9 afternoon. But you and I have certainly had that
10 discussion a few times before today about what it is that
11 you're doing here; is that right?

12 A Yes.

13 Q Okay. And do you understand why you're here today?

14 A Yes, I do.

15 Q All right. What -- and why is that? What -- what is
16 it that you filed, and what are you asking this Court for?

17 A For a new trial.

18 Q All right. Now, you've obviously filed an application
19 for PCR; is that right?

20 A Yes.

21 Q What are you currently incarcerated for?

22 A Assault and battery with intent to kill.

23 Q And what kind of -- did you plead guilty or did you
24 have a trial or what happened?

25 A I pleaded guilty.

1 Q All right. And what sort of sentence did you get?

2 A A 10-year violent.

3 Q All right. Now, understanding that that charge does
4 carry up to a 30-year sentence -- you understand that,
5 right?

6 A Yes.

7 Q All right. And that if you're successful, just as
8 we've covered a little bit today, you would face that
9 charge all over again and there's no guarantee what the
10 solicitor's office would do. But you -- you may have
11 another -- if you win and get what you're asking for today,
12 you would be entitled to a new trial. Do you understand
13 that?

14 A Yes.

15 Q And -- and knowing that, you still wish to go forward?

16 A Yes.

17 Q Okay. You know, as the attorney general stated, you
18 filed a few allegations, one of which was ineffective
19 assistance of counsel for failure to argue, I think, castle
20 doctrine, negligence, and misrepresentation. And then,
21 you've amended and filed for an involuntary plea, as well
22 as prosecutorial misconduct, right?

23 A Yes.

24 Q All right. Now, when did you plead guilty to assault
25 and battery with intent to kill?

DIRECT EXAMINATION BY MR. BOOZER - LASHEDA COKLEY

9

1 A June 16, 2015.

2 Q All right. When were you first arrested?

3 A January 4th of 2010.

4 Q January 4th, 2010?

5 A Uh-huh.

6 Q And what were you initially arrested for?

7 A Assault with intent to kill.

8 Q All right. Were you then -- were you indicted for
9 anything else?

10 A No.

11 Q All right. Were you ever indicted for assault and
12 battery of a high and aggravated nature?

13 A Yes.

14 Q Do you know when that was?

15 A May 10th of 2010.

16 Q All right. When you were first arrested -- did you
17 have a lawyer when you first got arrested back in 2010, was
18 it, that you said?

19 A No, I didn't.

20 Q All right. Did you initially -- did you then
21 eventually get a lawyer to represent you?

22 A Yes, I did.

23 Q And who was that?

24 A Timothy Murphy.

25 Q When did you get -- was Mr. Murphy appointed to

1 represent you?

2 A Yes, he was.

3 Q All right. Do you recall about when he was appointed
4 to represent you?

5 A I can't recall.

6 Q Is there -- and I'm asking for a specific date. But
7 it -- do you have sort of a roundabout time of when he may
8 have been appointed to represent you or when you first met
9 with him?

10 A Sometime between February or March of the year of
11 2010.

12 Q Okay. Did you bond out?

13 A Yes.

14 Q And do you recall when that occurred?

15 A I can't recall.

16 Q All right. How many times do you think you met with
17 Mr. Murphy?

18 A Three.

19 Q You think you met with him about three times?

20 A Uh-huh.

21 Q Tell me what you and Mr. Murphy discussed.

22 A Well, the first time I met with Mr. Murphy, me and him
23 discussed my charge, which was the assault with intent to
24 kill. We discussed how much it carried. He also told me
25 that he was going to get my charge dropped down to ABHAN.

DIRECT EXAMINATION BY MR. BOOZER - LASHEDA COKLEY 11

1 And he told me what that carried.

2 I agreed. So the second visit with him, he had told
3 me that he'd gotten it dropping -- dropped down to ---

4 Q To ---

5 A And he told me that he was going to also get it
6 dismissed -- try to get it dismissed.

7 Q How long was Mr. Murphy your lawyer?

8 A I'm going to say all the way up till the time I got
9 indictment ---

10 Q Okay.

11 A --- reindicted.

12 Q Well, tell me about that. What -- what eventually
13 happened? Did you -- was there another indictment that was
14 issued?

15 A (No audible response.)

16 Q Do you recall?

17 A After when, the ABHAN?

18 Q For ABWIK.

19 A ABWIK? That was only the -- after he got it dropped
20 down to -- it was -- the ABHAN.

21 Q Well, eventually, you pled to assault and battery with
22 intent to kill, right?

23 A Yes.

24 Q Okay. Do you recall an indictment being issued prior
25 to your plea for assault and battery with intent to kill?

1 A No.

2 (Whereupon, Mr. Boozer and Mr. Gourley conferred.)

3 MR. BOOZER: Your Honor, may I approach the witness?

4 THE COURT: Certainly.

5 MR. BOOZER: Thank you.

6 Q Ms. Cokley, I'm -- I'm handing you a document. I want
7 you to take a look at that, if you would, for a moment.

8 Can you see it?

9 A Yes.

10 Q Okay. And I'll represent to you that that is an
11 indictment -- if you would, let me take a look at this.

12 A (Complied.)

13 Q And this is already a part of the -- of the Court's
14 record. This is an amended indictment, Court of General
15 Sessions, June term 2015, *the State v. Lasheda Cokley*,
16 indictment for assault and battery with intent to kill,
17 action of grand jury is true bill, signed by the foreperson
18 on June 4th, 2015. When did you first see -- did you ever
19 see this indictment prior to your plea?

20 A No.

21 Q Okay. Was it your understanding that you were facing
22 an assault and battery with intent to kill in June of 2015
23 or ABHAN?

24 A ABHAN. I thought I was going to court for ABHAN.

25 Q Okay. Now, who was your lawyer at your plea?

DIRECT EXAMINATION BY MR. BOOZER - LASHEDA COKLEY 13

1 A McFadden.

2 Q All right. When did you get -- was Mr. McFadden
3 appointed to represent you, or how did he come about?

4 A Well, some years went by. And the end of May of
5 2015th [sic], I got a letter saying that -- to come to the
6 public defender's office. And I met with McFadden. And he
7 told me that that my case was handed to him. And that was,
8 like, two weeks before I went to court.

9 Q What did you discuss with Mr. McFadden prior to your
10 plea?

11 A Anything, nothing. Because my first visit was him was
12 talked about my -- my ABHAN.

13 Q Okay. Y'all discussed the ABHAN charge?

14 A Yes.

15 Q And what did y'all talk about with regard to the
16 ABHAN?

17 A I told him that Murphy got my charge dropped down to
18 an ABHAN and that I was looking for probation and P.T.I.
19 Me and him discussed probation and P.T.I.

20 Q All right. What else did you talk about?

21 A That was all I can recall.

22 Q Did y'all discuss going to trial or any defenses that
23 you may have had to these charges?

24 A No. I was just going to plead to the ABHAN.

25 Q When you went to plead -- enter the plea in June, what

DIRECT EXAMINATION BY MR. BOOZER - LASHEDA COKLEY 14

1 did you think you were going to plead guilty to that day in
2 court?

3 A I knew that -- when I got there, he told me that I was
4 going to plead guilty to the assault and battery with
5 intent to kill and they reindicted my case.

6 Q All right. What discussions did you have with Mr.
7 McFadden about why it was now assault and battery with
8 intent to kill?

9 A I asked him why did they reindicted my case. He told
10 me he did not know.

11 (Whereupon, Mr. Boozer and Mr. Gourley conferred.)

12 MR. BOOZER: May I approach the witness, Your Honor?

13 THE COURT: You certainly may.

14 MR. BOOZER: Thank you.

15 Q Ms. Cokley, I'm going to hand you a copy of a
16 document. And I'd like for you to take a moment and take a
17 look at that. And this appears to be -- it looks like an
18 indictment: "Lasheda Cokley, Court of General Sessions,
19 May 2010." And it's not signed. And it's for assault and
20 battery of a high and aggravated nature. Did you provide
21 this to me?

22 A Yes, I did.

23 Q Okay. Where did you get that?

24 A I got it from my motion of discovery.

25 Q Okay.

DIRECT EXAMINATION BY MR. BOOZER - LASHEDA COKLEY 15

1 MR. BOOZER: Your Honor, at this time I would move to
2 make this Applicant's No. 1.

3 MR. GOURLEY: Judge, I would just object. There's
4 nothing on here indicating what exactly this is, other than
5 the face of the indictment. There's no true bill. There's
6 no direct-presentment numbers. It's just a blank,
7 basically, indictment.

8 THE COURT: Is it just a form?

9 MR. GOURLEY: I believe so, Judge.

10 MR. BOOZER: It -- it -- Judge, it -- it is a form.
11 And it's -- it's not signed. It has the witness from the
12 police department, as well as her name and what the
13 indictment was for, which was ABHAN. I don't know -- I
14 tried to pull from the clerk of court's file and where this
15 was and didn't see anything. I can certainly get into it
16 with her prior attorney and question him about it, if he
17 had any knowledge of this.

18 THE COURT: I'll overrule the objection.

19 MR. BOOZER: Okay. Thank you.

20 (Whereupon, Plaintiff's Exhibit No. 1 was marked and
21 entered into evidence.)

22 Q Ms. Cokley, did you ever have any discussion with Mr.
23 Murphy about an indictment for assault and battery of a
24 high and aggravated nature?

25 A Have any discussion?

1 Q Correct.

2 A Yes. We talked about when he dropped my charge down

3 ---

4 Q Do you ---

5 A --- to that.

6 Q You indicated to me earlier that you received a copy
7 of that indictment or that form ---

8 A Yes. He ---

9 Q --- and you ---

10 A He provided it to me.

11 Q Well, did he provide it to you, or was it in your --
12 the response to your Rule 5 request?

13 A Mr. Murphy provided it to me.

14 Q Okay. Did you and Mr. McFadden ever discuss any sort
15 of trial strategy or any defenses such as the castle
16 doctrine or anything like that prior to your plea?

17 A No. I -- he told me that the defense wasn't strong
18 enough.

19 Q All right. Did you want to plead to assault and
20 battery with intent to kill?

21 A No, I didn't.

22 Q Why did you end up entering the plea?

23 A When I got there, he told me that I had -- well, he
24 called me and told me to come. I came. He told me that I
25 had no other choice to -- but to plead to the 10-year

CROSS-EXAMINATION BY MR. GOURLEY - LASHEDA COKLEY 17

1 negotiated sentence.

2 Q Okay. You felt like you had no other choice, other
3 than to plead guilty?

4 A Yes. The way he presented to me.

5 Q Did y'all talk about why an amended indictment was
6 being issued prior to the plea?

7 A I asked him.

8 Q And what did he tell you?

9 A He told me he didn't know.

10 Q Okay. Is there anything else that you have not
11 brought to the Court's attention today with regard to your
12 allegations for your PCR?

13 A I can't recall anything at this time.

14 Q Speak up a little bit for ---

15 A I cannot recall anything at this time.

16 Q Okay.

17 MR. BOOZER: Thank you, Your Honor. No further
18 questions at this time.

19 THE COURT: Cross-examination?

20 MR. GOURLEY: Thank you, Judge.

21 CROSS-EXAMINATION

22 BY MR. GOURLEY:

23 Q Ms. Cokley, how many times did you meet with Mr.
24 McFadden prior to your plea?

25 A Twice.

1 Q Twice?

2 A (No audible response.)

3 Q And during those meetings did y'all have the
4 opportunity to go over your Rule 5 and the state's
5 evidence?

6 A We never went over it.

7 Q You never went over it?

8 A (Shook head from side to side.)

9 Q Okay. What'd y'all talk about during those meetings?

10 A With my first visit with him, we talked about my
11 ABHAN, what it carried. I told -- well, he already -- I
12 told him that -- that me and Murphy had already discussed
13 probation and P.T.I.

14 Q Okay.

15 A My second visit with him, he told me that they
16 reindicted my case and that -- he told me how much the
17 ABWIK carried.

18 Q Okay. And how did it come about that you ended up
19 pleading guilty?

20 A I was -- I went to the courtroom and he -- and I
21 pleaded guilty there.

22 Q Okay. Was there any kind of discussion leading up to
23 that?

24 A (No audible response.)

25 Q Well, was your second meeting at the courthouse when

CROSS-EXAMINATION BY MR. GOURLEY - LASHEDA COKLEY 19

1 you pled guilty, or was that a separate meeting in -- in
2 and of itself?

3 A It was another meeting and differently from ---

4 Q Okay. So ---

5 A --- the courtroom.

6 Q --- you had -- you had a first meeting; you had a
7 second meeting?

8 A Uh-huh.

9 Q And then you pled guilty a third ---

10 A No. This ---

11 Q --- incident?

12 A All these is at the court at the second meeting.

13 Q Okay. So your guilty plea?

14 A Uh-huh.

15 Q So he told you you'd been reindicted for ABWIK, and
16 then you subsequently walked in the courtroom and pled
17 guilty?

18 A Yes.

19 Q Okay. And during your guilty plea, do you recall the
20 -- telling the judge that no one was promising you or
21 threatening you to get you to plead guilty?

22 A Yes, I did.

23 Q Okay. And just a minute ago, you testified that you
24 felt coerced into pleading guilty, right?

25 A Yes.

1 Q And why did you feel coerced?

2 A Why did I feel coerced?

3 Q Uh-huh.

4 A I mean, he wasn't -- it's the way that he -- he told
5 me that -- what I had to do, you know. I felt like I
6 follow his lead because he was my lawyer ---

7 Q Okay.

8 A --- and that he was representing me.

9 Q Okay. But this is ultimately your decision. You're
10 doing the time, correct?

11 A Yes.

12 Q Okay. And at no point in time did you feel it
13 necessary to tell the judge that, "Hey, I was told I was
14 getting ABHAN and P.T.I.," or anything like that? Right?

15 A Yes.

16 Q Never told the judge any of that, correct?

17 A No, I didn't.

18 Q Okay. Did Mr. McFadden ever promise you that you were
19 getting ABHAN or P.T.I. or anything like that?

20 A No, he didn't promise.

21 Q Okay. So you walked in the courtroom and you pled
22 guilty with the full understanding that you were receiving
23 -- pleading guilty to assault and battery with intent to
24 kill with a 10-year negotiated sentence, correct?

25 A Well, yes.

CROSS-EXAMINATION BY MR. GOURLEY - LASHEDA COKLEY 21

1 Q Okay. And do you recall telling the judge that you
2 were satisfied with Mr. McFadden's services?

3 A Yes. I did -- I mean, during that time I did not
4 knew. You know, this was my first time going to court,
5 going around. I never been ---

6 Q Right.

7 A --- in no trouble before. This is my first time. I
8 didn't -- I did not know what -- I did told the judge that.
9 Yes, I did. But I did not know the things that I know now
10 ---

11 Q Okay.

12 A --- you know.

13 Q Well, what do you feel like he didn't do that you know
14 now?

15 A I feel like if -- he should've investigated a little
16 bit more about my ABHAN. He should've been able to tell me
17 more about my reindictment, why ---

18 Q Okay.

19 A --- and why did it took five years.

20 Q Okay. And -- and you talk about investigating more
21 about your ABHAN. What -- what do you mean by that?

22 A That he should've found out more about what me and
23 Murphy negotiated.

24 Q Okay. So you're saying there was some kind of plea
25 offer between Mr. Murphy and the solicitor?

- 1 A I'm not going -- I'm not sure. Because that's ---
- 2 Q Okay.
- 3 A --- what me and -- me and him talked about.
- 4 Q Okay. But you brought that to the attention of Mr.
- 5 McFadden prior to your plea, right?
- 6 A Yes.
- 7 Q Okay. Do you recall telling the judge that you wanted
- 8 to plead guilty?
- 9 A Yes.
- 10 Q And that you were indeed guilty?
- 11 A Yes.
- 12 Q And he asked you if you admitted to cutting the victim
- 13 with a knife, right? Do you recall that?
- 14 A Who asked me?
- 15 Q The judge.
- 16 A Yes.
- 17 Q And -- and you admitted that you did cut her?
- 18 A Yes.
- 19 Q Okay. And you're not disputing that, are you?
- 20 A No.
- 21 Q Okay. And do you recall Mr. McFadden presenting a
- 22 mitigation -- or what I'm going to characterize as y'all's
- 23 version of events of what took place that day?
- 24 A (No audible response.)
- 25 Q Do you remember that?

CROSS-EXAMINATION BY MR. GOURLEY - LASHEDA COKLEY 23

- 1 A Yes.
- 2 Q And Mr. McFadden discussed, you know, the fact that
3 they came to your house, so on, and so forth ---
- 4 A Yes.
- 5 Q --- right?
- 6 And he presented all that in your theory to the judge
7 in mitigation, right?
- 8 A Yes.
- 9 Q So he was aware, prior to your guilty plea, of what
10 you had alleged had occurred, correct?
- 11 A Yes.
- 12 Q And do you recall the judge advising you that if you
13 pled guilty, you would be waiving any possible defenses,
14 including the castle doctrine?
- 15 A (No audible response.)
- 16 Q Do you -- do you recall that?
- 17 A Yes.
- 18 Q Now, Ms. Cokley, I just want to make sure. You -- you
19 do want a trial on these charges?
- 20 A (No audible response.)
- 21 Q You do want a trial on these charges?
- 22 A A trial?
- 23 Q Yes, ma'am.
- 24 A Yes. Or a -- a plea over.
- 25 Q Ma'am?

1 A Or maybe a plea over. Yes.

2 Q Okay. But you want a plea and not a trial?

3 A A plea over.

4 Q I'm sorry. I can't understand ---

5 A Yes. A plea over.

6 Q A -- a do-over?

7 A Yes.

8 Q Okay. So you don't want to go back to face these
9 charges again and -- and get a new trial? That's the only
10 thing that the judge can give you, is a new trial.

11 A That -- that -- I would go forward with it. Yes.

12 Q Okay. I just want to make sure. Thank you, Ms.
13 Cokley.

14 MR. GOURLEY: Thank you, Judge.

15 THE COURT: Any redirect?

16 MR. BOOZER: No redirect, Your Honor.

17 THE COURT: Thank you, ma'am. You may step down.

18 (Whereupon, the witness exited the witness stand.)

19 THE COURT: Call your next witness.

20 MR. BOOZER: No further witnesses, Your Honor.

21 MR. GOURLEY: Judge, we call Mr. McFadden to the
22 stand, please.

23 (Whereupon, the witness came forward.)

24 JACOB MCFADDEN, having been first duly sworn,
25 testified as follows:

1 (Off the record briefly.)

2 MR. GOURLEY: May it please the Court, Your Honor?

3 THE COURT: Certainly.

4 DIRECT EXAMINATION

5 BY MR. GOURLEY:

6 Q Mr. McFadden, you were appointed in this case?

7 A That's correct.

8 Q And how many times did you meet with Ms. Cokley prior
9 to her plea?

10 A May I consult my notes briefly?

11 Q Yes, please.

12 A Four times, by my notes.

13 Q And did you have an opportunity to review or file for
14 a Rule 5 in *Brady*?

15 A Yes. I received full discovery.

16 Q And did you have the opportunity to review that with
17 Ms. Cokley?

18 A I did.

19 Q And did y'all discuss her version of events of what
20 took place that day?

21 A Absolutely.

22 Q And do you recall what they were, roughly?

23 A Excuse me. I'm just going to adjust my chair a
24 little. We did, in depth.

25 Q And -- and what were those?

1 A The basic set of facts were that Ms. Cokley was at
2 home. She resided with her father, I believe, on -- on
3 Dibert Street here in -- in Sumter. She was at home. It
4 was the evening or night. She was upstairs in bed with her
5 children. The lights were off.

6 There was a knock at the door. Mr. Cokley answered
7 the door. The alleged victim and another young lady asked
8 to see Ms. Cokley. They were let in by Mr. Cokley, who
9 then -- he then left and returned to his bedroom, shut the
10 door.

11 These two young ladies went upstairs, entered Ms.
12 Cokley's room, and then a discussion -- kind of verbal
13 altercation ensued regarding some money that Ms. -- that
14 they allege that Ms. Cokley had taken from one of them.
15 Ultimately, this altercation -- at some point Ms. Cokley
16 asked them to leave. And then this -- the whole -- all
17 three of them kind of traveled downstairs -- you know,
18 verbal argument still ongoing.

19 And then the final -- the final part of this where the
20 actual use of force occurred was right at the threshold of
21 the home. That's where the real issue of fact, I think,
22 arose: whether it was on the porch or just inside, whether
23 or not they were in the process of leaving or, you know,
24 attempting to regain entry.

25 Q Right.

1 A But it was at that point that Ms. Cokley told me that
2 the alleged victim -- Ms. -- Ms. Vaughan, I believe --
3 slapped a phone out of her hand or went to grab her phone
4 or something like that, at which point Ms. Cokley responded
5 with -- with this box cutter.

6 Q Okay. And why do you say that the area where they
7 were situated, where this assault occurred, why is that the
8 crux of the issue in this case?

9 A Well, that would've been one of the main issues that
10 we would've sought to address at a *Duncan* hearing.

11 Q Okay. And did you have the opportunity to discuss
12 that fact with Ms. Cokley prior to her plea?

13 A Absolutely.

14 Q Okay. Did she ever give you any kind of potential
15 leads or witnesses to look into?

16 A She mentioned -- well, her -- her children, as I said,
17 were there.

18 Q Uh-huh.

19 A But based on their age at the time, it -- they -- I --
20 I don't -- I didn't think that they would be able to
21 competently recall the -- the events of that night. The
22 only other person who I had under subpoena for at least one
23 of the trial terms was her father. But that would've
24 really just been to show the circumstances of entry ---

25 Q Right.

1 A --- because Ms. Cokley told me she -- he had -- was in
2 his room the whole time; didn't see or hear anything ---

3 Q Okay.

4 A --- according to her.

5 Q Okay. Leading up to Ms. Cokley's guilty plea, did you
6 have the -- when did she become indicted for ABWIK, I
7 guess, is what I'm trying to get at?

8 A She was on the trial list twice, I think.

9 Q Okay.

10 A And it would've been in between the first and the
11 second time, I -- I -- I think.

12 Q Was it your understanding that she was always indicted
13 with ABWIK, or was there some kind of ---

14 A No. I -- I believe her initial warrant was for
15 assault and battery with intent to kill and -- and that at
16 some point, it -- it was indicted for ABHAN. The first
17 time we met it was still ABHAN, and that kind of factored
18 in -- into my advice to her at that point. But ultimately,
19 the possibility that it could be reindicted for -- for
20 ABWIK was discussed.

21 Q And ultimately, it was obviously reindicted for ABWIK?

22 A Yes.

23 Q And you had that discussion with Ms. Cokley prior to
24 her plea?

25 A Yes, we did.

1 Q Okay. Did Ms. Cokley ever indicate to you that she
2 wanted to proceed to trial?

3 A She did not indicate to me at any time a desire to
4 plead guilty, but never demanded a trial or anything that
5 would cause me to file a speedy-trial motion ---

6 Q Okay.

7 A --- or anything like that.

8 Q Okay. And how did it come about that she -- I guess
9 the solicitor offered a 10-year negotiated sentence?

10 A That was offered maybe once we had struck the jury.

11 Q Okay.

12 A It was offered day of trial.

13 Q Okay. So ---

14 A There had been nothing prior, to my knowledge.

15 Q Okay. And ultimately, Ms. Cokley decided to accept
16 that offer?

17 A Yes.

18 Q Okay.

19 MR. GOURLEY: Your Honor, that's all the questions I
20 have.

21 Q Thank you, Mr. McFadden.

22 MR. BOOZER: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. BOOZER:

25 Q Mr. McFadden, how you doing?

1 A Fine.

2 Q Good. How long were you Ms. Cokley's attorney?

3 A I was appointed in February, I believe, along with --
4 that's when I joined the office. I inherited her case
5 among the others.

6 Q That's how you came to represent her, rather than Mr.
7 Murphy?

8 A Correct.

9 Q Okay.

10 A Yes. I was -- the case was reassigned when ---

11 Q When you ---

12 A --- I joined.

13 Q When you say February, what year are we talking about
14 when ---

15 A 2015.

16 Q 2015?

17 A Yes.

18 Q Okay. Do you know why she was -- was she indicted for
19 ABHAN initially?

20 A To -- that was my understanding. Yes.

21 Q That was your understanding?

22 A Uh-huh.

23 Q Do you know what led to the circumstances of them
24 issuing an amended indictment for assault and battery with
25 intent to kill?

1 A Well, she mentioned to me this P.T.I. issue, that it
2 supposedly had been reduced or had been indicted that way
3 to allow for this. But based on my investigation, they
4 didn't allow her into P.T.I. based on the nature of the
5 charge as ABHAN.

6 Q Okay. What -- were you having any plea negotiations
7 while it was ABHAN?

8 A I had received no plea negotiations. I don't recall
9 any discussions with the solicitor, Mr. Meadors, while --
10 while it was -- while it was ABHAN.

11 Q Do you know what date y'all were set -- or when you
12 actually picked a jury? Do you recall what date that may
13 have been?

14 A May I consult my notes?

15 Q Yeah, absolutely.

16 A June 16th, 2015, I believe -- or -- or -- or June
17 15th. I'd have to look at the sentencing sheet.

18 Q Do you know when you received notice that she would be
19 appearing on the trial roster?

20 A Based on my notes, she was on -- as I mentioned, she
21 was on it more than one time, per the solicitor. He
22 informed that she would be on there May 6th, 2015.

23 Q And for the May 6th trial roster, she would've been on
24 it for ABHAN?

25 A Correct.

1 Q Okay. Do you know why it was amended?

2 A I do not. I was -- I was told to the -- by the
3 solicitor that it was reindicted.

4 Q What discussion did you have with Ms. Cokley about
5 that?

6 A Well, one of the first times we met was -- the case
7 was on the trial list and it was still under ABHAN. And we
8 discussed where she stood at that point. And it being
9 common law, we had talked about trial: what a trial would
10 look like and what the stakes were, potential defenses,
11 castle doctrine.

12 Q But that was to ABHAN?

13 A Correct.

14 Q And then, what discussions did you have with her about
15 the amended indictment to ABWIK?

16 A Well, as I mentioned to her -- as I mentioned before,
17 there was the threat that I informed Ms. Cokley that it
18 could be that it could certainly have been charged that
19 way. In fact, it looked like law enforcement had.

20 Our discussions after it was reindicted were
21 essentially the same. And I informed her of what it
22 carried; ultimately, what the offer was; and then, what I
23 thought our -- our realistic chances were at trial -- what
24 the realistic outcome we could expect.

25 Q And do you recall -- she was arrested in 2010; is that

1 right?

2 A I'll have to look at the warrant that -- early 2010, I
3 believe.

4 Q Okay. Is that sort of unusual where you have someone
5 arrested in 2010 and it takes, I guess, five years before a
6 plea occurs or a trial?

7 A It -- it is a very old case. Yes.

8 Q Okay.

9 A That -- to me, it seemed very old.

10 MR. BOOZER: Court's indulgence, Your Honor?

11 THE COURT: Yes, sir.

12 (Whereupon, Mr. Boozer and the applicant conferred.)

13 Q Did you consult with Mr. Murphy at all about Ms.
14 Cokley's case?

15 A Perhaps once. We -- we didn't speak about it in
16 depth. I -- I was able to review what notes had been made
17 in our system about it.

18 Q Do you know if you discussed with Mr. Murphy anything
19 about P.T.I. or probation or anything like that?

20 A She shared that with me, and I investigated on it on
21 my own.

22 Q Did you make that proposal to the solicitor's office
23 if there was any chance at having her enter a plea under
24 ABHAN and receiving P.T.I.?

25 A Once this case was actually called for trial,

REDIRECT EXAMINATION BY MR. GOURLEY - JACOB MCFADDEN 34

1 absolutely. There was negotiations back and forth -- back
2 and forth, including a -- ultimately, a plea straight up to
3 ABHAN or for a lower negotiation other than the 10 years.
4 But I -- I never proposed P.T.I. for ABHAN. No, I did not
5 do that.

6 MR. BOOZER: Your Honor, I don't have any further
7 questions. Thank you.

8 THE COURT: Yeah.

9 MR. GOURLEY: Just very briefly.

10 THE COURT: Yes, sir.

11 REDIRECT EXAMINATION

12 BY MR. GOURLEY:

13 Q Mr. McFadden, following up on the negotiations about
14 pleading straight up to ABHAN, did you relay those
15 potential -- was it an official offer, or it was just
16 discussions?

17 A These were discussions that were happening day of
18 trial.

19 Q Okay. With Mr. Meadors?

20 A With -- with Mr. Meadors and -- and Ms. Cokley was
21 right -- seated in one of those interview rooms.

22 Q Okay. And did Ms. Cokley ultimately reject those
23 offers or ---

24 A No. Those were -- I -- I guess I should say
25 counteroffers. Those are proposals that I made.

REDIRECT EXAMINATION BY MR. GOURLEY - JACOB MCFADDEN 35

1 Q Okay.

2 A The only offer that was given from the solicitor was a
3 10-year negotiated sentence to ABWIK.

4 Q Okay. Thank you very much.

5 MR. GOURLEY: Judge, I don't have any other questions.

6 MR. BOOZER: No further questions.

7 THE COURT: All right. Thank you, sir. You may step
8 down.

9 (Whereupon, the witness exited the witness stand.)

10 THE COURT: Anything else from the state?

11 MR. GOURLEY: No, Your Honor.

12 THE COURT: Anything in reply?

13 MR. BOOZER: No, Your Honor.

14 THE COURT: All right. I'll be glad to hear argument.

15 MR. BOOZER: Just -- just briefly, Your Honor. I -- I
16 guess with regard to Ms. Cokley's case, it is a little bit
17 unusual per Mr. McFadden's testimony as to sort of the --
18 the age on the case and sort of what was going on, where
19 initially, the arrest warrant, I believe, was for assault
20 and battery with intent to kill. And then, of course, the
21 form that's marked Exhibit 1 is out there that has language
22 of ABHAN on an indictment. And it appears from testimony
23 that she was indicted for ABHAN, and that's what sort of
24 the representation was revolving around. And then all of a
25 sudden, it morphs into assault and battery with intent to

1 kill right before she's on a trial -- a trial list or a
2 trial roster..

3 You know, there's -- it -- there's really no -- no
4 rhyme or reason for it. Court's indulgence, Your Honor.

5 I'm not sure that she may have had the full
6 opportunity to really understand what she was going to face
7 at trial, and -- and that's why she ended up taking that
8 plea to the ABWIK, whereas she thought it was ABHAN
9 beforehand. And that's going to be one of the main reasons
10 I would argue that Ms. Cokley should get a new trial in
11 this case.

12 THE COURT: All right. Thank you. And for the state?

13 MR. GOURLEY: Judge, I would just point out that the
14 arrest warrant that was served on Ms. Cokley on January
15 5th, 2010, noted that she was being charged with assault
16 and battery with intent to kill. I think that was the kind
17 of common theme throughout this entire process.

18 Potentially, Mr. Murphy may have sought ABHAN or -- or
19 she may have even been indicted for ABHAN. But it's
20 ultimately the -- the -- up to the solicitor's discretion
21 to indict for what they feel is the appropriate charge. I
22 believe Ms. Cokley entered a -- knowingly and intelligently
23 entered into a guilty plea for ABWIK to a negotiated
24 sentence of 10 years.

25 She admitted that she cut the victim with a razor

1 blade or box knife or whatever it may be. She waived her
2 constitutional rights. She was advised of the potential
3 sentence. She was advised of the elements of ABWIK.

4 Mr. McFadden discussed with her the fact that ABWIK --
5 or -- or amended indictment for ABWIK was a real
6 possibility. And it turned out that Mr. McFadden's fear
7 were spot on. But regardless, she entered a -- knowingly
8 and intelligently entered into a guilty plea for ABWIK.
9 And I would submit to the Court that Your Honor should deny
10 this postconviction relief application.

11 THE COURT: Anything in response?

12 MR. BOOZER: No reply, Your Honor.

13 THE COURT: I -- I am compelled in this case to agree
14 with the position of the attorney general. And for the
15 reasons stated in argument, the Court denies applicant's
16 motion for postconviction relief.

17 MR. GOURLEY: Thank you, Judge.

18 THE COURT: Mr. Gourley, would you please prepare an
19 order?

20 MR. GOURLEY: Yes, Your Honor.

21 MR. BOOZER: Thank you, Your Honor.

22 (Whereupon, the proceeding was concluded at 3:20 p.m.)

23 --- END OF TRANSCRIPT OF RECORD ---

24

25

CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND
COMPLETE TRANSCRIPT OF RECORD IN THE HEARING OF THE
CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT
COURT FOR SUMTER COUNTY, SOUTH CAROLINA, ON THE 14TH
DAY OF MARCH, 2016.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

JUNE 28, 2016

DOCKET NO. 2010-GS-43-0649

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

MAY TERM 2010

THE STATE

vs.

LASHEDA C COKLEY

Indictment for

ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE (ABHAN)

C. KELLY JACKSON, SOLICITOR

WITNESSES

E.C. Johnson Sumter Police Department

ARREST WARRANT NUMBER

M001963

ACTION OF GRAND JURY

Forfeiture of Grand Jury

Date:

VERDICT

Forfeiture of Petit Jury

Date:



STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)
RECORDED)
2016 APR - 7) PM 3:05)
IN THE COURT OF COMMON PLEAS)
FOR THE THIRD JUDICIAL CIRCUIT)

Lasheda Chantel Cokley, #364399)
Applicant,)
JAMES C. CAMPBELL)
CLERK OF COURT)
SUMTER COUNTY, S.C.)
2015-CP-43-2121)

v.)

ORDER OF DISMISSAL

State of South Carolina,)
Respondent.)

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on September 8, 2015. An evidentiary hearing into the matter was convened on March 14, 2016, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Lance S. Boozer, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was true bill indicted at the June 2015 term of the Sumter County Grand Jury for assault and battery with intent to kill (2010-GS-43-0649). Jacob E. McFadden, Esquire represented Applicant. On June 16, 2015, Applicant pled guilty before the Honorable W. Jeffrey Young. Judge Young sentenced Applicant pursuant to negotiations to a ten year term of imprisonment.



A timely Notice of Appeal was filed on Applicant's behalf. By Order filed August 19, 2015, the South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203(d)(B)(iv) for failing to provide a sufficient explanation. The Remittitur was issued on September 4, 2015.

ALLEGATIONS

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

1. Ineffective assistance of counsel
 - a. Failing to argue counsel doctrine
 - b. "negligence"
 - c. "misrepresented"

Applicant filed an amended application on February 16, 2016 alleging:

1. Involuntary guilty plea.
2. Prosecutorial Misconduct.

This Court notes Applicant failed to present any evidence or arguments to support any claim of Prosecutorial misconduct. Therefore, this Court finds Applicant has waived any allegation of prosecutorial misconduct.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on her own behalf. The State presented testimony from Jacob McFaddin, Esquire (hereinafter "Plea Counsel"). This Court also had before it a copy of the Sumter County Clerk of Court records, Applicant's South Carolina Department of Correction records, guilty plea transcript, and the PCR application.

Applicant stated that she was seeking a new trial. Applicant stated she pled guilty to assault and battery with intent to kill and received a ten year negotiated sentence. Applicant acknowledged that she was facing up to a potential twenty year sentence. Applicant indicated that she understood the risks involved in proceeding with her post-conviction relief application.

Applicant stated that she pled guilty on June 16, 2015. Applicant stated that she was arrested on January 4, 2010. Applicant stated that she was initially arrested for assault and battery with intent to kill. Applicant stated that Tim Murphy, Esquire, was appointed to represent her on her charges. Applicant stated that she and Mr. Murphy discussed pleading down to assault and battery of a high and aggravated nature. Applicant stated that Mr. Murphy advised her that she could potentially receive a probation or "PTI." Applicant stated she met with Mr. Murphy approximately three times.

Applicant stated Plea Counsel was substituted on as counsel. Applicant stated she met with Plea Counsel twice prior to her guilty plea. Applicant stated she was indicted on June 4, 2015, for assault with intent to kill. Applicant stated that Plea Counsel told her that she could either plea to assault and battery with intent to kill and accept the negotiated sentence of ten years or proceed to trial. Applicant stated that she advised Plea Counsel that Mr. Murphy had told her that she was going to plea to assault and battery of a high and aggravated nature.

Regardless, Applicant stated that she knew when she was pleading guilty to assault and battery with intent to kill. Applicant recalled telling the plea judge that she was satisfied with Plea Counsel's representation. Applicant recalled telling the plea judge that no one was promising or threatening her to plead guilty. Applicant recalled tell the plea judge that she wanted to plead guilty and was in fact, guilty. Applicant recalled telling the plea judge that she cut the victim with a knife. Applicant recalled the acknowledging that when she pled guilty she would be waiving any possible defenses, including the castle doctrine.

Following Applicant's testimony, Plea Counsel was called to testify. Plea Counsel stated that he was appointed in February 2015. Plea Counsel stated that he met with Applicant at least four separate times. Plea Counsel stated he consulted with Mr. Murphy about the case. Plea



stated that he filed for and reviewed all discovery material with Applicant prior to her guilty plea. Plea Counsel stated that he discussed Applicant's version of events. Plea Counsel stated that they discussed possible defenses, including the castle doctrine. Plea Counsel explained that the crux of their argument had they proceeded to trial was going to be whether the assault took place inside Applicant's house or outside Applicant's house. Plea Counsel stated Applicant only named her children and father as potential witnesses. Plea Counsel stated that he had some concerns about calling Applicant's children as witnesses due to their young age.

Plea Counsel stated that Applicant was indicted for assault and battery of a high and aggravated nature at some point prior to his representation. Plea Counsel stated that he advised Applicant that the state could amend their indictment to assault and battery with intent to kill. Plea Counsel stated that he explained to Applicant that the allegations against her fit the elements of assault and battery with intent to kill. Plea Counsel stated that he learned that State as amending the indictment to assault and battery with intent to kill shortly before the case was called for trial. Plea Counsel stated that he was not aware of the reasons behind why the indictment was amended. Plea Counsel stated that he attempted to negotiate something less than the ten year offer, however the solicitor refused to offer anything less. Plea Counsel stated that he relayed the ten year plea offer and Applicant chose to accept the offer.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).



INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty Trial Counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).



ALLEGATIONS

1. Involuntary guilty plea.

This Court finds Applicant's allegation her guilty plea was involuntary is meritless. This Court finds Applicant's guilty plea was entered freely and voluntarily entered. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

Applicant claims she did not plead guilty voluntarily because she was coerced by Plea Counsel because he required her to choose between proceeding to trial or accepting the State's ten year plea offer. This Court finds this contention meritless. This Court finds the record reflects Applicant was fully advised that she was pleading guilty and waived all challenges to the evidence against her. The plea court's very thorough colloquy with Applicant demonstrates that she understood the consequences of pleading guilty. This Court finds Applicant's testimony not



credible. Applicant presented no credible evidence as to why she should be able to depart from her statements at the plea hearing. This Court finds very credible Counsel's testimony regarding his preparation and advice concerning the case. The record further reflects Applicant fully admitted her guilt to the plea court. Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made.

2. Ineffective assistance of counsel for failure to argue castle doctrine.

This Court finds Applicant's allegation that Plea Counsel was ineffective for failing to argue castle doctrine is meritless. Initially, this Court notes Applicant knowingly and intelligently pled guilty and therefore, waived any potential defenses to these charges. Whetsell v. State, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981) (Noting the general rule is that guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including the claims of a violation of a constitutional right prior to the plea). Regardless, this Court finds Plea Counsel was not deficient in his representation. Plea Counsel stated that he discussed the possible defenses with Applicant prior to her plea. Plea Counsel stated that they were prepared to argue the castle doctrine had Applicant chose to proceed to trial.

Additionally, this Court finds Applicant failed to present any credible arguments or evidence in support of her allegation that Plea Counsel was ineffective for failing argue castle doctrine. Notably this Court was presented with no credible evidence showing that the castle doctrine would have been a successful defense had Applicant proceeded to trial. Based off of the foregoing, this Court finds Applicant's allegation must be denied and dismissed with prejudice.



ALL OTHER ALLEGATIONS

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

[Signature to follow]

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

CONCLUSION

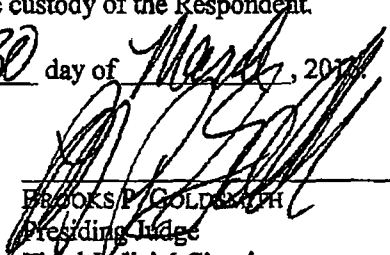
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 30 day of March, 2017.



 BROOKS P. GOLDSMITH
 Presiding Judge
 Third Judicial Circuit

_____, South Carolina

AMENDED
DOCKET NO. 2010-GS-43-0649

The State of South Carolina
County of SUMTER

COURT OF GENERAL SESSIONS

June TERM 2015

THE STATE

vs.

LASHEDA C COKLEY

Indictment for

Assault and Battery with Intent to Kill



ERNEST A. FINNEY, III, SOLICITOR

WITNESSES

E C Johnson
Sumter Police Dept.

ARREST WARRANT NUMBER

M001963

ACTION OF GRAND JURY

True Bill

CEL [Signature]

Foreperson of Grand Jury

Date:

6-4-15

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR
Assault and Battery with Intent to Kill

CERTIFIED TRUE COPY
OF ORIGINAL FILE
Barbara Shaper
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

At a Court of General Sessions, convened on June 4, 2015 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE - ASSAULT AND BATTERY WITH INTENT TO KILL

That Lasheda C. Cokley did in Sumter County on or about December 29, 2009, commit an unlawful act of violent injury, with malice, and intent to kill, by cutting Lakietha Vaughn about the face, neck and chest with a sharp object, thus committing the crime of Assault and Battery with Intent to Kill, in violation of Section 16-03-0620, S. C. Code of Laws, 1976, as amended and the Common Law of South Carolina.

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

Solicitor

Ernest A. Finney III

STATE OF SOUTH CAROLINA)
 COUNTY OF Sumter)
 STATE VS.)
Lasheda C Cokley)
 AKA: _____)
 Race: _____ Sex: _____ Age: _____)
 DOB: _____ SS#: _____)
 Address: _____)
 City, State, Zip: _____)
 DL#: _____ SID#: _____)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010-GS-43-0649
 A/W#: M001963 CERTIFIED TRUE COPY
 Date of Offense: 12/29/2009 OF ORIGINAL FILE
 S.C. Code § : 16-03-0620 Charge
 CDR Code #: 0014 DEPUTY SHERIFF OF COUNTY
SUMTER COUNTY
SENTENCE SHEET SOUTH CAROLINA

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Assault / Assault and battery with intent to Kill (ABWIK)

CONVICTED OF or PLEADS

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014
 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. (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: John P. Meador 10429 Defendant John P. Meador 101905
 Meadors, John P 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 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 2 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 Ordered PTUP
 Total: \$ _____ plus 20% fee: \$ _____
 days/hours Public Service Employment

Payment Terms: _____
 Set by SCDPPPS _____
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning: _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk James C Campbell
 Court Reporter: Keisha Reed
 SCCA/217 (03/2011)

Presiding Judge _____
 Judge Code: 2156
 Sentence Date: 6/16/2015

ARREST WARRANT

M-001963

STATE OF SOUTH CAROLINA
County/ Muncipality of

Sumter Municipal

THE STATE
against

Lasheda C Cokley

Address:

Phone: _____
Sex: F Race: B Height: 5 6 Weight: 115
DL State: SC DL #: _____
DOB: 1985 Agency ORI # SC0430100
Prosecuting Agency: Sumter Police Department
Prosecuting Officer: E.C Johnson - 1771
Offense: Assault / Assault and battery with Intent to Kill
(ABWIK)

Offense Code: 0014
Code/Ordinance Sec: 16-03-0620

This warrant is CERTIFIED FOR SERVICE in the
 County/ Muncipality of

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Lasheda C. Cokley
on 1-5-2010

L.C. Johnson
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Sumter County General Sessions
141 N. Main St, Rm 308
Sumter, SC 29150

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA
 County/ Muncipality of

Sumter Municipal

Personally appeared before me the affiant E.C. Johnson

being duly sworn deposes and says that defendant Lasheda C Cokley
did within this county and state on or about 12/29/2009

State of South Carolina (or ordinance of County/ Muncipality of Sumter)
in the following particulars:

DESCRIPTION OF OFFENSE Assault / Assault and battery with Intent to Kill (ABWIK)

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on December 29, 2009, at block of Dibert St, in the city of Sumter, one Lasheda C Cokley did intentionally commit a
battery upon one Lakietra Vaughn/victim by cutting her about the face, neck, and chest with an unknown object all with the intent
to kill. The victim was treated at Tuomey on 12-30-2009 for injuries. The victim has given law enforcement a statement implicating
the defendant.

L.C. Johnson
Signature of Affiant

STATE OF SOUTH CAROLINA
 County/ Muncipality of

Sumter Municipal

Affiant's Address 107 East Hampton Ave

Sumter, SC 29150

Affiant's Telephone (803) 436-2705

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/29/2009 defendant Lasheda C Cokley

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Muncipality of Sumter Municipal) as set forth below:

DESCRIPTION OF OFFENSE: Assault / Assault and battery with Intent to Kill (ABWIK)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me
on 01/04/2010

Anna Tindal
Signature of Constable/Law Enforcement Officer

Judge's Address 115 N. Harvin St

Sumter, SC 29151-1428

Judge's Telephone (803) 436-2280

Issuing Court: Magistrate Municipal Circuit

Judge Code: 5769

ORIGINAL

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ORIGINAL

AFFIDAVIT

CERTIFIED TRUE COPY
OF ORIGINAL FILE

who

B. Davis

DEPUTY CLERK OF COURT

Sumter Municipal County

SOUTH CAROLINA

Form approved by
S.C. Attorney General
SCAG 1100
SCOA 110

00