

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

FEB 02 2017

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Post Conviction Relief
Honorable D. Craig Brown, Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2015-002033

Gregory Daniels, 297449,.....Petitioner,

vs.

State of South Carolina,.....Respondent.

APPENDIX
VOLUME III OF III

Tricia A. Blanchette
Post Office Box 2147
Leesville, SC 29070
(803)908-3266
Attorney for Petitioner

Alan Wilson
Attorney General

Robert Bolchoz
Chief Deputy Attorney General

Johanna C. Valenzuela
Senior Assistant Deputy Attorney General

Lindsey A. McCallister
Assistant Attorney General

Post Office Box Box 11549
Columbia, SC 29211
(803)734-3737
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Post Conviction Relief
Honorable D. Craig Brown, Circuit Court Judge

Appellate Case No. 2015-002033

Gregory Daniels, 297449,.....Petitioner,

vs.

State of South Carolina,.....Respondent.

APPENDIX
VOLUME III OF III

Tricia A. Blanchette
Post Office Box 2147
Leesville, SC 29070
(803)908-3266
Attorney for Petitioner

Alan Wilson
Attorney General

Robert Bolchoz
Chief Deputy Attorney General

Johanna C. Valenzuela
Senior Assistant Deputy Attorney General

Lindsey A. McCallister
Assistant Attorney General

Post Office Box Box 11549
Columbia, SC 29211
(803)734-3737
Attorney for Respondent

INDEX

| | |
|--|------|
| Trial Transcript..... | 1 |
| Arrest Warrant..... | 637 |
| Indictment..... | 639 |
| Sentencing Sheet..... | 641 |
| South Carolina Supreme Court Opinion..... | 643 |
| PCR Application..... | 671 |
| Motion for Substitution of Counsel..... | 690 |
| Order for Substitution of Counsel..... | 693 |
| Amendment to PCR Application..... | 694 |
| Motion for Continuance..... | 700 |
| Motion in Opposition to Continuance..... | 704 |
| Order for Continuance..... | 710 |
| PCR Hearing Transcript | 711 |
| PCR Hearing Exhibits..... | 1083 |
| PCR Order of Dismissal..... | 1168 |
| Motion Pursuant to Rule 59, SCRCF..... | 1200 |
| Return to Motion Pursuant to Rule 59, SCRCF..... | 1233 |
| Order Denying Motion..... | 1236 |

JOHN JEPERTINGER - DIRECT BY MR. HUNTER

1 THE COURT: Make sure the record's protected on that, but the
2 rulings remain the same on that. All right. Applicant has
3 rested. Mr. Hunter?

4 MS. BLANCHETTE: Your Honor, I apologize, I have -- and I
5 always just do this at the end of the case. I have some case
6 law and a small argument I'd like to make. I'd assume Your
7 Honor would prefer to have those handed up at the conclusion
8 of the proceedings?

9 THE COURT: Correct. Yes, ma'am.

10 MS. BLANCHETTE: Okay. Thank you, Your Honor.

11 THE COURT: All right.

12 MR. HUNTER: Your Honor, the State would call John
13 Jepertinger.

14 THE COURT: All right.

15 THE CLERK: Do you swear or affirm that the testimony you
16 are about to give in this case will be the truth, the whole
17 truth, and nothing but the truth, so help you God?

18 MR. JEPERTINGER: I do.

19 THE CLERK: Please take your seat and state your name.

20 MR. JEPERTINGER: My name is John Jerpertinger.

21 THE COURT: Yes, sir.

22 JOHN JEPERTINGER, being first
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. HUNTER:

JOHN JEPERTINGER - DIRECT BY MR. HUNTER

1 Q: Mr. Jepertinger, thank you for coming today. If you
2 could briefly just kind of explain what your involvement in
3 this case was?

4 A: Yes. I was given this case back about three to four
5 weeks before the trial of the case. Mrs. Parr originally had
6 the case -- was assigned the case in the Solicitor's Office.
7 It was her information that Detective Compton was going to get
8 a job overseas in June. We normally have terms of court here
9 in Florence during the spring during April and June.

10 She needed to try this case, which she thought she was
11 going to try in June. It was going to be moved up to April.
12 She had another pressing case that she needed to try in April.
13 They knew because Mr. Compton's situation at the time was
14 going to be pressing; so the Solicitor asked if I would handle
15 it. At that point, I said yes, no problem, and I also asked
16 if I could have another young assistant to help me with the
17 case.

18 And at that point, I began reviewing the file. I went to
19 the scene of the crime, which I always do. I went to the
20 Liberty Street residence of Ms. Gass, went to the intersection
21 of Dargan and Marlboro, and had Investigator Compton take me
22 there. I recall talking to as many people at that party that
23 I thought was essential.

24 I don't know if the phone records were already there or
25 if I acquired the phone records. I know we had to get a

JOHN JEPERTINGER - DIRECT BY MR. HUNTER

1 custodian to come and testify. So I remember doing that and
2 making sure that the defense had all the discovery.

3 Q: Okay. So your office turned over all Rule 5 and Brady
4 materials in this case that you had?

5 A: Yes.

6 Q: Okay. I believe you testified that you did interview a
7 fair amount -- amount of witnesses in this case?

8 A: Yes.

9 Q: Okay. To the best of your knowledge, did anyone
10 interview Gary Bostick in relation to this case?

11 A: No.

12 Q: Did you feel there was any reason to interview Gary
13 Bostick?

14 A: No.

15 Q: And why not?

16 A: Well, I mean, you know, the theory was that Daniels was
17 -- I guess for lack of a better term -- the hit man, and
18 Bostick, for whatever reason, wanted to kill Corey Byrd. I
19 think because of prior bad blood. I think there had been an
20 incident between them before. I just didn't think that Gary
21 Bostick would say, oh, yes, I hired Daniels to kill Corey
22 Byrd. I don't think -- I don't think he would implicate
23 himself in such manner. I thought it was a waste of time to
24 do so.

25 Q: Now, what about the Nyrena Goodman letters? When did you

1 get those?

2 A: I got them from Investigator Compton sometime during that
3 three- to four-week period.

4 Q: Okay. Did you turn those over?

5 A: Now, let me just -- I don't know if Mrs. Parr got them,
6 but I -- it's been five years ago. So I don't know if they
7 were already in the file or if he got them to me. I know I
8 went to speak to Nyrena Goodman at her home.

9 Q: And those letters were -- were they turned over to Mr.
10 Lawson?

11 A: Absolutely.

12 Q: Now, was this your first time going up against Mr.
13 Lawson? Well, let me ask -- let me rephrase this. Was this
14 your first time working with Mr. Lawson?

15 A: Mr. Lawson and I practiced law together.

16 Q: Okay. For how long?

17 A: Three years in private practice and eight years with the
18 Solicitor's Office; so eleven years in total. And he -- I
19 didn't -- I've known him. Up until his demise, he was a
20 friend and I knew him for a long time.

21 Q: So it's fair to say you were well acquainted? You had a
22 good working relationship with Mr. Lawson?

23 A: Yes. Working and social relationship with him.

24 Q: Okay. And you were well acquainted with his work habits?

25 A: Absolutely.

JOHN JEPERTINGER - DIRECT BY MR. HUNTER

1 Q: Okay.

2 A: He was -- he was a very good defense attorney. He was a
3 very good prosecutor.

4 MS. BLANCHETTE: Your Honor, I object. This is getting
5 into opinion testimony.

6 MR. HUNTER: Your Honor, I think under --

7 THE COURT: Overruled. You may continue.

8 BY MR. HUNTER:

9 A: My opinion, he was a very good attorney, defense and
10 prosecutor.

11 Q: Were you familiar with his -- his habits, especially with
12 -- with regard to how he would review discovery with his
13 clients?

14 A: Yes. He would go over it with them.

15 Q: Okay.

16 A: With --

17 MS. BLANCHETTE: Your Honor, I object. This calls for
18 speculation. He doesn't have any firsthand knowledge of him
19 reviewing discovery with his clients.

20 MR. HUNTER: Your Honor --

21 THE COURT: He -- hold on a minute. He may not in this
22 particular case, but he's testifying as his -- as to his own
23 personal knowledge and he's established through testimony his
24 knowledge of Mr. Lawson and what he did in his cases.

25 Now, on cross-examination, you can certainly ask him

JOHN JEPERTINGER - DIRECT BY MR. HUNTER

1 whether or not he knows whether or not he did it with this --
2 your client, but he's established that he is familiar with Mr.
3 Lawson, that he practiced law with him, and he is familiar
4 with how he operated as a lawyer. I'm going to allow it over
5 your objection.

6 MS. BLANCHETTE: Thank you, Your Honor. As long as my
7 objection is noted.

8 THE COURT: Yes, ma'am.

9 BY MR. HUNTER:

10 Q: Did you want to add anything else, Mr. Jepertinger?

11 A: No. In cases that we tried together in the past, he
12 shared discovery with his clients, of course.

13 Q: Okay. Now, let's talk about this specific case. Did --
14 throughout the trial, did Mr. Lawson raise a number of
15 objections?

16 A: Yes.

17 Q: Okay. Would you say he vigorously contested most of the
18 State's evidence?

19 A: Yes.

20 Q: Okay. And did he object to the introduction of the
21 Nyrena Goodman letters?

22 A: Yes.

23 Q: Okay.

24 A: I -- yes.

25 Q: Okay.

JOHN JEPERTINGER - DIRECT BY MR. HUNTER

1 A: The answer is yes.

2 Q: Do you recall whether or not he challenged Andre
3 Bradley's testimony with regards to the proffer agreement?

4 A: Yes.

5 Q: Okay. Now, does your office have any control over
6 whether the feds decide to offer a witness a proffer
7 agreement?

8 A: No.

9 Q: Okay. Now, through your investigation of this case, did
10 you -- did you ever have any doubt that Mr. Daniels was not
11 the killer?

12 A: I did not have any doubts.

13 Q: Okay.

14 MR. HUNTER: That's all I have. Thank you, Mr.
15 Jepertinger.

16 THE WITNESS: Appreciate it. Thank you.

17 THE COURT: Cross-examination?

18 MS. BLANCHETTE: Yes, thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. BLANCHETTE:

21 Q: I'll start with Mr. Bostick. You explained that there
22 was no reason to interview Mr. Bostick?

23 A: In my opinion.

24 Q: But there was a reason to repeatedly mention his name and
25 emphasize the forty-one phone calls between himself and Mr.

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 Daniels?

2 A: Yes, ma'am.

3 Q: Did you feel that in due diligence you needed to speak
4 with Mr. Bostick to look into the contents of those phone
5 calls before you submitted a jury -- or a theory to the jury?

6 A: No, ma'am.

7 Q: Now, how long have you been working with the Solicitor's
8 Office?

9 A: Fifteen years now, ma'am.

10 Q: And you clearly alleged in this case that Gary Bostick
11 paid Mr. Daniels to commit this murder; is that correct?

12 A: Is that -- if that was what the record says, yes, ma'am.

13 Q: What charges could Mr. Bostick have been given by your
14 office if he had paid Mr. Daniels to commit --

15 A: Solicit --

16 Q: -- this murder?

17 A: Excuse me, ma'am. Solicitation to commit murder.

18 Q: Could he also have been tried potentially as a
19 conspirator in this case?

20 A: Potentially.

21 Q: And could he have been tried potentially as a co-
22 defendant under the hand of one/hand of all theory?

23 A: For the murder itself, for the principal offense, is that
24 what you're asking?

25 Q: Yes.

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 A: I would not think so because I don't think there was
2 presence there at --

3 Q: And what --

4 A: -- the scene.

5 Q: -- investigation did you do to determine Mr. Bostick's
6 involvement in this case?

7 A: I was not trying Mr. Bostick.

8 Q: But you were trying Mr. Daniels on the theory that Mr.
9 Bostick hired him to commit this murder; correct?

10 A: My main focus was to prosecute Mr. Daniels for the
11 murder.

12 Q: Now, the judge in this case made some comments that have
13 -- I would say for lack of better words have now been
14 reversed. That truth and justice should be sought for all
15 parties. Don't you think in the interest of truth and justice
16 you needed to look into Mr. Bostick before you made that
17 allegation in court? It was essentially asking a jury to
18 convict him because Mr. Bostick paid him to do it?

19 A: I think the evidence of him telling Andre Bradley that,
20 yes, I did it, was sufficient evidence for a jury to convict
21 your client.

22 Q: And I don't want to repeat my question, but you didn't
23 see any reason to investigate Mr. Bostick or to bring charges
24 against him?

25 A: Ma'am, the evidence would -- I don't think would have

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 been there, but I'm sure Investigator Compton, if he felt
2 there was evidence to prove his guilt beyond a reasonable
3 doubt, would have gone with charges against Mr. Bostick.
4 However, I -- the theory was that this gentleman committed the
5 murder and not Mr. Bostick.

6 Q: But if Mr. Bostick did not hire him, then Andre Bradley
7 is a liar; is that correct?

8 A: Not necessarily, ma'am, because he said, I did it. I did
9 that crime.

10 Q: But who did Andre Bradley supposedly say hired him to do
11 this crime? What was the name that Andre Bradley gave you?

12 A: Ma'am, your recollection, since you've looked at the
13 transcript probably within the period of this week, is
14 probably better than mine.

15 MS. BLANCHETTE: If I could just beg the Court's
16 indulgence one moment, please?

17 THE COURT: Yes, ma'am.

18 BY MS. BLANCHETTE:

19 Q: But you would not disagree if the transcript reflects
20 that you elicited testimony from Andre Bradley that Gary
21 Bostick hired Mr. Daniels to commit this crime?

22 A: Ma'am, if it's in that transcript that I asked that
23 question and if he responded to the question, I would not
24 disagree with that transcript.

25 Q: Do you usually proceed to trial, especially on a murder

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 case, on a theory that you have not looked into, such as,

2 speaking with the -- or investigating the supposed hit man?

3 A: Ma'am, I think that I prosecuted with the evidence that I

4 had, and I mean you could not discount there were forty-one

5 phone calls between the two. There were references to Mr.

6 Bostick in his letters that he wrote to Nyrena Goodman. There

7 was enough bad blood I think because -- correct me if I'm

8 wrong -- that Mr. Bostick had shot Corey Byrd in another case.

9 There was enough bad blood between Bostick and Byrd. I think

10 that was a plausible motive, ma'am.

11 Q: But to me it sounds like you just gave me plausible

12 reasons why Mr. Bostick should have been charged in this case.

13 A: For murder?

14 Q: Given any charges.

15 A: Ma'am, I can't -- I can't speak for that. All I know is

16 we're dealing with this gentleman today.

17 Q: And who makes the ultimate decision as to whether someone

18 should be charged or not in Florence County?

19 A: Well, ultimately, we -- it starts with an arrest. We do

20 not -- as the Solicitor's Office, we don't arrest --

21 Q: Uh-huh.

22 A: -- anyone. So ultimately, it would depend on what -- if

23 they feel there's probable cause to make an arrest. It begins

24 with an arrest warrant from the police or the Sheriff's

25 Department or another law enforcement agency.

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 Q: And then who brings the charging documents as far as the
2 court is concerned?

3 A: Of course, you know the answer to that. It's the
4 Solicitor's Office, ma'am.

5 Q: Okay. Now, you gave testimony today about your personal
6 experience with Mr. Lawson?

7 A: Yes, ma'am.

8 Q: And your understanding as far as his procedures in
9 sharing discovery with his clients?

10 A: Yes, ma'am.

11 Q: And what did you base that testimony upon?

12 A: We tried several cases together when we were in private
13 practice and when I was -- I was a public defender for a
14 period of time before I went into practice with Mr. Lawson,
15 and we tried cases together. We tried a death penalty case
16 together in -- I would say 1991.

17 Q: Were you ever present for any of his meetings with Mr.
18 Daniels?

19 A: No, ma'am.

20 Q: Were you ever a part of their communication regarding the
21 discovery that was exchanged or not exchanged?

22 A: No, ma'am.

23 Q: Do you have any personal knowledge of how he handled
24 giving the discovery to Mr. Daniels in this case and
25 discussing it with him?

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 A: No, ma'am.

2 MS. BLANCHETTE: Your Honor, if I could beg the Court's
3 indulgence for one moment?

4 THE COURT: Yes, ma'am.

5 BY MS. BLANCHETTE:

6 Q: When you worked with Mr. Lawson, did you regularly
7 utilize investigators in preparation of your case?

8 A: In some cases, yes, ma'am.

9 Q: Okay. And so in your experience with him, he would have
10 been familiar with the process of obtaining an investigator
11 and utilizing an investigator?

12 A: Yes, ma'am.

13 Q: And if such was done, would there be a bill or some type
14 of record for that investigator in the case file?

15 A: Yes, ma'am.

16 Q: Okay. Now, let me ask you a little bit about someone
17 we've talked a lot about, Clifton Ryan Evans.

18 A: Yes, ma'am.

19 Q: You chose to call him as a witness; is that correct?

20 A: I believe so, ma'am.

21 Q: Okay. And what did you do as far as looking into the
22 story that he had given and any concerns regarding his
23 involvement in this murder?

24 A: I didn't have concerns about his involvement -- about his
25 involvement in this murder.

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 MS. BLANCHETTE: If I could just beg the Court's
2 indulgence for one moment?

3 THE COURT: Yes, ma'am.

4 BY MS. BLANCHETTE:

5 Q: I believe there's a copy of the transcript in front of
6 you there in a black notebook.

7 A: Yes, ma'am.

8 Q: Okay.

9 A: Thank you.

10 Q: And I will give you a page to refer to here.

11 A: Yes, ma'am.

12 Q: If you could look at page 575 of the transcript, please,
13 beginning on line 6? It's stated in closing arguments Ryan
14 Evans didn't have a reason to come here and tell a lie. I
15 submit to you he told the truth.

16 A: I believe Mr. Deberry did say that.

17 Q: If you all acting for the State didn't have any concerns
18 about Mr. Evans, why was that stated in closing argument?

19 A: I can't -- I can't speak for co-counsel. I can't speak
20 for what Mr. Deberry said.

21 Q: So working as co-counsel, you all didn't discuss any
22 concerns? He just came up with that on his own?

23 A: Yes, ma'am. I -- yes. And I was not going to get up and
24 interrupt Mr. Deberry's closing argument.

25 Q: So you disagree with that statement?

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 A: No, I do not disagree with it at all. I have no opinion
2 as to that statement.

3 Q: Now, let me ask you about something that occurred in
4 trial that the State just touched on briefly. I wanted to ask
5 you about the proffer agreement as to Andre Bradley.

6 A: Yes, ma'am.

7 Q: Could you turn in the transcript please to page 372?

8 A: Yes, ma'am.

9 Q: And I'm going to just kind of take you through a couple
10 of pages of testimony here.

11 A: Okay.

12 Q: On page 372, Mr. Lawson specifically requests any plea
13 agreements that have been made with Andre Bradley?

14 A: That's correct.

15 Q: And you respond that you know that he's facing time in
16 federal court, but you don't have anything regarding it? And
17 that would be on page 372.

18 A: That is correct.

19 Q: Then on page 373, you explain there's been other people
20 that have handled the case; so you'll look into it and try to
21 find out if there has been any agreement?

22 A: That is correct.

23 Q: Do you recall that?

24 A: That is correct.

25 Q: Then if you'd turn to page 374?

1 A: Yes, ma'am.

2 Q: There, you have talked to Mrs. Parr and she said she
3 doesn't have anything, and the judge gives you a very stern
4 warning on line 10. He says he's not going to tolerate
5 anybody hiding anything. That you have to step up to the
6 plate. He wants the defense to immediately know if there's
7 any type of agreement.

8 Then Mr. Compton, beginning on line 15, informs the Court
9 that he has talked to Andre Bradley's attorney and alludes to
10 the fact that there may be a deal or something in -- as far as
11 Mr. Bradley?

12 A: Yes, ma'am.

13 Q: There is a break then for the day, on page 375?

14 A: Okay.

15 Q: Then the Court addresses the matter again beginning on
16 the page of 37 -- at the bottom of 375 --

17 A: Okay.

18 Q: -- and the judge says, you better disclose everything you
19 know, on page 376.

20 A: Uh-huh.

21 Q: In response, Investigator Compton says I haven't lied or
22 done anything. And the judge responds that he's not saying
23 he's lied, but the fact that a deal had been cut had been
24 withheld.

25 A: Where does he -- where does it say that, ma'am?

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 Q: Line 12. I haven't said you lied, but I'm going to say
2 you withheld the fact that this guy has got a deal cut in
3 Federal Court and you knew it. Mr. Compton says, I didn't
4 know what the law was in this court. I didn't know about
5 that. I didn't know what to do in this courtroom, Your Honor.
6 And then the Court tells him that the solicitor needs to be
7 given full disclosure.

8 A: Okay.

9 Q: Why was that deal not disclosed prior to that point? Or
10 why did you not know about it?

11 A: Judge Russo's incorrect. We brought Jay Ervin in the
12 federal -- and I called Brad Parham, who was prosecuting the
13 case. It's not reflected in here, but I did it. I called him
14 on the phone. Parham said there was no deal cut. We brought
15 Ervin in. We had an in-camera meeting with the judge and he
16 -- as he realized that there was no deal cut. So I can't
17 speak for Judge Russo, but I'm telling you he was incorrect.

18 Q: And I have previously introduced Applicant's Number 20,
19 which is a proffer agreement with --

20 THE COURT: This is my copy.

21 MS. BLANCHETTE: Let me grab that real quick.

22 BY MS. BLANCHETTE:

23 Q: A proffer agreement with Andre Bradley that was turned
24 over on that date to Jack Lawson. So you're still saying
25 there was no deal with Andre Bradley? And nothing was turned

1 over to Jack Lawson regarding it?

2 A: I don't know about that. I -- and you'd have -- you'd
3 have to ask Mr. Smith or someone else about this. But I'm
4 telling you, you know, you have this. I don't know, you know.
5 I don't know if this was provided or not, but I do recall
6 speaking to Parham and I do recall speaking to -- having Jay
7 Ervin come into court.

8 Q: Why would the judge have essentially accused yourself and
9 Mr. Compton of withholding information if nothing was
10 withheld?

11 A: You'd have to ask Judge Russo.

12 Q: And that leads to my question. Is -- what is the
13 procedure by which you require law enforcement to provide you
14 with their file? Do you just have kind of like an open file
15 policy or do they provide you their complete file at certain
16 stages in the prosecution? Could you explain how that works
17 in your office?

18 A: Generally, they provide everything they have. It depends
19 which agency it is. The Sheriff's Department downloads
20 something to a computer system called AEGIS, where we can pull
21 up their incident reports, supplementals. If we find
22 something is missing, for example, photographs, or if they
23 can't download it because the file's too big, you know, we
24 call them. But there's normally an indication of what they
25 have.

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 With the city police -- in this case the case was being
2 prosecuted by the city. Normally, they provide all -- all
3 their information. However, what I also like to do too is go
4 to their -- if it's crime scene investigating, see what they
5 have, look at the investigator's file. I also look to check
6 the records, see if anything's missing that I don't have.

7 Q: Now, it says Tim Compton, on page 376, line 15, says, I
8 don't know what the law is in this court, I didn't know about
9 that, in reference to having to turn things over. Do you not
10 advise law enforcement that everything has to be turned over
11 from their file?

12 A: I don't know how to answer that question. I mean what do
13 you mean? Their personal notes or what are -- what are you
14 referring to, ma'am?

15 Q: Pursuant to Brady.

16 A: Yeah.

17 Q: And what is the policy --

18 A: Absolutely. Absolutely.

19 Q: -- as far as what has to be turned over?

20 A: Absolutely. We're -- you know, we're responsible for
21 Brady and all its progeny, I guess in terms of the case law,
22 in terms of that.

23 Q: So you would agree that it could be considered a Brady
24 violation even if it was law enforcement that failed to give
25 it to you?

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 A: If it's exculpatory, yes, ma'am.

2 Q: Okay.

3 MS. BLANCHETTE: If I could beg the Court's indulgence
4 just one moment?

5 THE COURT: Yes, ma'am.

6 BY MS. BLANCHETTE:

7 Q: Now, I know you said you kind of were the last one in
8 line with this case. So you didn't have it as long as you
9 typically would have it; is that fair?

10 A: That's -- that's a fair assessment, yes, ma'am.

11 Q: Okay. I would like to ask you about some discovery items
12 that Mr. Daniels has discussed up until this point of the
13 case.

14 A: I've -- I have not heard his complete testimony.

15 Q: Okay. I would just like to show you some of the exhibits
16 that have been marked.

17 A: Yes, ma'am.

18 MS. BLANCHETTE: Your Honor, may I approach?

19 THE COURT: Yes, ma'am.

20 MR. JEPERTINGER: And here's your exhibit, ma'am.

21 BY MS. BLANCHETTE:

22 Q: Did you have all of the audio recordings in this case?

23 A: I don't recall.

24 Q: Did you review the audio recordings of the witnesses that
25 testified?

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 A: Once again, I don't recall, but I most likely did. Yes,
2 ma'am.

3 Q: Now, I was provided an audio recording of Nyrena Goodman
4 conducted by Investigator Tim Compton. Is that something you
5 would have reviewed prior to putting her on the stand?

6 A: Most likely, but I don't recall what I did. Yes, ma'am.

7 Q: Okay.

8 A: I mean I don't -- I really don't recall.

9 Q: And do you not have your file or why is it you don't
10 recall?

11 A: I don't have the file present here today. Yes, ma'am. I
12 don't have a file. To be honest with you, I did not review.

13 Q: Okay. Now, you testified about your experience with Mr.
14 Lawson and how he handles cases?

15 A: From times past when he was living, yes, ma'am.

16 Q: Would he have typically reviewed all of the discovery,
17 such as an audio file, with his client, do you think?

18 A: Yes, ma'am, but I -- like in this case, I would not know.

19 Q: Okay.

20 A: I wasn't privy to that.

21 Q: And would it be pertinent either acting from the defense
22 or from the prosecution to review an audio file and the
23 transcript of a witness's statement that's going to testify?

24 A: Perhaps, yes, ma'am.

25 MS. BLANCHETTE: And, Your Honor, since it's an audio

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 file, I'm just -- it's a little strange, but I attempted to
2 introduce it as Applicant's Number 3 -- or I'm sorry -- it's
3 Applicant's Number 3, the transcript of Nyrena Goodman's
4 audio.

5 BY MS. BLANCHETTE:

6 Q: And if this was provided to Mr. Lawson as part of the
7 discovery, that would have been in your file; is that correct?

8 A: Did -- did you get this from --

9 MR. JEPERTINGER: May I ask a question, Judge? I just
10 want to know if she got it from Mr. Lawson's file?

11 THE COURT: I think it's been -- the State has stipulated
12 that these documents were obtained from the Public Defender's
13 file. Is that right, Mr. Hunter?

14 MR. HUNTER: Yes, sir.

15 BY MS. BLANCHETTE:

16 A: Then we would have provided it to Mr. Lawson.

17 Q: Okay. And it's something you would typically rely upon
18 if it's a statement of a witness in preparation of a case?

19 A: Yes, ma'am.

20 Q: Is that correct?

21 A: Yes, ma'am.

22 Ms. BLANCHETTE: Your Honor, at this time, I would renew
23 my request to admit Applicant's Number 3 for the limited
24 purposes of the fact that it's something that would have been
25 reviewed in preparation for trial, not for the purposes of

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 hearsay. And if Your Honor would like to hear me further, I
2 do have an additional argument I'd like to make at the
3 appropriate time regarding the hearsay.

4 THE COURT: Mr. Hunter?

5 MR. HUNTER: Your Honor, I have the same objections that
6 I had on Tuesday. It's still rank hearsay. Ms. Goodman is
7 not here

8 THE COURT: Well, I mean, she says -- she's said -- and
9 I've been thinking about this the last few days. I mean she
10 says she's not admitting it for the purposes of hearsay,
11 simply for the purpose -- limited purpose -- limited purpose
12 that it was in his file, that it would have been something
13 provided by the State, and it's something that the defendant
14 has testified to that was not reviewed with him.

15 MR. HUNTER: And, Your Honor, I don't think, you know,
16 the State stipulates that it was in Mr. Lawson's file. So I
17 mean I don't think --

18 THE COURT: No. You stipulated it was.

19 MR. HUNTER: I said it --

20 THE COURT: You agreed it was in his file.

21 MR. HUNTER: Yes, sir, I -- I misspoke. I meant -- I
22 started with I don't and then I changed my train of thought.
23 I didn't -- the State stipulated that it was in Mr. Lawson's
24 file. So I mean I don't see how it -- you know, he's
25 testified as to what he would have wanted to say about it.

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 Mr. Jepertinger testified I believe that he doesn't
2 recall if he reviewed that particular audio or not. So I
3 think it still goes to hearsay because even if you attempt to
4 admit it for the limited purposes in order to prove that the
5 outcome would have been different and showed prejudice, the
6 content of the statements has to be considered and that's
7 hearsay.

8 MS. BLANCHETTE: Your Honor, I got called to court
9 yesterday; so I didn't spend as much time as I wanted on this,
10 but I went back to just the basic hearsay rule. And it says
11 hearsay is a statement other than one made by the defendant
12 while testifying at the trial or hearing offered in evidence
13 to prove the truth of the matter asserted.

14 So from there my thoughts went to the fact that this is a
15 document that I believe has been established that would have
16 been turned over in discovery and in counsel's file. And as I
17 have stated over and over again, we're introducing it to show
18 that it was in the file and it wasn't reviewed and, as Mr.
19 Daniels has now testified, that he either would have taken the
20 stand or he would have asked his attorney questions about it
21 or would have asked him to strategize based upon that.

22 So I understand where the State is going with saying the
23 content goes to the truth of the matter asserted, but I would
24 disagree with that, Your Honor. I would say that it is
25 admissible here and it falls outside of the rules of hearsay,

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 and I went into several of the other reasons, which I won't
2 rehash again.

3 THE COURT: Well --

4 MS. BLANCHETTE: But I'm thinking with his testimony it
5 really takes us outside of the realms of hearsay today.

6 THE COURT: Well, let me ask you this. And this is what
7 I've gone over and over in my mind since we were here Tuesday
8 on this. I mean you've gotten into the record the multitude
9 of exhibits that your client claims were not discussed with
10 him. You've gotten into them, and I don't remember exactly
11 how many there were. You can tell me. You're looking at it
12 right there. How many were there?

13 MS. BLANCHETTE: Your Honor, of the twenty exhibits that
14 I attempted to introduce, eleven were excluded.

15 THE COURT: Okay.

16 MS. BLANCHETTE: And those were all the ones on which the
17 State objected.

18 THE COURT: All right. The State objected to them and at
19 this point I've excluded them. Eleven, make the record clear,
20 eleven on that. But your client has testified as to
21 everything that those exhibits contained that he had issues
22 about, and the record is clear with that. So my question to
23 you is, if the record's clear on that, what is the necessity
24 at this point of admitting all of those exhibits when it's got
25 substantial information that really isn't relevant to this

1 hearing at all?

2 MS. BLANCHETTE: Well, Your Honor, I think that would be
3 a relevance objection, and it was my understanding the State
4 was being sustained on the hearsay objection. I'm not trying
5 to be nitpicky, but that's why I was responding more in the
6 avenue of the hearsay --

7 THE COURT: Well --

8 MS. BLANCHETTE: -- than relevance.

9 THE COURT: Well, regardless of what -- I mean it's my
10 job to --

11 MS. BLANCHETTE: Uh-huh.

12 THE COURT: -- to be the gatekeeper, so to speak, in all
13 of it whether -- and I'm just asking you that question. What
14 -- whether they objected to it on that ground or not, I'm
15 considering everything here in my decision.

16 What relevance or what's the necessity of all of this
17 other material within those statements that has absolutely
18 nothing to do with the ineffectiveness issue because he's
19 testified as to what he had a problem with in each of those
20 statements or reports, whatever they may have been, what he
21 had an issue with and how his testimony would have been in
22 response to such. And that's just my question to you.

23 MS. BLANCHETTE: And, Your Honor, I did several phone-a-
24 friends, for lack of better words, to say am I off base on
25 this because it's always been my understanding that if I'm

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 going to say this item existed, such as a police report, and I
2 wanted him to review it, then we had to introduce it as part
3 of our burden in a PCR because we have a line of cases that
4 you say, hey, we have this, you have to show it at the PCR
5 hearing. So that's just my understanding that if he's going
6 to reference it, saying it existed, he didn't review it and
7 some of it, you know, the overall contents I think needs to be
8 examined, such as the police report regarding the other
9 murder, for example.

10 THE COURT: Well, I mean --

11 MS. BLANCHETTE: And we a duty to introduce it and make
12 it part of the record.

13 THE COURT: Okay.

14 MS. BLANCHETTE: So I'm just simply -- I'm not -- I don't
15 want to keep going back and forth on this and try Your Honor's
16 patience. I'm just trying to make sure I make the record the
17 way that it was my understanding I'm required to do it as the
18 applicant.

19 THE COURT: Well -- and I think you've more than made a
20 record on that. I mean it doesn't necessitate the admission
21 of all of these exhibits. It's kind of like the issue of
22 throwing in the kitchen sink here, and seeing kind of what
23 shakes out in there. You've gotten in there substantial --
24 and I want the record clear for your client. If I'm wrong in
25 whatever I do, I more than want the record clear for your

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 client. Okay? But there is substantial testimony and, in
2 essence, you're asking -- in a sense -- and I don't know --

3 MS. BLANCHETTE: Your Honor, if -- I'm sorry.

4 THE COURT: Hold on a minute. In a sense -- and I don't
5 know if this is kind of what's happening here or not, but I
6 mean are you asking the Court to consider that which is in
7 these exhibits beyond what the testimony has been in
8 determining ineffectiveness here? Does that make sense?

9 MS. BLANCHETTE: Yes. And I'll answer your question.

10 THE COURT: Okay.

11 MS. BLANCHETTE: Your Honor, the one exhibit that came to
12 mind -- and I -- you know, I could go through each exhibit --
13 is the police report regarding the other murder. You know, I
14 had him explain it, but I feel that, you know, it would have
15 to be looked at in its entirety to put his testimony into
16 context. So I guess I'm trying to give some contextual basis
17 for his testimony by exhibit.

18 THE COURT: Well, by what we've gotten thus far, what is
19 not in context?

20 MS. BLANCHETTE: And that's -- I think I understand Your
21 Honor's point to be that these are just merely cumulative.

22 THE COURT: Right.

23 MS. BLANCHETTE: And not necessary at this point.

24 THE COURT: I mean it's cumulative to the testimony
25 that's been unobjected to in its entirety of your client as to

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 -- and the record's clear on the number of exhibits, the
2 problem that he had with each one of them, and how he would
3 have liked it to have been done, so to speak, and what his
4 testimony would have been in response to such.

5 MS. BLANCHETTE: And, Your Honor, if your position is
6 that it is merely cumulative, I will be happy to move on. I
7 was more prepared today to go back and address the hearsay
8 issues.

9 THE COURT: Well -- and I don't -- from a hearsay
10 standpoint, I don't necessarily disagree with you. Okay? I
11 don't necessarily disagree with you on that. But my ruling
12 remains -- I mean I think my ruling is clear on why I'm
13 keeping it out because I do think it's cumulative. I don't
14 think all of the other information in there is relevant and I
15 think the record is more than abundantly clear on the number
16 of items that your client says were not reviewed with him, the
17 problems he had with it, and how he would have testified had
18 these documents been reviewed with him. Okay?

19 MS. BLANCHETTE: Thank you, Your Honor, and not to try
20 the Court's patience, but do you mind if I briefly ask the
21 solicitor about each of those and if those would typically
22 have been in the file?

23 THE COURT: No, ma'am.

24 MS. BLANCHETTE: Okay.

25 THE COURT: I mean I want -- like I said, I want the

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 record clear for you and for your client on that. Okay?

2 MS. BLANCHETTE: Thank you, Your Honor, I appreciate your
3 ruling and understand your position.

4 BY MS. BLANCHETTE:

5 Q: All right. Mr. Jepertinger -- and am I saying that
6 correctly?

7 A: You are saying it absolutely wonderful. Thank you.

8 Q: Okay. Because people slaughter my last name; so I don't
9 want to do that to you.

10 A: You've mastered it.

11 THE COURT: Now, I haven't been slaughtering your last
12 name, have I?

13 MS. BLANCHETTE: No. It's when they call my office. You
14 should hear all the versions of my last name that I hear. All
15 right.

16 BY MS. BLANCHETTE:

17 Q: I want to ask you about what has been marked as
18 Applicant's Number 11 for identification purposes.

19 A: Yes, ma'am. What is it?

20 Q: And it is a incident report prepared by a Officer Davis.

21 A: Okay.

22 Q: And it details another murder case that Corey Byrd was
23 originally a suspect in.

24 A: Okay.

25 Q: They called him in for questioning and then it appears

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 that he assisted in the investigation and was potentially
2 going to be a witness in that other murder case.

3 A: Okay.

4 Q: This is a document that was in Mr. Lawson's file. Is it
5 a document then that would have been in your file?

6 A: It may have been. And the reason -- the reason I say it
7 may have been, because their investigator, Frank White, may
8 have gotten it independently.

9 Q: Okay. Is that something that you recall looking into as
10 part of your preparation to prosecute Mr. Daniels?

11 A: I have no recollection of that, ma'am.

12 Q: Okay.

13 THE COURT: And again, what exhibit number is that for
14 identification?

15 MR. JEPERTINGER: 11.

16 THE COURT: Thank you. Thank you.

17 BY MS. BLANCHETTE:

18 A: Here you go, ma'am.

19 Q: I'm going to show you what's been marked as Applicant's
20 Number 12.

21 A: Okay. Yes, ma'am.

22 Q: And that is a polygraph report of Bernard Cooper.

23 A: Okay. And who is Bernard Cooper, ma'am?

24 Q: Bernard Cooper was one of the non-testifying witnesses at
25 the cook-out.

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 A: Okay.

2 Q: Now, I first want to ask you -- I think it's commonly
3 said. I don't think it's an absolute that polygraphs are not
4 admissible in South Carolina in court. So what's the purpose
5 in doing a polygraph?

6 A: Ma'am, I -- you'd have to ask those that give the
7 examination.

8 Q: Okay. And on there, Officer Tim Compton signs off on the
9 bottom. So that's something he would have turned over to you
10 if it was relevant to this case; is that correct?

11 A: If it were relevant to the case, I would anticipate that,
12 yes, ma'am, and I don't think that this would be something
13 that the defense would have initially. It would -- and if you
14 got it out of the defense file, we would have given it to
15 them.

16 Q: Okay. So they go so far as to get a polygraph?

17 A: Yes, ma'am.

18 Q: It's turned over to the solicitor and then it has
19 absolutely no purpose once it gets to your file?

20 A: I -- once again, it's a -- I would speak to Bernard
21 Cooper if I thought it was worthwhile in this case. I notice
22 the results were inconclusive; so I don't know what that
23 means, you know, other than there's no deception indicated.
24 It's just there was no conclusion reached.

25 Q: Do you know if anyone spoke to Bernard Cooper and,

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 furthermore, do you know the reason why he was not called as a
2 witness at trial?

3 A: I would probably have made the decision not to call
4 Bernard Cooper.

5 Q: And do you know why you made that decision?

6 A: I don't recall.

7 Q: Okay. I'm going to show you what has been previously
8 marked for identification purposes as Applicant's Number 13.
9 This is the statement of Bernard Cooper. This was taken I
10 believe by Investigator Compton. Correct me if I'm wrong.

11 A: Yes, ma'am.

12 Q: Would you have received this from Mr. Compton and
13 reviewed it in preparation for trial?

14 A: Yes, ma'am.

15 Q: Is this something that would have been turned over to
16 defense counsel?

17 A: Yes, ma'am.

18 Q: And seeing that statement, does it in any way give you
19 any memory as to why you did not utilize Mr. Cooper as a
20 witness?

21 A: No, ma'am.

22 Q: Okay.

23 MS. BLANCHETTE: And, Your Honor, just so that I don't
24 have to rehash, I'm renewing my attempt to introduce all these
25 exhibits. Would you like me to say it each time or am I

1 continued on that?

2 THE COURT: For purposes of the record, I want it clear
3 that --

4 MS. BLANCHETTE: Okay.

5 THE COURT: -- you're continued on that. All right.

6 MS. BLANCHETTE: And that would be --

7 THE COURT: Please move on.

8 MS. BLANCHETTE: -- Applicant's Exhibits Number 11
9 through 19, Your Honor.

10 THE COURT: All right.

11 BY MS. BLANCHETTE:

12 Q: And I'm going to show you what has been previously marked
13 as Applicant's number 14 for identification purposes.

14 A: Yes, ma'am.

15 Q: Can you identify what that is, please?

16 A: It looks like it is a statement from a Brian Timmons
17 given to Detective Compton.

18 THE WITNESS: It's Plaintiff's Exhibit 14, Judge.

19 BY MS. BLANCHETTE:

20 Q: Okay. And would that have been part of your file in this
21 case if he was one -- he was one of the witnesses at the cook-
22 out?

23 A: Yes, ma'am.

24 Q: Okay. Do you recall reviewing that statement?

25 A: I don't have any recollection, but I probably did, yes,

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 ma'am.

2 Q: Okay. Do you have any recollection as to why that was --
3 he was not called as a witness in this case?

4 A: I can't answer that. I don't recall, ma'am.

5 Q: Okay. Is this something you would have expected to be
6 turned over to defense counsel?

7 A: Yes, ma'am.

8 Q: Okay. I'm going to show you what has been marked as
9 Applicant's Number 15.

10 A: Yes, ma'am.

11 Q: And that is a police report from another officer at the
12 scene?

13 A: Yes, ma'am.

14 Q: At the scene of this crime?

15 A: Yes, ma'am.

16 Q: Is that something you would have received from law
17 enforcement in this case?

18 A: Yes, ma'am.

19 Q: Okay. And is it something you would have turned over to
20 defense counsel?

21 A: Yes, ma'am.

22 Q: Do you recall reviewing that in preparation for this
23 case?

24 A: I -- yes, I would have. Yes, ma'am.

25 Q: Okay.

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 MS. BLANCHETTE: Your Honor, this I just failed to
2 attempt to move in the other day. So at this time I'd like to
3 renew -- or I would like to attempt to move in Applicant's
4 Number 15. The clerk brought it to my attention that I failed
5 to do that.

6 THE COURT: All right.

7 MR. HUNTER: Your Honor, which -- what was it? Your
8 Honor, I have the same objection.

9 THE COURT: Ruling is the same. Ruling remains the same.
10 And for the record, Items 11 through 19.

11 BY MS. BLANCHETTE:

12 Q: I'm going to show you what's been previously marked as
13 Applicant's Number 16.

14 A: Yes, ma'am.

15 Q: That is the polygraph report of Shavonne Gass?

16 A: Yes, ma'am.

17 Q: Do you recall Ms. Gass and her role in this case?

18 A: Yes, ma'am.

19 Q: Okay. And would you agree that she was one of your
20 primary witnesses?

21 A: I would.

22 Q: Do you recall reviewing that polygraph report?

23 A: Yes, ma'am.

24 Q: And what was the finding on that?

25 A: Deception indicated. Yes, ma'am.

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 Q: Did that factor at all into your preparation of this
2 trial?

3 A: You have to look at the questions asked. Did you tell
4 Gabriel Peterson the identity of the person who was following
5 Corey? And the answer was no.

6 Did Corey tell you the name of the person he was
7 following -- who was following him? No.

8 Did you know the identity of the person who had the
9 argument with Corey at your party? No.

10 I think her statement was, if I recall, in terms of the
11 excited utterance or presence sense impression, the dude I had
12 the -- I guess argument or fight with at the party is
13 following me.

14 Q: And she took that to be who? Who did she testify that
15 would have been at trial?

16 A: Ultimately, I believe it would have been your client.

17 Q: And is that polygraph something that would have been
18 turned over to Mr. Lawson?

19 A: Yes, ma'am.

20 Q: Okay. I'm going to show you Applicant's Number 17.

21 A: Yes, ma'am.

22 Q: It is the transcript of the audio statement of Gabriel
23 Peterson.

24 A: Yes, ma'am.

25 Q: That has been previously marked -- I apologize -- as

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 Applicant's Number 17, if I didn't say that already. Is that
2 a document you would have reviewed prior to putting Mr.
3 Peterson on the stand?

4 A: Yes, ma'am.

5 Q: Okay. And did you most likely utilize that in your
6 preparation for trial?

7 A: Yes, ma'am.

8 Q: And is that something that would have been turned over to
9 Mr. Lawson?

10 A: Yes, ma'am.

11 Q: Okay. I'll show you Applicant's Number 18.

12 A: Yes, ma'am.

13 Q: This is the statement of Andre Bradley, and can you give
14 me the date on that?

15 A: February the 8th, 2010.

16 A: Now, at the hearing in April of 2010, I asked you at the
17 beginning about that section regarding Andre Bradley and there
18 being a proffer agreement?

19 A: Yes.

20 Q: It appears from my reading of it that no one -- and
21 specifically, Investigator Compton says no one has talked to
22 Mr. Bradley. Doesn't that statement appear to show otherwise?

23 A: If it says February 8th, 2010, I guess that would be true.
24 That would be a true statement.

25 Q: Okay. Would you have reviewed that statement?

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 A: May I correct one thing? I think what we talked about --
2 Judge Russo -- and my indication, the question was in terms,
3 as Judge Russo said, was there a deal cut. If you go to 422
4 of your transcript, there was no deal cut, but there was a
5 proffer agreement that I see was made mention, and I think
6 that was -- I may have misspoke in terms of deal versus
7 agreement. There was a proffer agreement, certainly.

8 Q: So you all had spoke to him and you did know about the
9 proffer agreement; is that correct?

10 A: The police spoke to Bradley. Whether they were aware of
11 how the federal system works in terms of proffer agreements,
12 I'm not sure. I think we did get the proffer agreement by
13 either calling Ervin or Parham. I can't -- I can't recall
14 specifically, but there was no deal cut according to Bradley.
15 There wasn't any when I spoke with Parham.

16 Q: Okay.

17 A: Okay. I just wanted to clarify that.

18 Q: Oh, no, absolutely. Now, I'm going to show you what has
19 been admitted as Applicant's Number 20, and that's a proffer
20 agreement.

21 A: Yes, ma'am.

22 Q: The date on that is January 20th, 2010?

23 A: Yes, ma'am.

24 Q: So what would be the reason that Mr. Lawson wouldn't get
25 it until the middle of trial?

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 A: The federal entities had it or the federal defender had
2 it. Whoever was representing -- Jay Ervin represented him.
3 We didn't have it.

4 Q: But he was going to be your witness; is that correct?

5 A: Yes, ma'am.

6 Q: And you had the duty, as Judge Russo made very clear, to
7 turn everything over to Mr. Lawson, not the federal entities?

8 A: As soon as we could get it from them. It was not in our
9 possession until they gave it to us.

10 Q: Okay. But did you ever ask for it?

11 A: No.

12 Q: Okay. And what was your reason for not asking for it?

13 A: To be honest with you, I think I didn't do much work in
14 federal court and I wasn't aware that he signed one of these.

15 Q: But you were aware when --

16 A: Oh, I called.

17 Q: -- he was spoken to by -- I believe it's Clark?

18 A: Uh-huh.

19 Q: Here, Investigator George Clark on February of 2010. You
20 all spoke to him at length and then --

21 A: The police spoke to him.

22 Q: The police spoke to him, but under Brady you're
23 responsible for turning over everything in the case that the
24 police get that's potentially exculpatory and inculpatory; is
25 that correct?

1 A: Yeah.

2 Q: The evidence against --

3 A: Yes, ma'am.

4 Q: -- Mr. Daniels?

5 A: Yes, ma'am.

6 Q: Okay. And then there's a second interview in what has
7 been marked as Applicant's Exhibit Number 18, on February 12th
8 of 2010.

9 A: Okay.

10 Q: And is that something that would have been turned over to
11 you by law enforcement?

12 A: Yes, ma'am.

13 Q: And is that something you would have turned over to Mr.
14 Lawson?

15 A: Yes, ma'am.

16 Q: Okay. And the second one occurs at 12:07 hours. And
17 while I'm flipping through this, are you familiar with this
18 process of taking an audio interview and then making a
19 transcript? Is that something you typically see in your
20 cases?

21 A: Years ago they used to do that, ma'am.

22 Q: Okay. So do you know why these all would not be signed
23 by the witnesses?

24 A: I do -- no, I do not know.

25 Q: Okay. And then there's a third one on February 12th of

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 2010 at 12:40. And then there's a fourth one with an undated
2 time. So in essence, you had four interviews of Mr. Bradley;
3 is that correct?

4 A: Yes, ma'am.

5 Q: Okay. And at no time he was asked about -- I mean you
6 all knew he was a federal inmate; is that correct?

7 A: When I spoke with him?

8 Q: Uh-huh.

9 A: Yes. I spoke with him in the jail --

10 Q: Okay.

11 A: -- in preparation for trial.

12 Q: So you yourself actually spoke to him?

13 A: Yes, ma'am.

14 Q: And did you ever ask him if he had any deals or anything
15 that would have to be -- need to be disclosed?

16 A: I don't recall the exact date. I think I spoke more
17 about the facts of this particular case --

18 Q: Okay.

19 A: -- in terms of what Daniels told him, so on, so forth.

20 Q: And pursuant to Investigator Compton's report, you heard
21 about or he heard about the theory that Mr. Bostick had hired
22 Mr. Daniels through one federal inmate, Reginald Coleman?

23 A: I don't recall that.

24 Q: And in that they said it could be substantiated through
25 Vontrez Davis. But at trial you call a third federal inmate,

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 Andre Bradley, to testify against Mr. Daniels. Why was
2 Reginald Coleman or Vontrez Davis not utilized at trial?

3 A: I don't recall, ma'am.

4 Q: Do you recall ever speaking with them or interviewing
5 with them? Because I haven't seen anything regarding that.

6 A: I don't recall doing that.

7 Q: Okay. So only the limited information in Investigator
8 Compton's report may be the only information regarding those
9 two individuals?

10 A: You'll have to ask Investigator Compton that. I don't
11 recall speaking with them.

12 Q: Okay. And we have one left. This has been marked as
13 Applicant's Number 19 for identification purposes.

14 A: Yes, ma'am.

15 Q: And that is the statement of Jasmine Barrett. Do you
16 recall who Jasmine Barrett is?

17 A: Was this the young lady that was living with Bradley?

18 Q: Yes. And did you utilize her as a witness in your case?

19 A: I did. Yes, ma'am.

20 Q: Okay. And did you go over that statement in preparation
21 of your case?

22 A: Yes, ma'am.

23 Q: And do you notice on there who took that statement?

24 A: Investigator Compton.

25 Q: Okay. So Investigator Compton had interaction with

JOHN JEPERTINGER - CROSS BY MS. BLANCHETTE

1 Jasmine Barrett prior to the trial; is that correct?

2 A: Yes, ma'am.

3 Q: And did you, yourself, have any personal interaction with
4 Ms. Barrett?

5 A: I spoke with her. Uh-huh.

6 Q: Okay. And do you feel that she could have given you any
7 information you needed on Andre Bradley?

8 A: In terms of what, ma'am?

9 Q: I mean if you needed information about his case or what
10 was going on with him, do you feel that Jasmine had a working
11 knowledge of what was going with Andre?

12 A: No.

13 Q: Okay. I'll get that back from you.

14 MS. BLANCHETTE: Your Honor, if I could just beg the
15 Court's indulgence one moment?

16 THE COURT: Yes, ma'am.

17 MS. BLANCHETTE: Your Honor, I have no further questions
18 of this witness.

19 THE COURT: Anything, Mr. Hunter?

20 MR. HUNTER: Very briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. HUNTER:

23 Q: Mr. Jepertinger?

24 A: Yes.

25 Q: Did the State of South Carolina have any type of deal

1 with Andre Bradley?

2 A: No.

3 Q: Did you have a copy of the proffer agreement?

4 A: I think we acquired it from the -- either -- like I
5 testified, either from Mr. Ervin or Mr. Parham.

6 Q: But you didn't acquire that until it came up at trial?

7 A: That is correct. I think when they had the --the
8 colloquy, Mr. -- Investigator Compton and Judge Russo, then I
9 called the federal authorities. I know that. And, you know, I
10 think they sent what they had, and then I asked -- it was Brad
11 Parham, I recall that -- if there was any deal with the
12 defendant -- I mean with Bradley.

13 Q: Okay. I believe you stated that Ms. Blanchette -- or
14 Applicant's Exhibit Number 11, which was the -- we'll mark for
15 identification purposes -- was the report from another case?

16 A: Yes.

17 Q: I believe you stated that that did not come from your
18 office?

19 A: I don't recall one way or the other. I mean
20 independently they could have gotten it. I don't see the
21 purpose of it being in this particular file.

22 Q: Is it possible that if that did not come from your
23 office, then the investigator or the PD's office found it.

24 MS. BLANCHETTE: Your Honor, I object. That calls for
25 speculation.

JOHN JEPERTINGER - REDIRECT BY MR. HUNTER

1 THE COURT: Based upon the way the question was asked,
2 restate your question again.

3 MR. HUNTER: Okay.

4 BY MR. HUNTER:

5 Q: Based on your testimony that the statement -- that you
6 don't believe the statement came from your office, do you have
7 any knowledge of where Mr. Lawson may have obtained the
8 statement?

9 A: He would have had to have gotten it by some other means
10 other than my office.

11 Q: Okay. Last question. Under your theory of the case, who
12 pulled the trigger?

13 A: Gregory Daniels.

14 MR. HUNTER: That's all I have. Thank you.

15 THE COURT: Anything further?

16 MS. BLANCHETTE: Nothing further, Your Honor.

17 THE COURT: Sir, you may step down. Thank you. We're
18 going to stand down for just a minute.

19 MR. JEPERTINGER: May I be excused, Your Honor?

20 THE COURT: Any objection to him being excused?

21 MR. HUNTER: No, Your Honor.

22 MS. BLANCHETTE: I do not have any, Your Honor.

23 THE COURT: All right. Yes, sir. You may be excused.

24 MR. JEPERTINGER: Thank you, Your Honor.

25 (WHEREUPON, there was a break in the proceedings from

GRAYSON SMITH - DIRECT BY MR. HUNTER

1 11:27 a.m. until 11:33 a.m.)

2 THE COURT: Call your next witness, please.

3 MR. HUNTER: Your Honor, the State would call Grayson
4 Smith.

5 THE CLERK: Please place your left hand on the Bible and
6 raise your right hand. Do you swear or affirm that the
7 testimony you are about to give will be the truth, the whole
8 truth, and nothing but the truth, so help you God?

9 THE WITNESS: I do.

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

12 THE WITNESS: Grayson Smith. This was on the floor back
13 here. I'm not sure what it is.

14 MR. HUNTER: That's mine.

15 THE WITNESS: And there's a black notebook up here that's
16 not mine.

17 THE COURT: That's a trial transcript I believe.

18 MS. BLANCHETTE: It's a trial transcript for your
19 reference, if needed.

20 THE WITNESS: All right. Thank you.

21 THE COURT: Go ahead.

22 GRAYSON SMITH, being first duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. HUNTER:

GRAYSON SMITH - DIRECT BY MR. HUNTER

1 Q: Good morning, Mr. Smith.

2 A: Good morning.

3 Q: In what capacity did you become involved in this case?

4 A: My main involvement in this case, as I recall, was a note
5 taker at trial, and I argued an objection to the jury charge.

6 Q: So where were you employed at the time of this trial?

7 A: Here at the Public Defender's Office in the Twelfth
8 Circuit.

9 Q: I believe you worked on this case with Jack Lawson?

10 A: Jack Lawson. This was Jack Lawson's case, yes.

11 Q: How long had you been working at the Public Defender's
12 Office at the time you worked on this case?

13 A: I started working at the Public Defender's Office here in
14 August of 2007. For the year leading up to that, I was in the
15 Twelfth Circuit, but I -- you know, I started working at the
16 Public Defender's Office in August of 2007.

17 Q: Okay. And so it's safe to say that by the time you
18 worked on this case with Mr. Lawson, you'd been working at the
19 PD's office for a few years?

20 A: Yes.

21 Q: Okay. Had you -- in those few years, had you had the
22 opportunity to work with Mr. Lawson previously?

23 A: Yes.

24 Q: On multiple cases?

25 A: Yes. Jack -- I mean we -- the way our office worked --

GRAYSON SMITH - DIRECT BY MR. HUNTER

1 office worked, we were -- I guess I was the young pup in the
2 office. And what date was this trial?

3 THE COURT: April 12th through 16th, 2010.

4 BY MR. HUNTER:

5 Q: April 2010.

6 A: Okay.

7 THE WITNESS: And -- and thank you, Your Honor.

8 BY MR. HUNTER:

9 A: You know, I was -- I already had several years under my
10 belt as well. So typically speaking, when the cases came in
11 they got assigned to an attorney and that attorney handled the
12 case. From time to time -- I remember on my first -- on my
13 first murder file, Jack provided me support, and that was one
14 of the rare occasions where we really worked together in
15 getting the case ready. On my second murder case, I remember
16 he provided me support, but this was not the case with, you
17 know, the PCR we're here about today. This was Jack's case.

18 Q: Okay. So Mr. Lawson asked you take notes just you said
19 because of the complexity of this case?

20 A: Well, yeah. You know, I think that's a pretty customary
21 practice to have either your colleague or your paralegal or
22 your legal assistant there just jotting down notes.

23 Q: So you testified that you've worked with Jack for a
24 number of years. Are you familiar with his work habits?

25 A: Yes.

GRAYSON SMITH - DIRECT BY MR. HUNTER

1 Q: Okay. Could you kind of describe that for us?

2 A: Well, I'll tell you this. Jack Lawson was the first
3 person to arrive in the Public Defender's Office. I think he
4 was -- often times, I think he or Frank White or actually
5 Judge Brown, who's presiding here today, were probably the
6 first three people in the building, and Jack Lawson was more
7 often than not the last person to leave the building.

8 Q: So you'd say he was a hard worker?

9 A: Absolutely.

10 MS. BLANCHETTE: Your Honor, I object to this line of
11 questioning. I understand that Mr. Lawson is deceased, but I
12 don't see how his reputation is relevant to the specific
13 claims that we have made. Furthermore, Mr. Smith has
14 testified that he had no real interaction with him on this
15 case. I don't know what this general reputation testimony
16 could -- what the purpose serves in this case.

17 MR. HUNTER: Your Honor, under Rule 406, Mr. -- well, the
18 State contends Mr. Smith can testify as to Mr. Lawson's habits
19 and practices.

20 THE COURT: I'm going to allow it over applicant's
21 objection.

22 BY MR. HUNTER:

23 Q: Mr. Smith, do you know whether Mr. Lawson -- well, let me
24 ask you this. Does the Public Defender's Office employ an
25 investigator?

GRAYSON SMITH - DIRECT BY MR. HUNTER

1 A: Two, at the time.

2 Q: Do you know whether it was Mr. Lawson's practice to use
3 those investigators?

4 A: It was. We all used the investigators on our cases.
5 They performed -- whether it was by design or by practice,
6 they performed different roles. But it was Frank White and
7 Ron Smith. I'm sure that Mr. Daniels met with Frank White on
8 several occasions. Frank White lived in Effingham. I use
9 that figuratively.

10 Q: So he was often at the jail?

11 A: Absolutely.

12 Q: Okay. Are you familiar with Mr. -- Mr. Lawson's
13 practices with regard to how he reviewed discovery with his
14 clients?

15 A: Generally, yes. Specifically to this case, I can tell
16 you that this was not a case that Jack picked up the day of
17 trial. I mean this case was on his desk for a substantial
18 amount of time, particularly in the, you know, month leading
19 up to trial. I remember going into his office on, specific to
20 this case, several different occasions and he's listening to
21 audio. I didn't stick around and listen with him.

22 Generally, yeah, I mean his practice was to make all the
23 appropriate motions for discovery, get it, review it, you
24 know, view it with his client, make any motions thereafter if
25 he felt like someone was withholding something. Jack was not

GRAYSON SMITH - DIRECT BY MR. HUNTER

1 a lawyer who would let things slide, and I think the
2 Solicitor's Office here would absolutely agree with me.

3 Q: Let's move on to your role in this case. Specifically,
4 did you argue to Judge Russo which jury charges you thought
5 were inappropriate?

6 A: I did, at Jack's direction. I don't know that I
7 specifically recall my arguments as I sit here today. I might
8 need to reference the transcript, but I remember after I had
9 moved to Columbia hearing about my arguments going up I think
10 to the Court of Appeals and maybe even the Supreme Court
11 pulled it from the Court of Appeals.

12 Q: Are you aware that the Court of Appeals actually reversed
13 Mr. Daniels' conviction?

14 A: No. I was -- again, I just -- I was hearing it through
15 the grapevine.

16 Q: So were you -- so then you weren't aware that the Supreme
17 Court then reinstated it?

18 A: I was not aware of that.

19 Q: Okay. Do you remember if you were -- how successful you
20 were in getting Judge Russo to remove some objectionable
21 language from the -- from the jury charge?

22 A: I think we were successful, as I -- as I recall. Again,
23 I'd need to reference the transcript.

24 Q: Okay.

25 MR. HUNTER: I don't have any further questions. Thank

GRAYSON SMITH - CROSS BY MS. BLANCHETTE

1 you, Mr. Smith.

2 THE COURT: Ms. Blanchette?

3 MS. BLANCHETTE: Briefly, Your Honor.

4 CROSS-EXAMINATION

5 BY MS. BLANCHETTE:

6 Q: Mr. Smith, you indicated in your testimony that you're --
7 this was a case that Jack was handling solely on his own up
8 until the point of trial where you just took notes and helped
9 with the jury charge; is that correct?

10 A: Yeah. And let me just clarify. I don't know if he was
11 handling it on his own, quote/unquote, or not, but I know that
12 I wasn't assisting him before trial with the exception of -- I
13 think I went to Charleston to meet with the pathologist with
14 Jack.

15 Q: Were you privy to any of his written or verbal
16 communications with Mr. Daniels?

17 A: I don't think so. Not before trial.

18 Q: Did you attend any meetings between himself and Mr.
19 Daniels?

20 A: No. Not before trial.

21 Q: Do you specifically know what he went over with Mr.
22 Daniels prior to trial?

23 A: What he went over with Mr. Daniels prior to trial, no.

24 Q: Okay. Do you know if he answered all of Mr. Daniels'
25 questions that he had regarding the evidence prior to trial?

GRAYSON SMITH - CROSS BY MS. BLANCHETTE

1 A: I don't know what he and Mr. Daniels talked about when I
2 wasn't in their presence.

3 Q: And do you know if Mr. Daniels was ever prepared to take
4 the stand in this case?

5 A: I don't know. I mean, you know, again, I would need to
6 read the transcript, but it's my understanding he did not take
7 the stand in this case.

8 Q: That's correct. So were you part of the discussions
9 either preparing him and seeing what it would look like if he
10 did take the stand?

11 A: No.

12 Q: Talking about reasons to take it or not to take the
13 stand? Were you part of any of that?

14 A: I don't recall if I was or not. That was more than
15 likely something Jack spoke with him about prior to my
16 involvement.

17 Q: Do you have any firsthand knowledge of Mr. Lawson going
18 to Effingham and reviewing all the audio files and showing the
19 pictures to Mr. Daniels?

20 A: I don't have any firsthand knowledge of him going to
21 Effingham to do that. I wouldn't know whether he was down
22 there doing that or not just because I was so busy with my
23 caseload. I do remember walking into his office here in the
24 City-County Complex on several different occasions, and there
25 being, you know, him listening to audio in this -- in this

GRAYSON SMITH - CROSS BY MS. BLANCHETTE

1 file.

2 Q: Do you know why Mr. Daniels -- we've already talked about
3 him not testifying as a witness in the case, but why he wasn't
4 utilized in the *Jackson v. Denno* hearing?

5 A: I don't know.

6 Q: And I know that you said you have, essentially, two in-
7 house investigators and everybody uses them, but can you point
8 to anything in this case that an investigator was used for?

9 A: I'm sorry?

10 Q: Can you point to anything specifically in this case that
11 an investigator was used for? Do you have any first-hand
12 knowledge of anything in this case?

13 A: I wasn't here for your expert's testimony. I'm assuming
14 he's testified earlier this morning. I remember some mention
15 of maybe his scope of work on Tuesday being actual crime --
16 you know, crime scene investigation, measurements, that type
17 of thing.

18 Ron Smith would be the investigator in the Public
19 Defender's Office who did, if you will, the forensic
20 investigation for our office. Frank White was really more of
21 a -- in more of a counseling role and would bring things to
22 the attorney's attention. He was the one that spent the time
23 with the folks down in Effingham, and the folks that weren't
24 in Effingham. Occasionally, he would do what I call field
25 forensic work. I don't if that's a correct terminology or

GRAYSON SMITH - CROSS BY MS. BLANCHETTE

1 not.

2 Q: And I'll just rephrase my question. Was there anything
3 specifically in this case that you had firsthand knowledge
4 that an investigator did?

5 A: Yeah. I think that's actually the same question, and I
6 don't.

7 Q: Okay. Thank you. You said you had a good working
8 knowledge of Mr. Lawson and how he handled cases and you spoke
9 to his reputation in your direct testimony?

10 A: Correct.

11 Q: He stated in closing argument on page 598, line 22,
12 Bostick supposedly paid someone to hit someone. He is never
13 interviewed. He is never accused. He is never confronted.

14 A: Page 598?

15 Q: Line 22. In your experience with Mr. Lawson, would he
16 make that statement as an officer of the court in final
17 argument if he was aware of the fact that Mr. Bostick had been
18 interviewed?

19 MR. SMITH: I beg the Court's indulgence. I'd feel more
20 comfortable answering this if I read a little bit of this
21 transcript.

22 THE COURT: All right. Go ahead.

23 MS. BLANCHETTE: And Mr. Smith, if it helps you, the
24 closing argument starts on page 592.

25 THE WITNESS: Thank you.

GRAYSON SMITH - CROSS BY MS. BLANCHETTE

1 MS. BLANCHETTE: Uh-huh.

2 (WHEREUPON, there was a pause in the proceedings.)

3 BY MS. BLANCHETTE:

4 A: Okay. I'm sorry. What's the question again?

5 Q: And I may not restate it exactly the same.

6 A: Uh-huh.

7 Q: I won't reread the transcript.

8 A: Okay.

9 Q: But his comments there, his argument there regarding Mr.
10 Bostick, he's never been interviewed, he's never been accused,
11 if Mr. Lawson knew that Mr. Bostick had been interviewed,
12 would he have stated that in your opinion of him?

13 A: Is -- I guess you're asking me --

14 Q: Would Jack Lawson have stated that if he knew Bostick had
15 been interviewed?

16 A: Would he have lied? Is that what you're asking?

17 Q: Would he have made those comments to the -- to the jury?
18 If you want to use the word lied, that's fine.

19 A: Or misrepresented something? No. I mean, you know, I
20 don't -- I'm not familiar with this -- you know, with the
21 case. I don't think Jack Lawson would have misrepresented
22 anything purposely, but I can't speak to why he said this and
23 whether or not Bostick was interviewed or any of that jazz.

24 Q: That's correct. I was just asking you that question
25 based upon your experience of him. And I am going to --

GRAYSON SMITH - CROSS BY MS. BLANCHETTE

1 MS. BLANCHETTE: Your Honor, may I approach?

2 THE COURT: Yeah.

3 MS. BLANCHETTE: I apologize, I've got these out of
4 order. And I beg the Court's indulgence.

5 BY MS. BLANCHETTE:

6 Q: I'm going to show you what's been marked as Applicant's
7 Number 11. There has been testimony throughout this PCR
8 proceeding and I've attempted to introduce this on behalf of
9 Mr. Daniels, as it was a document that I received from Mr.
10 Lawson's file that reports another murder case in which Corey
11 Byrd was originally a suspect. And he spoke with law
12 enforcement, and they essentially used him to investigate
13 their case and it appeared he was going to be a witness for
14 law enforcement. And Corey Byrd was the victim in this case.
15 Is that something that would typically be turned over as
16 exculpatory evidence in your experience?

17 A: This is a statement of Corey Byrd in another case; is
18 that right?

19 Q: It's a police report from another case where Corey Byrd
20 was a suspect, was called in, and interviewed. They used what
21 he told them to go out and speak to other people, bring
22 charges and, as you read through the report, it essentially
23 indicates that he potentially is going to, you know, testify
24 against these other people and, you know, not be a suspect
25 anymore. He's going to be working with law enforcement, if

GRAYSON SMITH - CROSS BY MS. BLANCHETTE

1 you read through the whole report. So -- and we've gone over
2 this report several times throughout the course of the
3 hearing.

4 A: Okay.

5 Q: If in this case or any case the victim is involved in
6 another murder case and is potentially going to testify for
7 the State or provide information to the State, is that
8 something that you would typically be provided or information
9 that you would be provided?

10 A: I just don't know. I mean --

11 Q: And that's -- I can respect that if that's the answer to
12 your question.

13 A: I'm not sure if I would expect an incident report from a
14 totally unrelated case to be turned over to me. I mean does
15 it have any mention of Mr. Daniels in this report or no?

16 Q: I'm sorry. I can't answer your question, but I'll ask
17 you another question.

18 A: Okay.

19 Q: That was provided to me as being part of Mr. Lawson's
20 file.

21 A: Okay.

22 Q: Do you know any reason why he would not have looked
23 further into that or presented that at the trial of Mr.
24 Daniels?

25 A: I don't know.

GRAYSON SMITH - REDIRECT BY MR. HUNTER

1 Q: Okay. Then that's fair enough.

2 MS. BLANCHETTE: Your Honor, if I could beg the Court's
3 indulgence one moment?

4 THE COURT: Yes, ma'am.

5 MS. BLANCHETTE: Your Honor, I have no further questions
6 of this witness.

7 THE COURT: All right. Any further?

8 MR. HUNTER: Just one question, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. HUNTER:

11 Q: Mr. Smith, with regard to the incident report to the
12 unrelated crime that Ms. Blanchette was just showing you, you
13 don't know that he didn't look further into it, do you?

14 A: I -- I just don't know. I -- and that -- what I'm saying
15 is that I don't recall sitting here today. I know that I
16 don't know can create some ambiguities, but I don't -- I just
17 don't recall sitting here today anything about that report and
18 anything that Jack may or may not have done with regard to
19 that report.

20 Q: Okay.

21 MR. HUNTER: No further questions.

22 THE COURT: Ms. Blanchette?

23 MS. BLANCHETTE: Oh, nothing further, Your Honor.

24 THE WITNESS: Am I excused, Your Honor?

25 THE COURT: Any objection?

1 MS. BLANCHETTE: None, Your Honor.

2 MR. HUNTER: None, Your Honor.

3 THE COURT: Without objection, sir, you are excused.

4 THE WITNESS: Thank you, Your Honor.

5 MR. HUNTER: I'm going to step forward and grab my water.

6 Okay?

7 THE COURT: Yes. How many more witnesses does the State

8 have?

9 MR. HUNTER: Just one, Your Honor.

10 THE COURT: All right. We're going to take a break at

11 this time. We'll reconvene at 1:30.

12 (WHEREUPON, there was a break in the proceedings from

13 11:56 a.m. until 1:31 p.m.)

14 THE COURT: Mr. Hunter?

15 MR. HUNTER: Yes, Your Honor.

16 THE COURT: You're recognized.

17 MR. HUNTER: May it please the Court. The State would

18 call Lieutenant Compton.

19 THE CLERK: Do you swear or affirm that the testimony you

20 are about to give will be the truth, the whole truth, and

21 nothing but the truth, so help you God?

22 THE WITNESS: I do.

23 THE CLERK: Please take your seat and state your name for

24 the record.

25 THE WITNESS: Timothy Wade Compton.

TIMOTHY COMPTON - DIRECT BY MR. HUNTER

1 THE COURT: Go ahead.

2 TIMOTHY COMPTON, being first
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HUNTER:

6 Q: Good afternoon, Mr. Compton.

7 A: Good afternoon.

8 Q: Where are currently employed?

9 A: Florence Police Department.

10 Q: And what is your rank?

11 A: Lieutenant.

12 Q: Okay. How long have you been employed at the Florence
13 County -- or the Florence Police Department?

14 A: Going on my 31st year.

15 Q: Okay. And what was your involvement in the -- in the
16 Gregory Daniels' murder case?

17 A: I was the duty detective on that particular day -- well,
18 that night. I was the early call-out detective that morning.
19 I got called out to that shooting.

20 Q: Okay. Now, as the duty detective, does that mean that
21 you supervise the investigation throughout?

22 A: Well, as the duty detective, it was -- I'm the one that's
23 going to be called for any type crime where a detective is
24 needed for that particular -- that night and that morning.
25 But it was my case to investigate, yes, sir.

TIMOTHY COMPTON - DIRECT BY MR. HUNTER

1 Q: Okay. So is it fair to say that all of the officers who
2 were investigating this case reported to you?

3 A: Yes, sir.

4 Q: Okay. Being that all the investigating officers reported
5 to you, is it safe to say that there wouldn't be any witness
6 statements taken without your knowledge?

7 A: Correct.

8 Q: Okay. And to your knowledge, was Gary Bostick ever
9 interviewed in relation to this case?

10 A: I don't recall ever interviewing him. No, sir.

11 Q: Okay. Did you have a reason for not interviewing Mr.
12 Bostick?

13 A: I wanted to interview him. I'd liked to interview him,
14 but I never could get up with him.

15 Q: Okay. Is there a reason why Mr. Bostick was not charged
16 in this case?

17 A: Because I didn't have -- what I felt, I didn't have
18 enough evidence to charge him.

19 Q: Okay. Did you meet with anyone from the Public
20 Defender's Office prior to the trial in this case?

21 A: I met with Frank White, who is the investigator for the
22 PD'S office, Ron Smith with the PD's office, and I also met
23 with Mr. Lawson.

24 Q: Okay. Now, did your file in this case contain any
25 information about Andre Bradley's federal proffer agreement?

TIMOTHY COMPTON - DIRECT BY MR. HUNTER

1 A: Not my file, no, sir.

2 Q: Okay. Based on your investigation, is there any doubt in
3 your mind who the shooter was in this case?

4 A: There's no doubt. One hundred percent, you know, it was
5 Gregory Daniels.

6 Q: Okay.

7 MR. HUNTER: I beg the Court's indulgence. That's all
8 the questions that I have for Lieutenant Compton. Thank you,
9 Lieutenant Compton.

10 THE WITNESS: Thank you.

11 THE COURT: Cross-examination?

12 MS. BLANCHETTE: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MS. BLANCHETTE:

15 Q: Mr. Compton, do you have the -- or Investigator Compton,
16 do you have a copy of your report in front of you that's been
17 marked as Applicant's Number 1?

18 A: Yes, ma'am, I do.

19 Q: Okay. In your report, it talks about how you went to the
20 federal penitentiary. It appears you made several attempts to
21 try to speak with a Reginald Coleman?

22 A: Yes, ma'am.

23 Q: Regarding a tip that you got that Gary Bostick had hired
24 Mr. Daniels to commit this murder. Why is it that you tried
25 to meet several times with someone that was just an informant

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 and had no reason, you are saying now, to meet with Mr.

2 Bostick himself?

3 A: I'm sorry. Can you repeat that?

4 Q: In your report, it indicates that you made several
5 attempts and then ultimately interviewed a Reginald Coleman?

6 A: Yes, ma'am.

7 Q: Regarding a tip that he had that Gary Bostick had hired
8 Mr. Daniels to commit this murder?

9 A: Well, I had -- I had information that he knew something
10 about the murder and that's why I went down to -- to the
11 federal penitentiary down in Kingstree to interview him.

12 Q: And that specific information as it's referenced in your
13 report is that Gary Bostick had something to do with this
14 murder? Is that what your report implies?

15 A: Yes, ma'am. Uh-huh.

16 Q: Okay. So why is it that you had no interest then in
17 speaking with Gary Bostick?

18 A: I didn't say I didn't have an interest. I did have an
19 interest in speaking with Gary. I don't believe that Gary
20 shot Mr. Byrd. I believe he may have had a part in maybe
21 hiring Gregory Daniels. But in my investigation I couldn't --
22 I couldn't get anyone, just like Mr. Coleman and I believe Mr.
23 Davis, nobody. They kept saying rumors. I heard, I heard.
24 And I couldn't get anybody -- I couldn't get to me I guess for
25 sure facts that Gary had a part of this. No doubt that Mr.

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 Daniels did his part in shooting Mr. Byrd, but I didn't have
2 what I think was enough evidence or solid evidence to be able
3 to charge Mr. Bostick.

4 Q: With that in mind though, you assisted the State in a
5 trial in which that was the primary theory; is that correct?

6 A: Primary theory that Mr. Bostick hired Mr. Daniels?

7 Q: Yes.

8 A: That's what I believe. I cannot prove it, no. No,
9 ma'am.

10 Q: And that -- but your testimony is riddled with that. You
11 would agree with that at the trial?

12 A: Not sure if riddled is the right word, but it was
13 mentioned a couple of times I believe.

14 Q: Okay. So it was -- and the record will reflect, you
15 know, how many times it was mentioned. It was mentioned a
16 couple of times and there's was an argument made by the State.
17 What did you do to investigate that portion of it? If you're
18 saying you didn't have any evidence on which to go forward
19 with that as to Mr. Bostick, what did you do to investigate?

20 A: Well, I mean, obviously, I went down to the federal
21 penitentiary and attempted to -- or did interview Mr. Coleman.
22 I attempted to talk to Mr. Davis. Several CIs I talked to
23 that was -- gave me information that also Gary had something
24 to do with it. They actually -- these CIs told me that
25 Gregory was the shooter.

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 But I mean interviewing people, taking statements from
2 people at the cook-out and, you know, just everything I guess
3 in accumulation. I tried to figure out who all was involved
4 and who weren't -- who wasn't involved.

5 Q: So in the Supreme Court decision in this case, Chief
6 Justice Toal -- I believe it's in her section, but if I'm not,
7 I stand corrected. But the Supreme Court cites to the fact,
8 as part of their facts, that Gary Bostick hired Mr. Daniels to
9 commit this crime. Are you saying that you never found
10 anything to substantiate that?

11 A: If I could -- if I felt -- if I could prove that Gary
12 hired Mr. Daniels, I would have charged him, yes, ma'am. But
13 I have no -- I haven't seen the Supreme Court hearing, you
14 know, what they said, read it or anything, but I mean they may
15 -- they may believe that too, but I didn't feel that I could
16 prove it at the time.

17 Q: Okay. Now, you said you wanted to speak with Mr.
18 Bostick, but you weren't able to. Were you present in the
19 courtroom when Mr. Bostick testified that he did, in fact,
20 meet with you?

21 A: Yes, ma'am. I heard that.

22 Q: Okay. And you --

23 A: I --

24 Q: I'm sorry.

25 A: I'm sorry.

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 Q: No. You can finish. I'm sorry.

2 A: Again, I don't recall ever talking with Mr. Bostick. I
3 wanted to and I attempted to, but I don't recall ever talking
4 to Mr. Bostick. I didn't get a statement from him or anything
5 like that. So --

6 Q: And you said you are still with Florence -- is it City
7 Police Department?

8 A: City, yes, ma'am.

9 Q: Okay. And by way of Mr. Daniels' amendment, we attached
10 the affidavit of Gary Bostick back -- I believe it was in late
11 September or October of last year. Did the Attorney General's
12 Office put you on notice that we were alleging that that
13 meeting had occurred at that point in time?

14 A: No, ma'am.

15 MR. HUNTER: Objection to the relevance of that question,
16 Your Honor.

17 THE COURT: I'll -- over your objection, I'll allow it.
18 If he knows the answer to it, answer it.

19 BY MS. BLANCHETTE:

20 A: I think Mr. Jepertinger called me, maybe a month ago or a
21 maybe a little -- a month and a half ago, and told me that Mr.
22 Daniels is coming up for a PCR, and then he said that the
23 Attorney General's Office would be calling me. So sometime I
24 guess within the, you know, last month I got called, but back
25 in September or October I didn't know anything, no, ma'am.

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 Q: Since you had notice of Mr. Daniels' approaching PCR, did
2 you check with anyone else in your department to see if anyone
3 else interviewed Mr. Bostick?

4 A: Yes, ma'am. I actually went to Lieutenant Mike Brandt,
5 and I said I don't see anywhere in my report that we got a
6 statement from Mr. Bostick. Can you please look at -- they
7 keep a copy on their -- I guess hard drive of all statements,
8 and a matter of fact, they make copies of statements and Mr.
9 -- Lieutenant Brandt came back to me and said we don't have
10 any statement. I didn't see any written statement; so I can't
11 find a statement at all.

12 Q: Okay. And just to clarify, he's not saying that he gave
13 a statement, but you were looking into whether or not there
14 was -- sorry -- an interview conducted or just a statement?

15 A: I was trying to find if there was any written, verbal or
16 -- or a taped statement. I can't find anything.

17 Q: Okay. I've introduced or attempted to introduce a number
18 of statements in this case, and there are transcripts that
19 coordinate or correspond with an audio.

20 A: Yes, ma'am.

21 Q: I was just hoping you could shed some light on that
22 process. Why is it that you don't have the witnesses sign
23 those transcripts?

24 A: Since I've been -- I've been with the detective's
25 division since I think June or July of 1995, and I've -- I

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 haven't had anybody sign a statement. To be honest with you,
2 I'm still not sure why they put that at the end of any taped
3 statements, but I've never had anybody, you know, sign one
4 before.

5 Q: Is there still a copy of the transcript there in front of
6 you in a black notebook?

7 A: Uh-huh.

8 Q: If you could turn to page -- I have a question regarding
9 page 518. You were being questioned there I believe on cross-
10 examination by defense counsel, and he's asking you about
11 statements beginning on line 20. And you say, I mean the
12 people at the cook-out, I recorded their statements, Ms.
13 Brown, Ms. Fludd, and Shavonne.

14 I have been provided Mr. Lawson's file and I did not see
15 a statement of Tiesha Brown. Did you, in fact, take a
16 statement of Tiesha Brown?

17 A: I'd have -- I'd have to look. I know I talked to her
18 several times, but -- and I got what she said, but I'm not --
19 I don't have all the statements in front of me.

20 Q: And on page 486 in your testimony, you mentioned Andrew.
21 You don't say Andrew Williams, but you speak about Andrew, who
22 was at the hotel room with them. Did you ever speak to Mr.
23 Andrew Williams about being at the hotel room with Nyrena and
24 Mr. Daniels?

25 A: He was never at the hotel room.

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 Q: But my question was did you ever speak with him about
2 that?

3 A: No, ma'am, and the reason -- reason why is Mr. Williams
4 is completely after the fact of the time of the murder, and I
5 did check on one of the things Mr. Daniels did tell me, that
6 his uncle -- and at the time he told me he couldn't -- he
7 either gave me the first or last name, I can't remember. He
8 couldn't remember one of the names of his uncle. He said his
9 uncle rented a car at -- on Palmetto Street there -- Palmetto
10 and Irby basically, and I did confirm that he rented a car,
11 which around 11:30 that morning. The murder occurred around
12 5:07 that morning. He rented a car around 11:30 that morning.

13 He said Mr. -- his uncle picked him and Nyrena up at the
14 hotel after check-out time, and picked them up from there. So
15 I didn't interview Mr. Williams based on -- I've already
16 proved what Mr. Daniels said, that Mr. Williams rented a car
17 at 11:30. He had nothing to do with the murder at that point
18 in time.

19 Q: And that was in your opinion; is that correct?

20 A: Yes, ma'am, it was.

21 Q: On page 45 of the transcript, the State is attempting to
22 introduce the defendant's statements, and you explained that
23 you all talked for a while and then you turned on the
24 recording. Is that your typical practice?

25 A: Yes, ma'am, it is.

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 Q: And why is that?

2 A: Well, after thirty-one years of experience and experience
3 before this particular day, there's a lot said interviewing a
4 person, and what I mean by that is a lot -- and a lot of
5 people want to B.S. you. A lot of people want to talk about
6 things that had nothing to do with -- I guess what you're
7 there to talk about.

8 So there's a lot of stuff that we don't tape that. What
9 we tape is once we -- once the investigator or the officer
10 feels that they got what they think is as close to being the
11 truth as they can get, that's when they decide to do either a
12 written statement or a taped statement, and at that point we
13 ask the individual do you mind if we put this on tape or do
14 you mind if you write this down. And at that point, that's
15 when we do the statement. I'm sorry. Go ahead.

16 Q: Oh no, you can finish. I'm sorry.

17 A: But basically, if we record it -- and this wasn't a
18 situation, but I've been in situations where I interviewed,
19 you know, eight hours. We took breaks and got something to
20 eat. We went to the restroom and stuff like that, but finally
21 when it got down to it, we was ready to get a statement and we
22 asked him and, of course, they was Mirandized and knew what
23 they was doing, and then we get a taped statement of what we
24 think is the best truth or the most truth that we're going to
25 be able to get or a story that we're possible going to get and

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 we're not going to go any further and going to get -- or
2 anything else is going to come of more interview.

3 Q: So all the portion leading up to that, whether it could
4 be helpful to you or hurtful to you, potentially helpful to a
5 defendant, that isn't recorded. You choose what gets
6 recorded?

7 A: No, ma'am. I don't choose what gets recorded because
8 what gets recorded is what they say. Like I already testified
9 to, when I think we're not going to get -- go any further and
10 get any more information, we -- you know, are you willing to
11 put what you told me before on tape? Yes, sir. Well, it's
12 yes or no. And at that point, that's when I do -- I
13 Mirandized him before we even started talking, and Mirandized
14 him again when we do it on tape.

15 Q: And -- but that's just to get the statement portion.
16 Some law enforcement agencies interview the entire process,
17 you know, so it can be reviewed. That's not what you do. You
18 just record the statement portion; is that correct?

19 A: That's correct. Yes, ma'am.

20 Q: Okay. I'll move on then. Specifically, I want to look
21 at page 535 of your testimony. And there you're being
22 questioned about answering Gregory's cell phone during the
23 interview. And twice you say you didn't, and then you say you
24 did and you recognized it. You answered it because it was
25 Nyrena Goodman. Do you remember that? Could you shed some

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 light on that for me?

2 A: Okay. To -- to explain that, I didn't answer the phone
3 inside that room. I stepped out and answered it in the little
4 hallway. I'm gathering -- I didn't listen to the statement
5 the other day. I'm gathering you could hear me, but, yeah, I
6 did answer his phone. It was Ms. Goodman that was calling.

7 Q: And how did you know that it was Nyrena Goodman calling?

8 A: I'm not sure. I can't remember if I recognized the
9 number or her name come up on the phone. I'm not sure, but I
10 knew it was her. And I can't remember if the number came up
11 that I recognized during my investigation or her name come up.
12 That, I cannot remember, but I knew it was her when I answered
13 the phone.

14 Q: Now, I want to ask you some questions about your
15 investigation as it pertained to Clifton Ryan Evans, a name
16 that I've mentioned several times throughout this proceeding.
17 On page 1 of your report, it recounts information that Tiesha
18 gave you about seeing Mr. Evans next to the body when she
19 first saw the body --

20 A: Yes, ma'am.

21 Q: -- on the roadway. And then on page 471 and 472, you
22 give an explanation as to why you ruled him out as a suspect.
23 What investigation did you do to rule him out as a suspect in
24 this case?

25 A: Well, looking at the transcript, Tiesha said that there

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 was a vehicle that pulled up and they had a conversation. Did
2 you call the police? You know, did you see anything, stuff
3 like that, and realized that it was Mr. Evans. Tiesha said
4 her and I believe Shavonne Gass -- not Shavonne Gass. I'm
5 sorry. Mr. Byrd's sister, who showed up, went to Shavonne
6 Gass's house and at that time, it was right after the murder.

7 I guess understandably being upset and, you know, wanting
8 to accuse somebody, she accused Mr. Evans of possibly having
9 something to do and Shavonne had something to do with the
10 shooting, but I ruled him out because after -- during my
11 investigation, they started talking about the cook-out and
12 people arguing and Mr. Daniels being there. Mr. Evans had
13 been -- was at work at the time the cook-out was going on. He
14 did show up earlier that morning, wanting to go to a boot-
15 legger's house, and I think he was going to take Arthur White,
16 if I'm not mistaken, and Arthur decided his girlfriend was
17 there or something, and he don't -- he don't -- he decided he
18 does not want to go now.

19 I continue with the investigation. It looked like Mr.
20 Evans had nothing to do with it based on the cook-out, all the
21 witnesses that was testified that were there, and we even
22 offered Mr. Evans a polygraph, which he passed, and at that
23 time I felt that Mr. Evans just happened to be driving by like
24 he said he was and everybody else corroborated that he had
25 just left the house; so I ruled him out as a suspect.

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 MS. BLANCHETTE: Your Honor, if I could beg the Court's
2 indulgence one moment?

3 THE COURT: All right.

4 BY MS. BLANCHETTE:

5 Q: Now, on page 497, you explained that you did three trips
6 at the solicitor's request to check and see if the defendant
7 could essentially make it from the murder scene to the motel
8 in the time period being alleged?

9 A: Yes, ma'am.

10 Q: Did you ever check to see if what Tiesha was telling you
11 was perceivable at the scene or to check what Mr. Evans was
12 saying that he did that night? Did you check those trips?

13 A: I did not check and see if Tiesha -- because, again,
14 during the excitement of the first part, you know, right after
15 the shooting and the murder, I think Tiesha said one time she
16 was on the porch, and then another time she said her and
17 Brittany was walking to Marlboro and Dargan so she can meet
18 with Mr. Byrd. She said that she saw a dark clothing
19 individual, couldn't identify him, leaving that area of where
20 the incident occurred going towards Commander Street.

21 I didn't -- I didn't question or go back and look at her
22 stuff. Mr. Ryan Evans -- based on my investigation, there was
23 no reason and it's my belief there was no reason to discount
24 what Mr. Evans said based on the investigation I did, to go
25 back and look, but there was some question, could an

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 individual leave that crime scene and get to Country Hearth
2 Inn within the amount of time where the time was checked in
3 and it was very -- absolutely, it could be done.

4 Q: Now, Gabriel Peterson was one of the witnesses that
5 testified for the State and you interviewed him. Do you
6 recall that?

7 A: Yes, ma'am.

8 Q: Okay. And I'm going to show you what has been previously
9 marked as Applicant's Number 17 for identification purposes.
10 And if you could kindly turn to page 7? And there you're
11 asking Mr. Peterson about the time after he left Shavonne
12 Gass's home with Ryan Evans?

13 A: Yes, ma'am.

14 Q: And essentially, the first part you're asking him where
15 did you go, what did you get? We got a bottle of gin. And
16 then you say, okay, and at that point he took you home. And
17 what was his response to you at that point? After they got
18 the alcohol, what did they do? Did he go straight home or did
19 they sit there and drink the alcohol?

20 A: Let me -- and is there any particular place in here you
21 want me to look at?

22 Q: Right here you ask him --

23 A: Okay.

24 Q: -- after you got the gin, okay, and then at that point he
25 took you home. Did he ever indicate to you that he sat and

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 drank the bottle of gin --

2 A: No.

3 Q: -- for fifteen minutes with Mr. Evans like he testified
4 to at trial?

5 A: No, ma'am.

6 Q: Okay. So the information that he gave you in your
7 interview was that he went straight home after Mr. Evans got
8 the alcohol?

9 A: He said they went to the boot-legger's house I believe,
10 if I'm not mistaken, on Sopkin Avenue. I'm not sure.

11 Q: Yeah, that's on the page prior --

12 A: Okay.

13 Q: -- if you'd like to review it.

14 A: All right. And Mr. Peterson lives in Woodmount. That's
15 a subdivision they call off of Royal Street. Dropped him off
16 and then Mr. Evans came back and drove down the street. Of
17 course, I think Mr. -- if I'm not mistaken, Mr. Evans I
18 believe lives somewhere around Commander Street.

19 Q: Okay.

20 MS. BLANCHETTE: Your Honor, at this time I would just
21 renew my request to admit Applicant's Number 17.

22 MR. HUNTER: I will renew my objection, Your Honor.

23 THE COURT: Ruling remains the same.

24 MS. BLANCHETTE: Thank you, Your Honor.

25 BY MS. BLANCHETTE:

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 Q: Now, Investigator Compton, I want to ask you some
2 questions about Andre Bradley.

3 MS. BLANCHETTE: Your Honor, may I approach the witness?

4 THE COURT: Yes.

5 BY MS. BLANCHETTE:

6 Q: I'm going to show you what's been previously marked --
7 just for the sake of convenience, I'm going to give you a
8 couple of exhibits here. Applicant's 18, 19, and 20: 18 being
9 a packet of statements from Andre Bradley, 19 being a
10 statement from Jasmine Barrett, and 20 being a proffer
11 agreement with Andre Bradley.

12 A: Okay.

13 Q: Now, it lists that Lieutenant Clark I believe was
14 involved in the multiple conversations with Andre Bradley in
15 February of 2010?

16 A: Sergeant Clark, yes, ma'am.

17 Q: Sergeant Clark. I'm sorry.

18 A: Well, he was detective at that time.

19 Q: Okay. Now, would you have been aware of that interview?
20 Would that information have been shared with you?

21 A: Yes, ma'am. He told me that he had interviewed Mr.
22 Bradley.

23 Q: Okay. And was that essentially the audio and the
24 transcript that had been provided to you as part of your case
25 file?

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 A: Yes, ma'am.

2 Q: Okay. And then you conducted the interview of Jasmine
3 Barrett; is that correct?

4 A: Yes, ma'am, I did.

5 Q: Okay. I want to take you to page 372 of the transcript,
6 please. And specifically on pages 372 through 377, a
7 situation evolves whereby the judge asks if there's been any
8 offers made to Mr. Bradley?

9 A: Yes, ma'am.

10 Q: And it somewhat culminates on page 376, with you telling
11 the Court I haven't lied or done nothing. I'm sorry --
12 anything. And then you say, on line 15, I didn't know what
13 the law was in this court, I didn't know about that, I didn't
14 know what to do in this courtroom, Your Honor, when he's
15 questioning you about not turning over something.

16 A: Yes, ma'am.

17 Q: Can you just explain your memory of that?

18 A: Oh, I remember that really good. Judge Russo appeared to
19 be very upset and mad that there was possible I guess an
20 agreement between Mr. Bradley and the government and stuff,
21 and he started to -- let me back up. I think Mr. Lawson
22 brought up an argument, which that's part of his job to defend
23 Mr. Daniels, about this was an improperly done reference
24 letting Mr. Bradley to testify and that he doesn't see an
25 agreement and stuff like that, if I remember correctly.

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 And so Mr. -- Judge Russo was asking Mr. Jepertinger
2 about this and, next thing I know, I felt that the comments
3 were being towards me and that I'd done something wrong. And
4 at that point, neither attorney was standing up for me and I
5 thought should defend me because it looked like I was in
6 trouble, and I got up and started speaking that I didn't do
7 anything wrong. I had no idea. I'm not an officer of the
8 court and I'm not sure what procedures are, and what I was
9 testifying to -- or not testifying, but making a statement to
10 is.

11 When I learned Mr. Bradley had information that he wanted
12 to talk to us, I found out he had -- he was under federal
13 charges I understand. I found out who his attorney was. I
14 called Mr. Ervin. I asked him, Mr. Ervin, do you mind if I
15 interview your client because I'm working a murder
16 investigation? And he said yeah, you know, yeah, you can.
17 You know, he signed a proffer.

18 Now, I do know what a proffer is. I knew it back then.
19 I know what proffer is in the federal system. When you sign a
20 proffer, you're agreeing that you're going to tell everything
21 about the charges that you have and be truthful and be
22 truthful of any other crimes you may have committed or know
23 have been committed. And that's the only thing I knew was the
24 proffer.

25 Now, I never seen the proffer. Mr. Ervin just told me he

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 did sign a proffer and he's required by that proffer to talk
2 to you if he knows something. I told Mr. Jupertinger and, at
3 that point, that's all I know. I didn't know we had to get
4 paperwork from the federal courthouse and over here. I hadn't
5 -- I had no knowledge that what we had to do or even if I had
6 to do that. So that's what I was defending is I didn't do
7 anything wrong and I didn't lie.

8 Q: And are you saying that you told Mr. Jupertinger about
9 this before that day in court or you told him as that was
10 transpiring in the courtroom?

11 A: I mean I -- he obviously knew that Mr. Bradley was going
12 to testify. Now, reference to him knowing about a proffer, I
13 don't know. I just know when that -- that part of the
14 incident, I call it, happened in the courtroom, we went back
15 and called Mr. Ervin and called -- they called the federal
16 prosecutor, I think Mr. Parham or Mrs. Parham, I can't
17 remember, and tried to get that straightened out. But I had
18 nothing to do with that part of it.

19 Q: And ultimately, on around page 442 of the transcript, Mr.
20 Lawson questions Andre Bradley about that proffer and the fact
21 that he has to tell the truth and the benefit of that proffer.
22 So that was something that, it appears from the transcript,
23 that Mr. Lawson needed; is that correct?

24 A: I mean, if -- I -- I haven't looked at it, but if he said
25 that, I'm -- yes, yes, ma'am.

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 Q: Okay. What is the policy as far as turning materials
2 over to the Solicitor's Office?

3 A: Our policy or our -- I guess if the Solicitor's Office
4 asks for us to turn over anything we have on this case, we
5 have to turn it over to them. The records keeps all of our
6 paperwork and, of course, evidence keeps the evidence.

7 So if -- they could actually go to records themselves or
8 they usually call and somebody will send them to them however
9 they send it to them. Or if they ask me personally to bring
10 something to them, I will bring it to them. And they'll get
11 stuff out of evidence or the officer or crime scene, whoever
12 gets stuff out and gets it to the prosecutor's office.

13 But reference the proffer, I've never seen it, never
14 touched it. It was given from -- straight from the federal
15 people to Mr. Jepertinger at the time that he -- they needed
16 it.

17 Q: But you would agree you had access to Mr. Bradley and to
18 his attorney as part of this case? You had communications
19 with both of them?

20 A: Yes, ma'am. I had communications with Mr. Bradley and
21 Mr. Ervin.

22 Q: Now, is it plausible that you would talk to someone in
23 relation to a case and not memorialize that or make a writing
24 of that or a report?

25 A: If I talk to them? Yes, ma'am.

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 MS. BLANCHETTE: Your Honor, if I could beg the Court's
2 indulgence one moment?

3 THE COURT: All right.

4 MS. BLANCHETTE: And Your Honor, I apologize. I'm just
5 looking for something I had earlier today.

6 (WHEREUPON, there was a pause in the proceedings as
7 counsel conferred.)

8 MS. BLANCHETTE: Your Honor, may I approach the witness?

9 THE COURT: Yes, ma'am.

10 BY MS. BLANCHETTE:

11 Q: Lieutenant Compton; correct? I'm sorry.

12 A: Yes. You're okay.

13 Q: I forget sometimes. Could you identify that document
14 that I just handed to you?

15 A: It's a letter from Mr. Etheridge, I guess from Gardner
16 Law Firm.

17 Q: Okay. And what's it referencing?

18 A: In reference -- reference -- well, I can read it. Mr.
19 Bostick has indicated to me he's willing to talk to you, but
20 wants to do this in my office and have no objection to this
21 meeting. And my office will be closed during the holidays and
22 stuff.

23 Q: Okay. And --

24 THE COURT: Has that been marked as an exhibit number?

25 MS. BLANCHETTE: It is not this time, Your Honor. I can

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 mark it for identification purposes.

2 THE COURT: Any objections?

3 MR. HUNTER: Your Honor, we've pre-marked it as State's
4 Exhibit Number 2. We decided not to enter it.

5 THE COURT: Okay. Any objection to it being admitted?

6 MR. HUNTER: No, Your Honor.

7 THE COURT: All right. Go ahead. Mark it, please.

8 MS. BLANCHETTE: As Applicant's Number 31, Your Honor.

9 THE COURT: All right.

10 (WHEREUPON, Applicant's Exhibit Number 31, a letter, was
11 admitted into evidence.)

12 BY MS. BLANCHETTE:

13 Q: Now, my question is, this letter -- I was provided it
14 yesterday. I'm sorry, not yesterday. It feels like it was
15 yesterday. I was provided it when we were proceeding on
16 Tuesday.

17 A: Yes, ma'am.

18 Q: Where did this letter come from?

19 A: I found it in with some papers I had.

20 Q: And was that in relation to this case?

21 A: I'm sorry?

22 Q: To Mr. Gregory Daniels' case?

23 A: Yes, ma'am. I had it in my papers and I didn't know I
24 had it and when I was told about it and I was going through my
25 papers, I found it, and immediately as soon as I found it I

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 gave it to Mr. Hunter and told him, you know, I don't know if
2 y'all got this or not. I said I found it and I wanted to give
3 it to you.

4 Q: So that would have been in your file as it relates to
5 Gregory Daniels' case?

6 A: Yes, ma'am. And I'm -- and I -- I may not have ever gave
7 it to records. I don't know. I found it in stuffed in some
8 papers I had and so I'm not sure. I'd have to go back to
9 records and see, but they may not have it. But I wanted to
10 make sure, since I found it, to give it to him.

11 Q: And that letter essentially indicates, as your testimony
12 is today, that you were trying to meet --

13 A: Uh-huh.

14 Q: -- with Mr. Bostick; is that correct?

15 A: Yes, ma'am.

16 Q: Now, if Mr. Lawson argued in closing that you never tried
17 to interview him, no one ever tried to talk to him, would you
18 agree with that statement? Did you try to talk to him?

19 A: I tried to talk to him, but I didn't know I had -- I
20 didn't remember I even had this.

21 Q: And would you agree that Mr. Lawson was most likely never
22 informed about that?

23 A: More than -- probably. I didn't -- like I said, I don't
24 remember having this, but I never was able to talk to him.

25 Q: And, Investigator Compton, just for the record,

TIMOTHY COMPTON - CROSS BY MS. BLANCHETTE

1 Applicant's Exhibit 18 and 19, you indicated that you were
2 familiar with those documents and those were part of your
3 file; is that correct?

4 A: Yes, ma'am.

5 MS. BLANCHETTE: Your Honor, if I failed to do so, I just
6 renew my attempt to introduce those into the record at this
7 time.

8 THE COURT: So noted.

9 MS. BLANCHETTE: And, Your Honor, you said I was
10 continued on that. I'd also renew my request as to all the
11 other documents that I have attempted to introduce that were
12 generated by Mr. Compton and his investigation of this case.

13 THE COURT: So noted.

14 MS. BLANCHETTE: Thank you, Your Honor. If I could beg
15 the Court's indulgence one moment?

16 THE COURT: Yes, ma'am.

17 BY MS. BLANCHETTE:

18 Q: Mr. Compton -- I'm sorry. Lieutenant Compton, did you
19 find anything else when you found that letter that may not
20 have been in the file?

21 A: No, ma'am.

22 MS. BLANCHETTE: Your Honor, I have no further questions.

23 THE COURT: Any further -- any redirect?

24 MR. HUNTER: No, Your Honor.

25 THE COURT: Sir, you may step down. Thank you.

1 THE WITNESS: Thank you.

2 MR. HUNTER: The State has no further witnesses, Your
3 Honor.

4 THE COURT: Ms. Blanchette, anything else?

5 MS. BLANCHETTE: Very briefly, Your Honor, and if you'd
6 like to hear further from me, I'd be happy to do that in
7 writing. If you have any questions or anything --

8 THE COURT: Well, you had indicated -- you indicated
9 earlier that you had something you wanted to submit --

10 MS. BLANCHETTE: I do. I have a --

11 THE COURT: -- along with some --

12 MS. BLANCHETTE: I have a couple of cases that I wanted
13 to hand up.

14 THE COURT: Hold on. Along with some argument -- let me
15 finish my sentence.

16 MS. BLANCHETTE: Oh, I'm sorry, Your Honor.

17 THE COURT: All right. Go ahead though. Go ahead.

18 MS. BLANCHETTE: Okay. I apologize.

19 THE COURT: That's okay.

20 MS. BLANCHETTE: I was jumping the gun there. I do have
21 several cases that I wanted to hand up. I have provided a
22 copy of those to the State --

23 THE COURT: All right.

24 MS. BLANCHETTE: -- prior to today's hearing, and I will
25 be happy to respond to anything in writing. I didn't plan to

1 detail the argument. I just wanted to provide some cases for
2 your review.

3 THE COURT: If you'll hand them up here to my law clerk?

4 MS. BLANCHETTE: Okay.

5 THE COURT: That'd be great.

6 MS. BLANCHETTE: And if I could just make a couple of
7 notes on several of them as to the reason that I'm handing
8 them up?

9 THE COURT: Okay.

10 MS. BLANCHETTE: The first case and the one that I really
11 wanted to touch on is *Lounds*. It's the case that I could
12 find that's closest to the situation. I've only in my career
13 had one instance where the attorney was unavailable. And in
14 this case, as we know, Mr. Lawson is deceased, and we've had
15 testimony about his reputation, and I mean no disrespect to
16 that whatsoever, Your Honor, but his reputation is not enough
17 to sustain or to argue against our allegation of ineffective
18 assistance of counsel.

19 In *Lounds*, there the attorney failed to testify, and it
20 would be my position that his testimony would be needed to
21 refute a number of our allegations. In *Lounds*, they cite to
22 *Ard v. Cato*. That says that a reasonable investigation at a
23 minimum is a duty to interview potential witnesses and make an
24 independent investigation of the facts and circumstances of
25 this case.

1 I believe it's been unrefuted that, if anything, he
2 didn't even talk to Mr. Bostick. There's been some testimony
3 about what he typically does in a case, and I know that
4 Lieutenant Compton probably gave us probably the only first-
5 hand information of involvement with Mr. Lawson in the case.
6 But here -- and I know it's no fault of the State, but the
7 truth is Mr. Lawson didn't testify. He can't give us a
8 reasonable strategy or you can't deem something reasonable
9 strategy based upon his testimony because he's simply not
10 present.

11 So that's why I handed that case up. It was just the
12 closet thing I could find on point to when an attorney isn't
13 present to testify. I'm not saying it's an automatic win or
14 we deserve summary judgment or anything. I'm just asking the
15 Court to factor that into his analysis.

16 THE COURT: Yes, ma'am.

17 MS. BLANCHETTE: Additionally, I handed up *Glover*. That
18 deals with inaction, such as failure to contact witnesses. So
19 that goes to the point that it can be action or inaction
20 that's ineffective.

21 *Pullman* deals with the failure to object.

22 I handed up two cases that deal with third party guilt:
23 *Holmes*, which sets forth our current standard in South
24 Carolina, and then *Miller*, just because that was a PCR granted
25 on counsel's failure to cross-examine on third-party guilt.

1 And that's something that I tried to go to in our case in
2 chief, the availability of that.

3 And then we have alleged a Brady violation in this case
4 and/or prosecutorial misconduct and/or ineffective assistance
5 of counsel as to our issue that deals with Gary Bostick. I've
6 handed Your Honor a case of *Kyles v. Whitley*, which deals with
7 a Brady violation on habeas corpus level. So I find that to
8 be very instructive in this case.

9 *Gibson*, which finds that a Brady violation is
10 prosecutorial misconduct, and Judge Cooper out of Richland
11 actually got reversed for not finding that, but the Court
12 gives the analysis that if there is a Brady violation, it then
13 has to essentially be prosecutorial misconduct. And in there
14 the relief was actually granted because law enforcement failed
15 to disclose that they did not believe the witness.

16 And I think that's very close on point to the testimony
17 that was elicited today. It wasn't that there was a statement
18 or a written interview or anything of that nature; it was just
19 their belief that they didn't believe a witness wasn't
20 disclosed. And I think that would be very in line with the
21 facts we have today.

22 In *Riddle*, a PCR was also granted on a Brady violation.
23 I handed that up. That dealt with statements in evidence as
24 it related to a witness that wasn't disclosed.

25 And then finally, I handed up one final case. And I

1 apologize. I did not write the full name for myself. If you
2 don't mind, let me look at that real quick.

3 I handed up *Gibson v. State*, which I think I've already
4 referenced or mentioned, and then *Washington v. State*, which
5 goes over a failure to correct knowingly false information and
6 whether or not that is a, in fact, Brady violation or
7 prosecutorial misconduct.

8 So those are the cases that I provided to the State. I
9 would be happy to supply anything additional that the Court
10 would request.

11 THE COURT: All right.

12 MR. HUNTER: All right. Your Honor, just very briefly.
13 The State submits that Mr. Lawson did provide effective
14 representation. Under *Strickland*, there's a strong
15 presumption that counsel's conduct falls within the wide range
16 of reasonable and professional assistance. A silent record
17 doesn't, you know, negate that.

18 With regard to the prosecutorial misconduct allegations,
19 the State would submit that under *Riddle v. Ozment*, an
20 individual asserting a Brady violation must demonstrate that
21 the evidence, one, is favorable to the accused, two, in
22 possession of or known by the prosecution, three, was
23 suppressed by the State, and, four, was material to the
24 accused's guilt or innocence or is impeaching.

25 The State would submit that the applicant has failed at

1 every prong of that. They have not proven that there was a
2 statement, that it was in the possession of the prosecution,
3 that it was favorable to the accused, that the State
4 suppressed it or it was material to the accused's guilt or
5 innocence. The testimony is clear from both John Jepertinger
6 and Mr. Compton that they were unaware of any statement and
7 that no statement was ever taken.

8 A brief moment, Your Honor.

9 As regards to a third-party guilt defense, the State
10 would just rely on the *Gregory* standard, and we do not believe
11 that that has been met here I don't think. The State would
12 submit that applicant has attempted to lay the blame on
13 Clifton Evans or some other unknown person, but the facts
14 presented at trial, as well as the testimony presented here
15 today, show that those allegations are not indicative of a
16 strong enough -- strong enough evidence that that would have
17 been a valid third-party guilt defense.

18 And with regard to any other allegations, the State would
19 just rest on the record and the testimony before the Court.

20 THE COURT: All right. Anything else, Ms. Blanchette?

21 MS. BLANCHETTE: No, Your Honor.

22 THE COURT: All right. If each of you will give me a
23 proposed order within fifteen days? You have fifteen days to
24 get me a proposed order and I'll go from there. All right.

25 MS. BLANCHETTE: Thank you, Your Honor.

1 THE COURT: Thank you.

2 MR. HUNTER: Thank you, Your Honor.

3 THE COURT: Thank you.

4 (WHEREUPON, the proceedings ended at 2:19 p.m.)

5

6 --- END OF REQUESTED TRANSCRIPT ---

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF FLORENCE)

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 335, constitute a true, accurate, and complete Transcript of Record of all the requested portion of the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Florence County, South Carolina, on the 14th and 17th days of April, 2015.

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

Krystal J. Smith
Court Reporter

Florence, South Carolina
December 2, 2015

RECEIPT FOR EXHIBITS

CASE NO. 13-CP-21-280 JUDGE D. Craig Brown
 PLAINTIFF: Gregory Daniels PLTF'S ATTY. T. Blanchette
 DEFENDANT: State of SC DEF'D ATTY. C. Hunter
 DATE TRIAL STARTED: 4-14-15 DATE TRIAL ENDED: _____

Received of Krystal J. Smith, Court Reporter for the above case, these exhibits:

| | This space for Clerk of court's use |
|---|---|
| 1. <u>Applicant's 1 incident report</u> | |
| 2. <u>Applicant's 2 letters</u> | |
| 3. <u>Applicant's 3 transcript of Goodman audio</u> | 10 |
| 4. <u>Applicant's 4 statement of Sharonie Goss</u> | 10 |
| 5. <u>Applicant's 5 key card surpses - list</u> | |
| 6. <u>Applicant's 6 statement of Daniels</u> | |
| 7. <u>Applicant's 7 search warrant</u> | |
| 8. <u>Applicant's 8 incident report</u> | |
| 9. <u>Applicant's 9 phone records</u> | |
| 10. <u>Applicant's 10 phone records</u> | |
| 11. <u>Applicant's 11 incident report</u> | 10 |
| 12. <u>Applicant's 12 polygraph report</u> | 10 |
| 13. <u>Applicant's 13 Statement</u> | 10 |
| 14. <u>Applicant's 14 transcript of statement</u> | 10 |
| *15. <u>Applicant's 15 incident report</u> | 10 |
| 16. <u>Applicant's 16 polygraph report</u> | 10 |
| 17. <u>Applicant's 17 Statement</u> | 10 |
| 18. <u>Applicant's 18 Statement - Ande Bradley</u> | 10 |
| 19. <u>Applicant's 19 Statement - Jammie</u> | 10 |
| 20. <u>Applicant's 20 proffer agreement</u> | |

This 14th day of April 2015

Page 1 of 2

FLORENCE COUNTY CLERK OF COURT

By: _____

RECEIPT FOR EXHIBITS

CASE NO. 13-CP-21-280 JUDGE D. Craig Brown
PLAINTIFF: Gregory Daniels PLTF'S ATTY. T. Blanchette
DEFENDANT: State of SC DEF'D ATTY. C. Hunter
DATE TRIAL STARTED: 4-14-15 DATE TRIAL ENDED: _____

Received of Krystal J. Smith, Court Reporter for the above case, these exhibits:

| | This space for Clerk of court's use |
|--|-------------------------------------|
| 1. <u>Applicant's 21A → D audio CD</u> | |
| 2. _____ | |
| 3. _____ | |
| 4. _____ | |
| 5. _____ | |
| 6. _____ | |
| 7. _____ | |
| 8. _____ | |
| 9. _____ | |
| 10. _____ | |
| 11. _____ | |
| 12. _____ | |
| 13. _____ | |
| 14. _____ | |
| 15. _____ | |
| 16. _____ | |
| 17. _____ | |
| 18. _____ | |
| 19. _____ | |
| 20. _____ | |

This 14th day of April 20 15

Page 2 of 2

FLORENCE COUNTY CLERK OF COURT

By: _____

RECEIPT FOR EXHIBITS

CASE NO. 13-CP-21-280 JUDGE D. Craig Brown
 PLAINTIFF: Gregory Daniels PLTF'S ATTY. T. Blanchette
 DEFENDANT: State of SC DEF'D ATTY. C. Hunter
 DATE TRIAL STARTED: 4-17-15 DATE TRIAL ENDED: 4-17-15

Received of Krystal J. Smith, Court Reporter for the above case, these exhibits:

| | This space for Clerk of court's use |
|---|-------------------------------------|
| 1. State's 1 letter from Daniels to Lawson 9/1/09 | |
| 2. Applicants 22 color photo | |
| 3. Applicants 23 color photo | |
| 4. Applicants 24 color photo | |
| 5. Applicants 25 map | |
| 6. Applicants 26 video on USB drive | |
| 7. Applicants 27 color photo | |
| 8. Applicants 28 color photo | |
| 9. Applicants 29 color photo | |
| 10. Applicants 30 color photo | |
| 11. Applicants 31 letter | |
| 12. _____ | |
| 13. _____ | |
| 14. _____ | |
| 15. _____ | |
| 16. _____ | |
| 17. _____ | |
| 18. _____ | |
| 19. _____ | |
| 20. _____ | |

This 17th day of April 2015

Page 1 of 1

FLORENCE COUNTY CLERK OF COURT

By: _____

INCIDENT REPORT SUPPLEMENTAL

Case Number: 2008-008875

Officer: 286A COMPTON, T

Date Entered/Changed: 12/30/2008

Reviewer: 286A

Review Date: 12/30/2008

DETAILED STATEMENT OF INVESTIGATION:

MURDER
SHOOTING

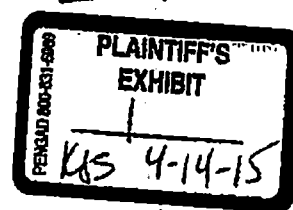
CASE # 2008-008875

DATE: 12-01-08

TIME: 0820 HRS.

SGT. TIM COMPTON

CASE STATUS: ARREST



ON FRIDAY 09-05-08 I RECEIVED A CALL OF A SHOOTING AT THE CORNER OF MARLBORO ST. AND DARGAN ST. I ARRIVED AT THE CRIME SCENE I MET WITH CPL. (WORTHINGTON) WHO BRIEFED ME. HE STATED THE VICTIM WAS AT A PARTY EARLIER IN THE NIGHT AT [REDACTED] LIBERTY ST. HE STATED THE VICTIM'S GIRLFRIEND HAD TOLD THEM A BLACK MALE IN A GREEN SUV WAS DRIVING AROUND THE COOK OUT HANGING OUT OF THE WINDOW YELLING AT THE VICTIM SAYING " YOU GOING TO DIE TONIGHT " AND WAS COCKING A GUN. HE TOLD ME THE VICTIM WAS A COREY LEE (BYRD), BLACK MALE, [REDACTED] RD. FLORENCE SC. CPL. (WORTHINGTON) STATED THE VICTIM'S GIRLFRIEND TIESHA (BROWN) WAS CALLED BY THE VICTIM AND SHE WAS TOLD TO MEET HIM AT THE STOP SIGN ON THE CORNER OF MARLBORO ST. AND N. DARGAN ST. I WENT TO OFFICER (USSERY) WHO STATED THE VICTIM WAS AT A COOK OUT AT [REDACTED] LIBERTY ST. AND A GREEN SUV WITH A BLACK MALE HANGING OUT THE WINDOW COCKING A GUN SAYING " YOU GOING TO DIE TONIGHT ". HE STATED A SHAVONNE (GASS) COUSIN WAS WITH THE VICTIM AT [REDACTED] LIBERTY ST. SHE ALSO HAS AN ADDRESS OF [REDACTED] # [REDACTED], D.O.B. [REDACTED]. OFFICER (USSERY) STATED TIESHA (BROWN) ONLY HEARD ABOUT THE BLACK MALE AND GREEN SUV BUT NEVER OBSERVED THIS. HE STATED THE VICTIM'S GIRLFRIEND TIESHA (BROWN) STATED SHE LEFT EARLIER AND SHE RECEIVED A CALL FROM THE VICTIM AS HE WAS GETTING READY TO LEAVE AND HE TOLD HER HE WAS GOING TO BE DROPPED OFF AT THE CORNER OF MARLBORO ST. AND N. DARGAN ST. AND SHE HEARD THE VICTIM SAY TO SHAVONNE (GASS) TO GET HIS CHARGER. I TALKED TO SGT. LEE ([REDACTED]) WHO STATED THE VICTIM (BYRD) WAS A WITNESS TO HIS MURDER CASE AND THE SUSPECT WAS. I LEARNED THE VICTIM HAD BEEN SHOT IN THE SHOULDER APPROX. A MONTH AND HALF AGO BY GARY (BOSTICK). I TALKED TO THE VICTIM (ELIZABETH (BYRD) [REDACTED] FLORENCE SC. # [REDACTED], CELL # [REDACTED]. I ENTERED THE CRIME SCENE AND MET WITH CRIME SCENE TECH BO (MYERS) WHO FOUND THE VICTIM'S SC ID CARD IN HIS LEFT FRONT PANTS POCKET. THE VICTIM APPEARED TO BE SHOT IN THE HEAD. CRIME SCENE TECH. BO (MYERS) TOOK PHOTOS OF THE CRIME SCENE AND PROCESSED THE SCENE. I INTERVIEWED THE VICTIM'S GIRLFRIEND TIESHA (BROWN) [REDACTED] ST., D.O.B. [REDACTED], AGE: [REDACTED], HOME # [REDACTED], CELL # [REDACTED]. SHE STATED THE VICTIM WAS AT THE COOK OUT AT SHAVONNE (GASS) HOUSE [REDACTED] LIBERTY ST. AND SHE WAS WITH HIM BUT LEFT WITH BRITTANY (FLUDD) APPROX. 0300 HRS. SHE STATED SHE RECEIVED A CALL FROM THE VICTIM AS HE WAS LEAVING THE COOK OUT. HE TOLD HER HE HAD A RIDE AND TO MEET HIM AT THE CORNER OF MARLBORO ST. AND N. DARGAN ST. SHE STATED SHE KEPT CALLING HIM AND THERE WAS NO ANSWER. SHE STATED HER AND HER FRIEND BRITTANY STARTED WALKING UP MARLBORO ST. TOWARDS N. DARGAN ST. WHEN SHE HEARD A GUN SHOT AND SHE LOOKED AND SAW A DARK FIGURED MAN WITH DARK CLOTHING WALK FROM N. DARGAN ST. ONTO MARLBORO ST. TOWARDS COMMANDER ST. SHE STATED SHE WALKED TOWARDS [REDACTED] MART AND SHE WALKED THROUGH THE INTERSECTION WHEN SHE LOOKED BACK AND OBSERVED A BODY LYING ON THE GROUND JUST NORTH OF MARLBORO ST. SHE STATED SHE STARTED TOWARDS THE BODY WHEN A " RYAN " SUBJECT DROVE UP IN A GREEN SUV AND GOT OUT AND BENT OVER AND LOOKING AT THE BODY AND HE THEN SAW HER AND SAID " WHAT YOU DOING HERE ", " DID YOU SEE ANYTHING " AND SHE SAID " NO, " NO ", AND THEN ASKED HER " DID YOU CALL THE POLICE " ? HE THEN DROVE OFF. SHE STATED AFTER THE POLICE ARRIVED SHE AND THE VICTIM'S SISTER ERICA (EGLETON), [REDACTED] ST. # [REDACTED], DROVE IN ERICA'S VEHICLE TO [REDACTED] LIBERTY ST. AND THE SAME GREEN SUV WAS THERE. SHE STATED " RYAN " WAS SHUTTING THE PASSENGER DOOR TO THE SUV AND A GUY NAMED " ARTHUR " WAS SITTING ON THE FRONT PORCH AND JUMPED UP AND STARTED TO GO INSIDE OF THE HOUSE, WHEN " ERICA " GOT OUT OF THE VEHICLE AND STATED " WHY ARE YOU ABOUT TO RUN ", " WHAT HAPPENED TO MY BROTHER "? SHAVONNE (GASS) STATED " WE DON'T KNOW ", " HE LEFT HERE WALKING ". SHE STATED " RYAN " SAID " ASK HER SHE WAS THE LAST PERSON WITH HIM ". SHE STATED THEY STARTED ARGUING WITH " RYAN ". SHE STATED " ERICA " STATED " SHE CAN'T HANDLE THIS ". SHE STATED THEY WENT BACK TO THE CRIME SCENE. I ATTEMPTED TO CALL THE VICTIM'S SISTER " ERICA " AND I LEFT A MESSAGE FOR HER TO CALL ME. I INTERVIEWED BRITTANY (FLUDD) [REDACTED], D.O.B. [REDACTED], AGE: [REDACTED], CELL # [REDACTED]. SHE STATED SHE RECEIVED A CALL FROM TIESHA (BROWN) STATING SHE FOUND A BODY AND SHE THINKS IT WAS " COREY " AND SHE WALKED DOWN THERE AND SHE MOVED THE BODY TO SEE WHO IT WAS AND OBSERVED IT WAS " COREY " AND HIS PHONE STARTED RINGING AND SHE THOUGHT IT WAS " COREY'S " MOM CALLING SO SHE ANSWERED IT BY SAYING " HELLO IS THIS HIS MOM " AND THE GIRL ON THE OTHER LINE SAID " YES " AND SHE STATED TIESHA (BROWN) LOOKED AT THE NUMBER AND TOLD HER THAT WAS NOT HIS MOM AND FOR HER TO HANG UP THE PHONE. MAJOR (RAINES) WENT TO [REDACTED] LIBERTY ST. AND THERE WAS NO ANSWER. I HAD HIM GO TO [REDACTED] AND HE PICKED UP SHAVONNE (GASS) AND HE TOOK HER TO THE OFFICE. I WAS DRIVING TIESHA (BROWN) TO MY OFFICE AND ERICA (EGLETON) CALLED ME AND SHE TOLD ME THAT HER AND TIESHA (BROWN) DID GO TO [REDACTED] LIBERTY ST. AND A BLACK MALE WITH DREADS WEARING A WHITE SHIRT DID TRY TO TEASE HER AND THEY GOT INTO AN ARGUMENT WITH RYAN (EVANS), SHAVONNE (GASS) AND UNKNOWN BLACK MALE. CRIME SCENE TECH BO (MYERS) GAVE ME THE VICTIM'S CELL PHONE LIST. I HAD BO (MYERS) PUT TOGETHER A PHOTO LINE-UP ON CLIFTON RYAN (EVANS), SEE CASE #

INCIDENT REPORT SUPPLEMENTAL

Case Number: 2008-008875

Officer: 286A COMPTON, T

Date Entered/Changed: 12/30/2008

Reviewer: 286A

Review Date: 12/30/2008

2008-007993. I WENT TO MY OFFICE AND DET. JOHN (GRAHAM) AND I INTERVIEWED SEAVONNE TERMELLE (GASS) LIBERTY ST. HOME # [REDACTED], NO CELL, D.O.B. [REDACTED], AGE: [REDACTED], SS # [REDACTED]. SHE STATED THE VICTIM LAID IN HER BED WITH HER JUST TALKING AND SHE STATED TIESHA (BROWN) KEPT CALLING AND HE STATED HE HAD TO GO AND SHE STATED "COREY" LEFT WALKING AND CALLED HER AT 0455 HRS. AND THEY TALKED APPROX. (10) TO (15) MINUTES AND THEN HE STOPPED TALKING. SHE STATED SHE TRIED TO CALL HIM BACK AND NO ANSWER. SHE STATED ONE TIME A GIRL ANSWERED THE PHONE AND ASKED HER IF THIS WAS HIS "MOM MA". AND SHE STATED "NO". SHE STATED THE GIRL THEN HUNG UP THE PHONE. SHE STATED APPROX. 0600 HRS. SHE WAS GETTING THE KIDS READY FOR SCHOOL WHEN AN OLDER BLACK MALE WIT TEETH MISSING IN FRONT TOLD HER "COREY" WAS DEAD. SHE STATED AFTER THAT "ERICA" AND "TIESHA" CAME UP STATING "SOMEBODY KNOWS SOMETHING", AND "WHAT HAPPENED TO MY BROTHER"? SHE STATED ARTHUR (WHITE), D.O.B. [REDACTED], LIVES WITH HER AND RYAN (EVANS) WAS WITH THEM WHEN "ERICA" AND "TIESHA" DROVE UP. SHE DID SAY "COREY" DID TRY TO GET "RYAN" TO TAKE HIM TO MARLBORO ST. BUT "RYAN" DID NOT TAKE HIM. SHE STATED "RYAN" DOES DRIVE A DARK COLORED YUKON. I CALLED ARTHUR (WHITE) WHO STATED HE HAD NOTHING TO DO WITH THIS. I ASKED HIM ABOUT WHAT HAPPENED AND HE STATED "COREY" KNOCKED ON THE DOOR AND SAID HE WAS LEAVING AND ASKED ABOUT A PHONE CHARGER AND HE THEN LEFT WALKING. HE STATED HE WAS IN BED AT THE TIME, BUT DID NOT SEE HIM WALKING. HE STATED HE DID NOT HEAR OR SEE ANYONE THREATEN "COREY". CRIME SCENE BO (MYERS) CAME IN AND GAVE ME A PHOTO LINE-UP ON CLIFTON RYAN (EVANS). I SHOWED THE PHOTO LINE-UP TO TIESHA (BROWN) AND WITH NO PROBLEM SHE PICKED OUT RYAN (EVANS) AS THE PERSON WHO DROVE UP AND LOOKED AT THE VICTIM LYING ON THE GROUND. I RECEIVED A CALL FROM CPL. DANNY (CAMLIN) WHO STATED HE RECEIVED A CALL FROM PROBATION AND PAROLE OFFICER ALLEN (COLLINS) WHO STATED THERE WAS A FIGHT AT THE COOK OUT WHICH INVOLVED THE "WOODMOUNT BOYS". I CALLED HIM ALLEN (COLLINS) WHO CONFIRMED THERE WAS A FIGHT AT THE COOK OUT WHERE "WOODMOUNT BOYS" FOUGHT. I REINTERVIEWED TIESHA (BROWN) WHO STATED HER AND THE VICTIM COREY (BYRD) WAS FRIENDS AND HER BOYFRIEND BRANDON (FLUDD'S) FATHER WAS UPSET WITH HER ABOUT HER MISSING AROUND AND THREATENING HER AND THE VICTIM. SHE STATED HER BOYFRIEND BRANDON (FLUDD) IS IN JAIL AND SHE WAS LIVING WITH HIS FAMILY AND THAT IS WHY SHE WAS MEETING "COREY" AWAY FROM THE RESIDENCE. I ASKED HER IF I COULD LOOK AT HER CELL PHONE AND IT SHOWS "COREY" CALLED HER FROM # [REDACTED] AT 0452 HRS. FOR (2) MINUTES AND (2) SECONDS. THERE WERE OUTGOING CALLS TO "COREY'S" CELL PHONE FROM 0339 HRS. TO 0514 HRS. I REINTERVIEWED SEAVONNE (GASS) WHO STATED SHE IS NOT RELATED BUT THEY CALL EACH OTHER COUSINS. SHE STATED SHE WAS IN BED WHEN "COREY" WALKED OUT OF THE HOUSE, SHE STATED WHILE HE WAS WALKING [REDACTED] SHE WAS TALKING TO HIM. SHE STATED HE CALLED HER AFTER HE HAD LEFT WHICH WAS AROUND 0455 HRS. FOR APPROX. (10) TO (15) MINUTES. SHE STATED THEY WERE NOT LOVERS NOR EVER HAD SEX. SHE DID NOT KNOW IF HE WAS IN A GANG OR NOT. I CALLED A (CI) AND ASKED FOR THEIR HELP. I CALLED KEVIN (HENICKS) AKA: "DREAD" OR "KEV", # [REDACTED] WHO HAD SEVERAL TEXT MESSAGES ON THE VICTIM'S CELL PHONE. I ASKED HIM TO COME TO MY OFFICE AND HE AGREED. KEVIN (HENICKS) BLACK MALE, D.O.B. [REDACTED], AGE: [REDACTED], SS# [REDACTED], FLORENCE SC. HOME # [REDACTED] CELL # [REDACTED]. HE STATED HIM AND "COREY" WENT TO THE COOK OUT AT [REDACTED] LIBERTY ST. AND THEY WERE TO GO TO A FISH FRY ON SOPKIN AVE. WHICH THEY WENT THERE TOO. HE STATED "COREY", SEAVONNE (GASS) AND ARTHUR (WHITE) WENT TO THE STORE AND WHEN THEY GOT BACK APPROX. (5) TO (7) "WOODMOUNT BOYS" BEAT ANOTHER GUY FROM "WOODMOUNT BOY" WHO HAD ON A PETRO WORK SHIRT AKA: "LITTLE B" AND "LITTLE B" PULLED A GUN AND THE "WOODMOUNT BOYS" PULLED THEIRS. HE STATED "COREY" BROKE [REDACTED] AND HELP [REDACTED] "LITTLE B" DET. GEORGE (CLARK) NOTICED A STAIN ON KEVIN (HENICKS) BLUE JEANS AND HE STATED IT WAS HOT SAUCE FROM THE FISH FRY ON SOPKIN AVE. I ASKED HIM IF WE COULD CHECK HIS PANTS OUT AND HE AGREED. HE WAS TAKEN DOWN TO THE CRIME SCENE LAB WHERE THE STAIN WAS TESTED FOR BLOOD AND IT CAME BACK POSITIVE. PHOTOS WERE TAKEN AND SAMPLES WERE ALSO TAKEN OF THE STAIN. I RECEIVED A CALL FROM A (CI) WHO STATED THEY LEARNED "COREY" HAD ROBBED AKA: "SLIM" IN WOODMOUNT LAST WEEK FOR \$ 3,600.00. THE (CI) WAS SAYING THAT TRAVIS (CHARLES) AKA: "FRIMO" WAS TELLING THIS INFORMATION TO SOMEONE CLOSE TO THEM, BUT COULD NOT GIVE ME THIS INFORMATION. I LEARNED AKA: "SLIM" IS JAMES (BLACK) [REDACTED] FLORENCE SC., D.O.B. [REDACTED], SS# [REDACTED], # [REDACTED], SC ID# [REDACTED]

ON SATURDAY 09-06-08 I RECEIVED A CALL FROM TIESHA (BROWN) WHO STATED THERE WAS A FIGHT AT THE COOK OUT AND SOMEONE WAS FOLLOWING "COREY". SHE STATED SEAVONNE (GASS) IS NOT TELLING YOU EVERYTHING. I RECEIVED A CALL FROM BO (MYERS) WHO STATED THE AUTOPSY SHOWED THE VICTIM WAS SHOT WITH A .22 CAL. TO THE RIGHT SIDE OF THE HEAD JUST ABOVE THE EAR. THE BULLET WAS RECOVERED.

ON SUNDAY 09-07-08 I RECEIVED A CALL FROM THE VICTIM'S SISTER ERICA (EGLETON) WHO STATED THERE WAS A FIGHT AT THE COOK OUT AT SEAVONNE (GASS) PLACE AND "COREY" GOT INTO IT WITH A BLACK MALE NAMED AKA: "SCOPE". SHE STATED HER GOOD FRIEND WAS TALKING TO SEAVONNE (GASS) WHO TOLD HER THAT "COREY" CALLED HER WHILE HE WAS WALKING TO MEET TIESHA (BROWN) AND HE TOLD HER "SCOPE" WAS FOLLOWING HIM AND THE PHONE WENT DEAD. I ASKED ABOUT "DREAD" KEVIN (HENICKS) AND SHE DOES NOT BELIEVE HE HAD ANYTHING TO DO WITH "COREY'S" DEATH. I RECEIVED A CALL FROM THE (CI) WHO STATED THE GUY WHO KILLED "COREY" IS CALLED AKA: "G MAN".

ON MONDAY 09-08-08 DET. (GRAHAM) AND I WENT TO 1206 BRAND ST. WHERE WE ASKED SEAVONNE (GASS) TO COME WITH US SO WE CAN TALK AND SHE AGREED. WE WENT TO DET. (GRAHAM'S) OFFICE AND SEAVONNE (GASS) STATED SHE DID GET A CALL FROM "COREY" AFTER HE LEFT TO MEET TIESHA (BROWN) WHEN HE TOLD [REDACTED] "NIGGER FROM THE PARTY WAS FOLLOWING HIM". SHE TOLD (GRAHAM) THE VICTIM "COREY" TOLD HER WHILE HE WAS WALKING HE TOLD HER THE GUY THAT WAS ARGUING WITH HIM AT THE PARTY WAS FOLLOWING HIM AND DO YOU WANT TO TALK TO HIM AND SHE STATED "HELL NO" AND THAT WAS THE LAST THING THAT WAS SAID AND "COREY" NEVER SAID ANYTHING AFTER THAT. SHE TOLD DET. (GRAHAM) THAT AKA: "SCOPE" IS CALLED "SCHO" WHO IS GREGORY (DANIELS). SHE GAVE DET. (GRAHAM) A TAPED STATEMENT. WE WENT TO LOOK FOR CLIFTON RYAN (EVANS)

INCIDENT REPORT SUPPLEMENTAL

Page #: 4

Case Number: 2008-008875

Officer: 286A COMPTON, T

Date Entered/Changed: 12/30/2008

Reviewer: 286A

Review Date: 12/30/2008

WHEN HE DROPPED BRIAN (TIMMONS) IN WOODMOUNT IN FRONT OF HIS (WASHINGTON'S) HOUSE. HE WENT BACK TO THE PARTY AND OBSERVED (COREY) ARGUING WITH A BLACK MALE DRESSED ALL IN BLACK. ~~HE STATED~~ (COREY) SAID "I'VE BEEN SHOT (2) TWO TIMES" AND THE OTHER GUY SAID "I'VE BEEN SHOT BEFORE IN THE HEAD" AND THEN STATED "COME DOWN THE STREET", I DON'T WANT TO DO THIS IN FRONT OF (SHAVONNE'S) HOUSE". HE STATED (COREY) STOPPED ARGUING WITH HIM AND WALKED AWAY. HE DID STATE IF YOU FIND THE PERSON WHO'S BEEN SHOT IN THE HEAD THAT WOULD BE THE PERSON (COREY) WAS ARGUING WITH. HE GAVE ME A TAPED STATEMENT. DET. (CLARK) AND I INTERVIEWED BRIAN (TIMMONS), BLACK MALE, 1105 NEWMAN AVE. FLORENCE SC., D.O.B. 12-03-77, BS # 247-73-1293, HOME # 669-5671, NO CELL #, NO WORK. HE STATED HE HEARD JAMES (BLACK) WAS SAYING HE STOLE A MOTOR FROM HIS MOTHER'S BACKYARD AND THEY GOT INTO A FIGHT AND (COREY) CAME BACK FROM THE STORE AND TRIED TO GET HIM TO CHILL AND BRIAN'S COUSIN JOSEPH (WASHINGTON) DROVE UP AND TOOK HIM TO JOSEPH'S HOUSE. HE STATED HE DID PULL A LIGHTER GUN OUT BECAUSE HE WAS BEATED AND WOULD HAVE DONE "COOP" BECAUSE HE WAS KICKING HIM WHILE JAMES (BLACK) WAS BEATING HIM AND "COOP" ACCUSED HIM OF STEALING HIS CAR. HE STATED HE DID SEE GREGORY (DANIELS) DRESSED ALL IN BLACK AT THE COOK OUT. HE STATED RIGHT BEFORE HE LEFT THE COOK OUT, HE WATCHED GREGORY (DANIELS) FACING UP AND DOWN THE STREET SAYING "THIS IS HIS STREET". HE GAVE ME A TAPED STATEMENT. I HAD DET. (GRAHAM) GET A TAPED STATEMENT FROM SHAVONNE (GASS). SHE DID STATE GREGORY (DANIELS) WAS WEARING BLACK AND HE TOLD HER THAT (COREY) ROBBED HIM. SHE STATED SHE COULD HAVE TOLD "GABBIE" THAT "COREY" TOLD HER ON THE PHONE "GREG" WAS FOLLOWING HIM AND "GABBIE" SAID THAT MOTHER FUCKER ON THE MOPED AND SHE SAID "YES". SHE FEELS "GREG" DID IT BUT IS NOT SURE HE IS CAPABLE OF DOING SOMETHING LIKE THAT. I CALLED BERNARD JAMES (COOPER) # 665-9587 WHO AGREED TO BE IN MY OFFICE AT 0930 HRS. I CALLED THOMAS (WILLIAMS) SR. AT # 665-7331, 1100 DIGGS AVE. AND I ASKED HOW DO I GET IN TOUCH WITH HIS (3) THREE SONS. HE STATED TAWN (WILLIAMS) IS A TRUCK DRIVER AND HE IS ACROSS COUNTRY RIGHT NOW. I CALLED TODD (WILLIAMS) # 665-2021 WHO STATED HE LEFT AT APPROX. 2100 HRS. SO HE DID NOT SEE ANYONE ARGUING. I CALLED TOMMY (WILLIAMS) # 260-6302 AND HE ALSO SAID HE LEFT EARLIER RIGHT AFTER (COREY) WAS ASKING PEOPLE TO GIVE HIM SOME MONEY FOR ICE AND LIQUOR TO GO TO THE STORE. HE GAVE SOME MONEY AND LEFT.

ON WEDNESDAY 09-10-08 BERNARD JAMES (COOPER) AKA "COOP", BLACK MALE, HOME # 665-9587, CELL # 225-4989, WORKS ON CAMP LEJEUNE MARINE BASE WITH RUSH CONSTRUCTION COMPANY. HE STATED HE WAS AT THE PARTY/COOK OUT AND HE SHOOK EVERYBODY'S HAND THAT HE KNEW EXCEPT BRIAN (TIMMONS) AND "BRIAN" CAME UP TO HIM AND OUT HIS HAND OUT AND HE WOULD NOT SHAKE HIS HAND AND "BRIAN" SAID "NO LOVE FOR ME" AND HE SAID "NO", "BECAUSE YOU HAD SOMETHING TO DO WITH ME CAR". HE STATED "BRIAN" SAID "NO" AND THEN WALKED INTO THE HOUSE AND ABOUT AN HOUR LATER HE STATED "BRIAN AND JAMES (BLACK) GOT INTO A FIGHT OVER SUPPOSEDLY "BRIAN" STOLE SOMETHING OUT OF "JAMES" GRANDMOTHER'S YARD. HE STATED HE PULLED "BRIAN" OFF "JAMES" AND THREW HIM DOWN ON THE GROUND AND THEN KICKED HIM. HE STATED HE GOT INTO WITH "BRIAN" ABOUT HIS CAR AND THEN "BRIAN" WALKED OFF AND PEOPLE STATED "BRIAN" PULLED A GUN AS HE WAS WALKING DOWN THE STREET SO HE WENT TO HIS TRUCK AND PULLED HIS 40 CAL. GUN FROM THE GLOVE COMPARTMENT BUT NOTHING HAPPENED. HE STATED HE LEFT AND CAME RIGHT BACK AND "COREY" CAME BACK FROM THE STORE AND WANTED TO KNOW WHAT HAPPENED AND WANTED TO KNOW WHY HE PULLED A GUN AND HE TOLD "COREY" THAT "BRIAN" STOLE HIS CAR AND "COREY" SAID "FUCK YOUR CAR THAT'S HOW THE HOOD IS". HE STATED THEY GOT INTO AN ARGUMENT BUT THEN HE LEFT. HE GAVE US A TAPED STATEMENT. I RECEIVED THE CENTRAL DISPATCH PRINT-OUT AND (911) PHONE CALL RECORDING ON E-MAIL. I TALKED TO DET. (CARRAWAY) WHO STATED HIS PEOPLE ARE SAYING A GUY CALLED "G MAN" DID THE SHOOTING. I HAD A MEETING WITH SOLICITOR ED (CLEMENTS) AND INVESTIGATOR ED (SEVERANCE) WITH DET. (CLARK) AND DET. (GRAHAM) REFERENCE THIS CASE. I LEARNED THE SUSPECT GREGORY (DANIELS) WAS ARRESTED FOR RECKLESS DRIVING AND SIMPLE POSSESSION OF MARIJUANA. WE WENT TO THE CONFERENCE ROOM WHERE I INTERVIEWED THE SUSPECT (DANIELS) AFTER I READ THE MIRANDA WARNINGS TO HIM AND HE SIGNED A WAIVER OF RIGHTS FORM. HE STATED HE DID NOT WANT TO TALK ABOUT THE SHOOTING BUT HE WOULD TALK ABOUT THE COOK OUT /PARTY. HE STATED HE WAS NOT INVITED TO THE COOK OUT BUT WENT BY THERE TO GIVE "TINA" KIDS HE ADOPTED A RIDE ON THE MOPED. HE STATED A FIGHT BROKE OUT WITH "BRIAN" AND SOME OTHER DUDE. HE STATED "SHAVONNE" WAS NOT THERE AT THAT TIME. HE STATED "COREY" SAID A FEW WORDS TO HIM. HE STATED "COREY" "SAID YOU KNOW ME". "GREG" SAID I DON'T KNOW YOU", "COREY" SAID YOU KNOW ME", "GREG" SAID I DON'T KNOW YOU FROM A CAN OF PAINT", "COREY" SAID YOU WILL GET TO KNOW ME" AND "GREG" SAID HE JUST WALKED AWAY. HE STATED HE LEFT BEFORE MIDNIGHT AND WENT AROUND TO VISTA ST. AND KISSED THE KIDS NIGHT. HE WOULD TELL ME WHO "TINA" WAS OR EXACTLY WHERE SHE LIVE. HE STATED HE WENT TO 607 FRASIER ST. LONG ENOUGH TO TURN HIS LIGHTS ON AND THEN WALKED TO WEST FLORENCE TO THE SETTIN UP TO HELP HIS GIRLFRIEND AND THEN THEY LEFT TO A ROOM AT COUNTRY HEART INN # 132. HE STATED THEY STAYED THERE TILL CHECK OUT TIME. HIS GIRLFRIEND IS NYRENA (GOODMAN) WHO LIVES ON CHASE ST. HE GAVE US A TAPED STATEMENT ON THE ABOVE INFORMATION AND HAD GIVEN US. I THEN EXPLAINED TO HIM OTHER PEOPLE WHO WERE THERE AT THE COOK OUT STATED HE GOT INTO SEVERAL ARGUMENTS WITH "COREY" AND HE STATED HE DID NOT AND HE DID NOT KNOW "COREY". HE STATED WHAT HE HAD TOLD ME IS WHAT WAS SAID AND THAT WAS ALL BETWEEN THEM. HE STATED HE HAS NEVER BEEN ROBBED BY "COREY" BECAUSE HE DOES NOT KNOW HIM. I ASKED HIM TO TAKE A POLYGRAPH TEST AND HE STATED HE WOULD HAVE TO TALK TO HIS MOTHER, FATHER AND HIS ATTORNEY. THE INTERVIEW WAS ENDED AT THAT TIME. I WALKED OUT AND NARCOTICS AGENT CPL. BOB (DRULIS) WENT TO COUNTRY HEART INN. HE CAME BACK AND SHOWED ME A REGISTRATION CARD AND RECEIPT SHOWING THE SUSPECT GREGORY (DANIELS) GIRLFRIEND NYRENA (GOODMAN) HAD PURCHASED A ROOM # 132 ON 09-05-08 AT 0534 HRS. THIS SHOWS THE SUSPECT AND HIS GIRLFRIEND CHECKED IN THE ROOM APPROX. (24) TWENTY FOUR MINUTES AFTER THE MURDER. THE SUSPECT'S GIRLFRIEND NYRENA (GOODMAN) CALLED HIS PHONE WHICH I HAD AND HER NUMBER BEING # 617-1270. THE SUSPECT'S NUMBER AT THIS TIME IS # 617-0731. I ANSWERED THE PHONE AND NYRENA (GOODMAN) ASKED FOR THE SUSPECT AND I TOLD HIM, HE WAS UNDER ARREST AND I NEEDED TO TALK TO HER AND SHE AGREED FOR ME TO COME GET HER. DET. (CLARK) AND I WENT TO 516 N. CHASE ST. AND PICKED UP NYRENA (GOODMAN). WE TOOK HER TO THE CONFERENCE ROOM WHERE WE INTERVIEWED HER. NYRENA (GOODMAN), BLACK FEMALE, D.O.B. 09-17-87, AGE: 20, HOME # 678-3699, CELL # 617-1270, NO WORK. I ASKED HER WHEN WAS THE LAST TIME SHE SAW GREGORY (DANIELS) ON THURSDAY 09-04-08 AND SHE STATED IT WAS FIRST DARK. SHE STATED HELPED HER

INCIDENT REPORT SUPPLEMENTAL

Page #: 3

Case Number: 2008-008875

Officer: 286A COMPTON, T

Date Entered/Changed: 12/30/2008

Reviewer: 286A

Review Date: 12/30/2008

AND OBSERVED HIM DRIVING WEST ON LUCAS ST. FROM COMMANDER ST. WE LOST HIM SO WE WENT TO ~~101 MARLBORO ST.~~ ST. BUT HIS VEHICLE WAS NOT THERE. WE WENT TO ~~101 MARLBORO ST.~~ ST. BUT HIS VEHICLE WAS NOT THERE. WE WENT TO ~~101 MARLBORO ST.~~ ST. AND TALKED TO THE OWNER OF THE RESIDENCE AND HE DID NOT SEE OR HEAR ANYTHING THE MORNING OF THE SHOOTING. DET. (GRAHAM) OBSERVED RYAN (EVANS) DRIVING EAST ON MARLBORO ST. WE STOPPED HIM ON TIMMONS ST. WE ASKED HIM TO COME BACK TO THE OFFICE AND HE DROVE HIS VEHICLE. I TOOK PHOTOS OF HIS VEHICLE IN THE COMPLEX PARKING LOT. WE INTERVIEWED MR. (EVANS) WHO STATED HE WORKS AT FRAZIER INDUSTRIAL IN LAMAR SC. FROM 1630 HRS. TO 0300 HRS. HE STATED HE GOT OFF WORK AND WENT TO SHAVONNE (GASS) RESIDENCE TO GET ARTHUR (WHITE) AKA: "AUT" TO GET A BOTTLE OF GIN. HE PULLED UP GOT OUT OF HIS VEHICLE AND KNOCKED ON THE DOOR AND ARTHUR (WHITE) ANSWERED THE DOOR. HE STATED ARTHUR (WHITE) DID NOT WANT TO GO TO THE BOOTLEGGERS HOUSE TO GET THE GIN. HE STATED HE STARTED TO LEAVE AND AKA: "GABBIE" ASKED HIM FOR A RIDE TO WOODMOUNT AND "COREY" WAS ON THE PHONE AND WANTED TO BE DROPPED OFF ON MARLBORO ST. HE STATED "COREY" WAS TALKING TO SHAVONNE (GASS) ABOUT GOING TO GET HIS CHARGER AND THEY BOTH WALKED BACK INTO THE HOUSE AND SHUT THE DOOR. RYAN (EVANS) STATED HIM AND "GABBIE" LEFT. HE STATED HE WENT TO A BOOTLEGGERS HOUSE ON THE FIRST STREET ON YOUR LEFT FROM SOPKIN AVE. AND (2) HOUSES ON YOUR LEFT AND BOUGHT A BOTTLE OF GIN. HE STATED HE WENT AND DROPPED "GABBIE" OFF IN THE BACK OF WOODMOUNT. HE STATED HE DROVE DOWN ROYAL ST. ONTO OAKLAND AVE. TURNED ON ROUGHFORK ST. AND THEN DOWN N. DARGAN ST. AND WENT ALL THE WAY DOWN AND SAW "COREY" LAYING ON THE GRASS AND ROAD. HE STATED HE STOPPED AND ROLLED HIS WINDOW DOWN AND THEN SAW TIESHA (BROWN) STANDING TALKING ON THE PHONE. HE ASKED HER "WHAT WAS GOING ON"? SHE STATED "SHE HEARD SOME GUNSHOTS". SHE STARTED CRYING AND HE TOLD HER TO "CALL THE POLICE". HE STATED HE LEFT AND WENT DOWN COMMANDER ST. AND THEN TO "SHAVONNE'S" HOUSE AND KNOCKED ON THE DOOR AND HE TOLD HER THE BOY THAT JUST LEFT YOUR HOUSE SOMETHING MUST HAVE HAPPENED BECAUSE HE WAS LAYING ON THE GRASS AND A GIRL CRYING. SHE STATED "ON MY GOD" AND SHE PUT ON HER SHOES AND HE DROVE HIS HOUSE AND SHE WALKED BACK THROUGH THE PATH TO THE SCENE AND THEN SHE CAME BACK AND ASKED HIM TO TAKE HER BACK TO LIBERTY ST. HE STATED "ERICA" AND "TIESHA" CAME TO LIBERTY ST. AND STARTED ACCUSING THEM OF HAVING SOMETHING TO DO WITH HER BROTHER'S DEATH. MR. (EVANS) LEFT AFTER THE INTERVIEW. I RECEIVED A CALL FROM HEADQUARTERS THAT THEY RECEIVED A CRIMESTOPPERS TIP THAT A BRIAN (DANIELS) MURDERED THE VICTIM AND HE WAS A DARK SKINNED BLACK MALE WITH LOW HAIR CUT AND (33) YEARS OLD. I HAD A COPY MADE FOR ME. I RECEIVED A CALL FROM SGT. (DAVIS) WHO STATES HIS PEOPLE IS TELLING HIM THAT "LITTLE B" IS BRIAN (TIMMONS) AND HE HAD SHOT "COREY" BECAUSE OF A GIRL. THEY HAD A PROBLEM AND A DAY OR TWO BEFORE HIS DEATH AND THERE WAS A FIGHT AT THE COOK OUT. HE STATED AKA: "GABBIE" GABRIEL (PETERSON) WAS "COREY'S" COUSIN. I TALKED TO DET. SGT. J. (DUFF) REFERENCE A POLYGRAPH TEST FOR SHAVONNE (GASS) AND SHE ADVISED SHE COULD GIVE HER A TEST TOMORROW. DET. (GRAHAM) CALLED SHAVONNE (GASS) AND TOLD HER TO BE HERE TOMORROW AT 1630 HRS.

ON TUESDAY 09-09-08 DET. G. (CLARK), DET. J. (GRAHAM) AND MYSELF WENT TO 1132 HOLLINGS AVE. WHERE WE TALKED WITH AKA: "GABBIE" GABRIEL (PETERSON) HOME# ~~442-2000~~ AND CELL # ~~442-2000~~. HE STATED SHAVONNE (GASS) TOLD HIM WHO WAS FOLLOWING THE VICTIM "COREY". WE ASKED HIM TO COME BACK TO THE OFFICE AND HE AGREED. WE WENT TO MY OFFICE WHERE MR. (PETERSON) STATED JAMES LEE (BLACK) AKA: "SLIM" AND BRIAN (TIMMONS) AKA: "LITTLE B" GOT INTO A FIGHT AND "COREY" BROKE THEM UP AND GREGORY (DANIELS) MADE A STATEMENT SAYING "HE IS TIRED OF THE WOODMOUNT BOYS COMING HERE ACTING LIKE THEY ARE TAKING OVER, THIS IS MY BLOCK". HE STATED THAT IS WHAT GOT GREGORY (DANIELS) AND "COREY" INTO IT. HE STATED SHAVONNE (GASS) TOLD HIM SHE TOOK GREGORY (DANIELS) AWAY FROM THE GROUP AT THE PARTY THAT NIGHT AND HE TOLD HER THAT "COREY" HAD ROBBED HIM. HE STATED GREGORY (DANIELS) KEPT TRYING TO GET "COREY" TO COME DOWN THE STREET AND "COREY" WANTED TO DO IT RIGHT HERE. HE STATED SHORTLY AFTER THE SHOOTING WHICH HE DID NOT KNOW ABOUT UNTIL SHAVONNE (GASS) CALLED HIM AND TOLD HIM "COREY" WAS DEAD AND "GREG" SHOT HIM. SHE TOLD HIM THAT "COREY" TOLD HER ON THE PHONE THAT "GREG" WAS FOLLOWING BEHIND HIM AND THE PHONE WENT DEAD. HE STATED UP TO THE POINT BEFORE HE LEFT "SHAVONNE'S" HOUSE WITH (EVANS) HE SAW GREGORY (DANIELS) RIDE BY SEVERAL TIMES ON HIS MOPED. HE CONFIRMED THE SAME STORY THAT CLIFTON RYAN (EVANS) HAD GIVEN US. HE IDENTIFIED GREGORY (DANIELS) PHOTO. HE GAVE US A TAPED STATEMENT. SEE HIS TAPED TRANSCRIPT FOR MORE DETAILS. DET. (GRAHAM) WENT AND PICKED UP SHAVONNE (GASS) FOR HER POLYGRAPH TEST. DET. (CLARK) AND I WENT TO ~~101 MARLBORO ST.~~ AVE. AND WE PICKED UP JAMES LEE (BLACK) AKA: "SLIM", HOME # ~~442-2000~~, CELL # ~~442-2000~~ WHO WORKS AT WELLMAN IN DARLINGTON SC. HE AGREED TO COME BACK TO THE OFFICE AND TALK WITH US. HE STATED HIM AND BRIAN (TIMMONS) AKA: "LITTLE B" GOT INTO A FIGHT. HE STATED A MAN WAS TRYING TO GET "COREY" TO FIGHT AND THEN BRIAN (TIMMONS) AND BERNARD (COOPER) AKA: "COOP" GOT INTO. HE STATED A MAN TRIED TO FIGHT "COREY" ALL NIGHT AND WAS TRYING TO GET (COREY) TO COME DOWN THE STREET BUT THEY WOULD STOP (COREY). I SHOWED HIM A PHOTO LINE-UP WITH GREGORY (DANIELS) IN IT AND HE PICKED OUT # 2 PHOTO WHICH IS GREGORY (DANIELS) WITH NO PROBLEM. HE GAVE US A WRITTEN STATEMENT, SEE HIS TAPED TRANSCRIPT FOR MORE DETAILS. DET. SGT. J. (DUFF) ADVISED ME SHAVONNE (GASS) SHOWED DECEPTION ON THE POLYGRAPH TEST. DET. (CLARK), DET. (GRAHAM) AND MYSELF INTERVIEWED SHAVONNE (GASS) WHO STATED "COREY" "MI MI", AND HER WENT TO THE STORE AND WHEN THEY GOT BACK BRIAN (TIMMONS) WAS BEATEN UP BY JAMES (BLACK) AND WAS NOW INTO IT WITH AKA: "COOP" BERNARD JAMES (COOPER) ABOUT "COOP'S" STOLEN CAR. SHE STATED (COREY) HELPED BRIAN (TIMMONS) AND TOLD " COOP " " FUCK YOUR CAR " AND "GIVE IT UP FOR THE GAME OR GANG " AND THEY HAD WORDS AND (GREG) WAS IN (COREY'S) FACE TRYING TO BOOST IT UP AND SHE TOOK (GREG) OFF AND TALKED TO HIM AND TOLD HIM TO STOP. SHE STATED (GREG) TOLD HER THAT (COREY) HAD ROBBED HIM AND THAT IS WHY HE WAS MAD. SHE STATED SHE WAS TALKING TO (COREY) ON THE PHONE WHO STATED THAT "MOTHER FUCKER" THAT WAS ARGUING WITH ME AT THE PARTY WAS FOLLOWING HIM AND "DO YOU WANT TO TALK TO HIM". SHE STATED THE PHONE WENT DEAD. I RECEIVED A CALL FROM ERICA (EGLSTON) AND SHE FOUND BRIAN (TIMMONS) AND JOSEPH (WASHINGTON) FOR ME AND I TALKED TO THEM AND THEY AGREED TO TALK WITH ME. I HAD DET. (CLARK) GO PICK THEM UP AND BRING THEM TO MY OFFICE. I INTERVIEWED JOSEPH (WASHINGTON) ~~101 MARLBORO ST.~~ ST. FLORENCE SC. D.O.B. ~~01-01-1975~~, SS# ~~123456789~~, CELL # ~~442-2000~~ WORKS AT CI CI'S PIZZA FLORENCE MALL. I SHOWED HIM THE PHOTO LINE-UP OF GREGORY (DANIELS) BUT HE WAS UNABLE TO PICK HIM OUT. HE STATED

INCIDENT REPORT SUPPLEMENTAL

Page #: 5

Case Number: 2008-008875

Officer: 286A COMPTON, T

Date Entered/Changed: 12/30/2008

Reviewer: 286A

Review Date: 12/30/2008

WITH THE SITTEN UP AND THEN LEFT. SHE STATED HE CALLED HER SEVERAL TIMES WHILE HE WAS AT A COOK OUT AND HE DID TELL HER THAT "THE DUDE AT THE COOK OUT WHO OWES HIM MONEY, THE ONE WHO ROBBED ME A WHILE BACK IS HERE." SHE STATED SHE REMEMBERS "GREGORY" WEARING BLUE JEANS, BLACK T-SHIRT, AND GOLD AND BLACK JORDANS. I ASKED HOW LONG HAVE THEY BEEN TOGETHER AND SHE STATED APPROX. (3) THREE YEARS. I ASKED HER IF THE SUSPECT HAS EVER BEEN HURT AND SHE STATED HE TOLD HER THAT HE HAD BEEN SHOT IN THE HEAD AND HE SHOWED HER THE SCAR ON HIS HEAD. I ASKED HER ABOUT GOING TO THE MOTEL AND SHE STATED SHE RECEIVED A CALL THAT MORNING FROM THE SUSPECT AND HE TOLD HER TO GET READY THEY WERE GOING TO A MOTEL ROOM AND HE CAME THERE A FEW MINUTES LATER. SHE STATED THIS WAS AROUND 0600 HRS. BUT WASN'T REALLY SURE. SHE STATED AN UNKNOWN BLACK MALE WAS DRIVING A DARK COLORED VAN AND HE DROVE THEM TO THE COUNTRY HEART INN ON S. IRBY ST. SHE STATED SHE CHECKED IN AND PAID FOR THE ROOM HERSELF. SHE STATED THE DRIVER WAS A YOUNG BLACK MALE WHO SHE HAS NEVER SEEN BEFORE. SHE STATED WHEN THEY GOT TO THE ROOM SHE WENT TO BED BECAUSE SHE WAS TIRED AND "GREGORY" WAS ON THE PHONE TELLING HIM " YOU KNOW THE GUY I WAS ARGUING AT THE PARTY WITH " SHE STATED SHE DOES NOT KNOW WHO HE WAS TALKING TO. SHE SAIED SHE NEVER LEFT THE ROOM UNTIL THEY LEFT THE MOTEL AROUND CHECK OUT TIME. SHE GAVE US A TAPED STATEMENT. WE HAD HER TAKEN HOME. I LOOKED AT THE SUSPECT'S CELL PHONE AND SAW HIS PHONE SAYS " G MAN ". I TOOK THE PHONE TO CRIME SCENE TECH. CPL. CHRIS (MOREAU) WHO TOOK PHOTOS OF THE PHONE AND HIS MOPED. MY (CI) CALLED ME AND STATED " G MAN " IS THE SHOOTER AND A TYREE (BOSTICK) WHO LIVES ON WAVERLY AVE. WHO DRIVES A RED CHEV (24) TWENTY FOUR INCH RIMS IS THE PERSON WHO DROVE " G MAN " CLOSE TO THE PATH FOR " G MAN " TO WALK UP AND SHOOT " COREY " .

ON THURSDAY 09-11-08 I WENT TO COUNTRY HEART INN AND I TALKED WITH BEVERLY (ROYALL) FRONT DESK MANAGER AND SHE CHECKED THE TIMES ON THE REGISTER AND IT WAS CORRECT. SHE STATED THE PERSON WHO WAITED ON NYRENA (GOODMAN) WAS JAMES (PRESNELL) WHO WORKS 3RD SHIFT. SHE STATED SHE WILL HAVE HIM TO CALL ME. SHE STATED THEY DO NOT HAVE VIDEO. DET. (CLARK) AND I PICKED UP TIESHA (BROWN) AND TOOK HER TO MY OFFICE. SHE STATED SHE DID NOT SEE THE SHOOTING BUT ONLY HEARD (1) ONE SHOT. SHE STATED " COREY'S " CELL PHONE WAS OPEN LAYING NEXT TO HIS HAND. SHE STATED SHE DID NOT GET A GOOD LOOK AT THE BLACK MALE IN THE DARK CLOTHES WALKING AWAY FROM THE CRIME SCENE. I WENT TO CITY COURT WHERE JUDGE (HEWITT) APPROVED WARRANTS ON THE SUSPECT GREGORY (DANIELS). I SIGNED (2) TWO WARRANTS ON THE SUSPECT GREGORY (DANIELS) FOR MURDER, WARRANT # J-398790 AND POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, WARRANT # J-398791. I TALKED TO SGT. (DRAYTON) REFERENCE TYREE (BOSTICK) AND HE STATED HE WOULD TALK TO HIM. GABRIEL (PETERSON) CAME TO THE OFFICE AND TOOK THE POLYGRAPH TEST AND SHOWED "NO DECEPTION". DET. (CLARK) AND I WENT TO THE FLORENCE COUNTY DETENTION CENTER WHERE HE SERVED BOTH WARRANTS ON THE SUSPECT (DANIELS). THE SUSPECT WANTED TO TALK TO US AND I EXPLAINED WE COULD NOT TALK TO HIM SINCE HE WANTED AN ATTORNEY AND HE STATED HE DID NOT ASK FOR AN ATTORNEY. I EXPLAINED TO HIM ONCE HE STATED HE WANTED TO TALK TO HIS MOTHER, FATHER AND ATTORNEY, HE IN FACT ASK FOR AN ATTORNEY AND WE COULD NOT TALK TO HIM. THE SUSPECT STATED HE WANTS TO TALK AND DOES NOT WANT AN ATTORNEY. I DID NOT HAVE A WAIVER OF RIGHTS FORM SIGNED SINCE I WAS NOT GOING TO TALK TO HIM AND I DID NOT BRING ONE WITH ME. THE SUSPECT STATED THE FIRST TIME HE HEARD OF "COREY" WAS A GROUP OF GUYS WAS PULLING A TRAIN ON A GIRL IN OAKLAND HEIGHTS APARTMENTS AND "COREY" STOLE \$ 700.00. DET. (CLARK) ASKED HIM HOW DID HIM AND NYRENA (GOODMAN) GET TO COUNTRY HEART INN AND HE STATED HIS UNCLE DROVE A RENTAL CAR AND TOOK THEM TO OLD PARK INN. HE STATED HIS FIRST NAME IS "ANDREW". HE COULD NOT REMEMBER HIS LAST NAME. HE ADMITTED HE WAS ARGUING WITH "COREY" SEVERAL TIMES DURING THE COOK OUT AND NOT ONCE LIKE HE ADMITTED IN A TAPED STATEMENT THE EVENING BEFORE. THE SUSPECT ADMITTED HE WAS STANDING IN THE STREET AT "SHAVONNE'S" AND "COREY" TOLD HIM, "HE HAD BEEN SHOT TWICE". HE STATED HE NEVER SAID HE WAS SHOT IN THE HEAD. HE SHOWED ME A SCAR ON HIS RIGHT TOP SIDE OF HIS HEAD WHERE HE HAD BEEN HIT WITH A STUMP WHEN HE WAS A LITTLE BOY, WHEN HE RAISED HIS HEAD OVER THE DOG HOUSE AND THEY WERE THROWING THE STUMP OVER THE DOG HOUSE. HE STATED HE LEFT THE COOK OUT APPROX. 2130 HRS. TO GO TO "TRINA'S" HOUSE ON VISTA ST. THEN HE WENT BACK TO "SHAVONNE'S" TO GIVE HER A SHORT/CIGARETTE THEN LEFT AND WENT TO 607 FRASIER ST. THEN WALKED TO CARVER CIRCLE AND STAYED THERE AND THEY WERE THE LAST ONES TO LEAVE. WHEN I ASKED HIM HOW DID THEY GET TO THE MOTEL HE NOW SAYS A TAXI DROVE THEM TO OLD PARK INN FROM CARVER CIRCLE. DET. (CLARK) ASKED HIM WHAT TAXI. HE STATED A DARK GREEN MINI VAN WITH STATE TAXI. HE STATED NYRENA (GOODMAN) CHECKED IN AND HE WALKED IN WITH HER. HE STATED THEY WENT TO THE ROOM AND WENT TO BED AND HE NEVER LEFT THE ROOM UNTIL HIS UNCLE PICKED THEM UP IN A RENTAL CAR FROM BUDGET RENTAL ON S. IRBY ST. AND W. PALMETTO ST. DET. (CLARK) ASKED ABOUT THE TAXI CAB DRIVER AND THE SUSPECT STATED THE DRIVER WAS AN OLDER BLACK MALE. I ASKED THE SUSPECT SEVERAL TIMES IF HE WOULD TAKE A POLYGRAPH TEST AND HE KEPT STATING HE WAS TELLING THE TRUTH. HE NEVER WOULD COMMIT TO TAKING THE TEST. I RECEIVED A CALL FROM JAMES (PRESNELL) WITH COUNTRY HEART INN WHO STATED HE REMEMBERS THE GIRL COMING IN AND CHECKED IN BUT NO ONE WAS WITH HER. HE STATED THERE WAS A BLACK MALE IN A VEHICLE OUTSIDE BUT HE COULD NOT IDENTIFY THE BLACK MALE OR VEHICLE.

ON FRIDAY 09-12-08 DET. (CLARK) AND I WENT TO STATE TAXI AND THE LADY STATED THEY ONLY HAVE (2) TWO DARK GREEN MINI VAN TAXI'S. WE TALKED TO ONE OF THEM AND HE WAS AN OLD BLACK MALE DRIVER WHO STATED HE DID NOT PICK UP THE SUSPECT OR GIRL AT ~~ST.~~ ST. OR CARVER CIRCLE. THE LADY STATED THE OTHER DRIVER IS AN OLDER BLACK MALE AND HE DOES NOT WORK PAST 2300 HRS. I LOOKED AT THEIR DISPATCH LOG BOOK AND I COULD NOT FIND WHERE ANY TAXI WAS DISPATCHED TO ~~ST.~~ ST. OR CARVER CIRCLE. I TOOK THE LOG BOOK AS EVIDENCE. DET. (GRAHAM) WENT TO CITY COURT AND OBTAINED (4) FOUR SUBPOENA'S FOR NYRENA (GOODMAN'S), GREGORY (DANIELS), TIESHA (BROWN) AND COREY (BYRD) CELL PHONE INCOMING AND OUTGOING RECORDS. DET. (CLARK) AND I WENT TO BUDGET RENTAL AND WE LEARNED ANDREW (WILLIAMS) ~~ST.~~ ST. FLORENCE SC. RENTED A 2003 GREEN FORD TAURUS AT 1130 HRS. WE GOT A COPY OF THE PAPERWORK. TIESHA (BROWN) CAME TO THE OFFICE AND TOOK A POLYGRAPH TEST AND SHOWED "NO DECEPTION".

ON SUNDAY 09-14-08 I RECEIVED A VOICE-MAIL MESSAGE FROM TIESHA (BROWN) WHO STATED SOME GIRLS WERE TALKING ABOUT

INCIDENT REPORT SUPPLEMENTAL

Page #: 6

Case Number: 2008-008875

Officer: 286A COMPTON, T

Date Entered/Changed: 12/30/2008

Reviewer: 286A

Review Date: 12/30/2008

THE SUSPECT (DANIELS) WAS RAID \$ 500.00 BEFORE THE MURDER AND \$ 500.00 AFTER THE MURDER. I ATTEMPTED TO CALL HER BACK AND LEFT A MESSAGE. I ATTEMPTED TO CALL NYRENA (GOODMAN) BUT SHE DID NOT ANSWER, SO I LEFT A MESSAGE FOR HER TO CALL ME BACK. NYRENA (GOODMAN) CALLED ME BACK AND I ASKED HER IF "GREGORY" HAD CHANGED CELL PHONE NUMBERS AND SHE STATED " YES " BUT SHE CAN TELL ME IF IT WAS BEFORE THE SHOOTING/MURDER OR AFTER. THE OLD # WAS ~~XXXXXXXXXX~~. I AGAIN ASKED HER ABOUT THE NIGHT OF THE COOK OUT AND SHE AGAIN STATED "GREGORY" HELPED WITH THE BITTEN UP AND THEN LEFT. SHE STATED HE CALLED A COUPLE OF TIMES AND HE WAS AT A COOK OUT AND HE DID STATE THERE WAS A DUDE AT THE COOK OUT THAT OWED HIM MONEY WHO HAD ROBBED HIM. SHE STATED "GREGORY" CALLED HER EARLY IN THE MORNING AND TOLD HER THEY WERE GOING TO A HOTEL AND TO GET READY. SHE STATED HE WAS THERE IN A FEW MINUTES AT HER HOUSE 516 N. CHASE ST. AND NOT CARVER CIRCLE. HE PICKED HER UP IN A DARK GREEN MINI VAN AND I ASKED HER IF IT COULD HAVE BEEN A TAXI AND STATED "NO". SHE STATED SHE IS THE ONLY ONE THAT WENT IN TO REGISTER FOR THE ROOM. SHE AGAIN STATED THE MINI VAN DRIVER WAS A YOUNG UNKNOWN BLACK MALE. SHE STATED THEY WENT TO THE ROOM AND SHE WENT TO BED AND "GREGORY" WAS ON THE PHONE WITH SOME UNKNOWN PERSON TELLING HIM ABOUT THE GUY AT THE COOK OUT HE GOT INTO AN ARGUMENT WITH. SHE STATED SHE NEVER LEFT THE ROOM EXCEPT TO LEAVE WHEN "GREGORY'S" UNCLE CAME TO PICK THEM UP WITH A RENTAL CAR.

ON MONDAY 09-15-08 I TYPED UP A COURT ORDER FOR AT&T HISTORICAL RECORDS FOR BOTH CELL PHONE #'S "GREGORY" AND HIS GIRLFRIEND NYRENA (GOODMAN) HAD. I HAD CIRCUIT COURT JUDGE THOMAS (RUSSO) SIGN THE ORDER. I FAXED IT TO US MARSHALL'S OFFICE AND THEY STATED THEY WOULD SEND IT TO AT&T FOR ME. CLIFTON RYAN (EVANS) SHOWED UP FOR HIS POLYGRAPH TEST AND SHOWED "NO DECEPTION".

ON TUESDAY 09-16-08 I CALLED BERNARD JAMES (COOPER) AND I ASKED HIM TO COME AND TAKE A POLYGRAPH TEST AND HE AGREED TO COME IN ON THURSDAY 09-18-08 AT 0930 HRS. I RAN A CRIMINAL HISTORY ON THE SUSPECT (DANIELS) WHICH SHOWED SEVERAL ARREST AND CONVICTIONS.

ON THURSDAY 09-18-08 BERNARD JAMES (COOPER) CAME INTO THE OFFICE AND TOOK THE POLYGRAPH TEST AND IT CAME UP "INCONCLUSIVE".

ON MONDAY 10-06-08 I RECEIVED CELL PHONE RECORDS FROM ALLTEL REFERENCE THE VICTIM COREY (BYRD'S) CALLS AND IT SHOWS HE HAD CALL SHAVONNE (GASS) AT 0453 HRS. AND IT LASTED (14MINUTES AND 14 SECONDS) AND ENDED AT 0507 HRS. THIS CALL RECORD FIRMS WHAT SHAVONNE (GASS) HAD TOLD US IN OUR INVESTIGATION. IT APPEARS THE VICTIM (WAS SHOT AND KILLED AT 0507 HRS.). I ALSO RECEIVED PHONE RECORDS FROM AT&T ON NYRENA (GOODMAN'S) CELL PHONE RECORDS, WHICH THE SUSPECT IS ON HER PLAN. IT APPEARS THE SUSPECT HAD CHANGED HIS CELL PHONE # TO ~~XXXXXXXXXX~~-0731 ON THE SAME DAY OF THE MURDER. THE RECORDS SHOW THE SUSPECT (DANIELS) CALLED HIS GIRLFRIEND NYRENA (GOODMAN) AT 0521 HRS. TO HER # ~~XXXXXXXXXX~~-1270 FROM HIS OLD # ~~XXXXXXXXXX~~-5339. AT 0526 HRS. "NYRENA " CALLS HER HOME # ~~XXXXXXXXXX~~-3699, THEN AT 0538 HRS. SHE AGAIN CALLS HER HOME #. FROM 0815 HRS. TO 1127 HRS. THE SUSPECT (DANIELS) AND HIS GIRLFRIEND NYRENA (GOODMAN) CALL EACH OTHER (9) NINE TIMES WHILE THEY ARE SUPPOSE TO BE IN BED TOGETHER AT THE COUNTRY HEARTH INN ON S. IRBY ST. IT APPEARS FROM THE PHONE RECORDS AND THE TIME NYRENA (GOODMAN) CHECKED INTO THE COUNTRY HEARTH INN WAS (27) TWENTY SEVEN MINUTES AFTER THE MURDER HAD OCCURRED.

ON THURSDAY 12-04-08 I ATTENDED A BOND HEARING ON THE SUSPECT GEORGY (DANIELS) AT THE FLORENCE COUNTY DETENTION CENTER COURT ROOM. AFTER THE HEARING I TALKED TO THE FAMILY AND ASKED THEM TO CALL ME IF THEY HAD ANY MORE INFORMATION CONCERNING THE CASE THAT MAY HELP. I RECEIVED A CALL APPROX. (10) TEN MINUTES LATER FROM THE VICTIM'S SISTER ERICA (EGLSTON) WHO STATED SHE RECEIVED A CALL APPROX. (3) THREE DAYS AGO FROM A FEDERAL IN-MATE REGINALD (COLEMAN) IN WILLIAMSBURG COUNTY, SAYING GARY (BOSTICK) HIRED SOMEONE TO KILL HER BROTHER/VICTIM COREY (BYRD).

ON FRIDAY 12-08-08 I CALLED THE F.B.I. OFFICE AND I TALKED TO AGENT (STOKES) WHO CONFIRMED REGINALD (COLEMAN) WAS A FEDERAL IN-MATE IN WILLIAMSBURG COUNTY AND I WOULD NEED TO SET UP AN INTERVIEW WITH HIM THROUGH LT. (PATTERSON). HE GAVE ME HIS # ~~XXXXXXXXXX~~-9758.

ON MONDAY 12-08-08 I CALLED LT. JIM (PATTERSON) AND ASKED TO INTERVIEW IN-MATE REGINALD (COLEMAN) AND HE ADVISED I WOULD HAVE TO FAX HIM A LETTER OF REQUEST WHICH I DID AND WE SET UP AN INTERVIEW ON MONDAY 12-15-08 AT 1000 HRS.

ON MONDAY 12-15-08 I WENT TO THE FEDERAL PRISON IN SALTERS SC. AND LEARNED I COULD NOT DO THE INTERVIEW AT THAT TIME DUE TO A TRAINING EXERCISE THEY WERE HAVING AT THAT TIME. I WAS ADVISED TO MAKE ANOTHER APPOINTMENT.

ON MONDAY 12-29-08 I CALLED LT. (PATTERSON) AND WE AGREED TO HAVE ANOTHER INTERVIEW ON WEDNESDAY 12-31-08 AT 1400 HRS.

ON WEDNESDAY 12-31-08 I WENT TO THE FEDERAL PRISON IN SALTERS SC. AND I INTERVIEWED REGINALD (COLEMAN). HE STATED HE WAS TRANSFERRED FRO HERE BACK TO FLORENCE COUNTY DETENTION CENTER ON HIS BIRTHDAY 09-05-08 THE DAY OF THE MURDER AND HE HAD HEARD THE VICTIM COREY (BYRD) HAD BEEN KILLED. HE STATED THE ROMORS WERE GOING AROUND GARY (BOSTICK) OR HIS LITTLE BROTHER AKA: " LITTLE BODY " HAD HIRED SOMEONE TO KILL "COREY". HE STATED HE KNOWS THAT THE VICTIM (BYRD) GOES OUT AND ROBBS DRUG DEALERS. HE STATED HE KNOWS THE VICTIM (BYRD) HAD ROBBED GARY (BOSTICK)

INCIDENT REPORT SUPPLEMENTAL

Page #: 7

Case Number: 2008-008875

Officer: 286A COMPTON, T

Date Entered/Changed: 12/30/2008

Reviewer: 286A

Review Date: 12/30/2008

IN THE PAST AND GARY (BOSTICK) SHOT HIM. HE STATED WORD HAD IT, THAT BEEF WAS OVER. HE STATED I COULD TALK TO ANOTHER FEDERAL IN-MATE BY THE NAME OF VENTREZ SHANTAY (DAVIS) WHO TOLD HIM ABOUT GARY (BOSTICK) HAD HIRED SOMEONE TO KILL THE VICTIM COREY (BYRD). HE STATED (DAVIS) MAY HAVE HEARD IT FROM SOMEBODY BUT HE DOES NOT KNOW. I DID CONFIRM THAT REGINALD (COLEMAN) WAS BOOKED IN ON 09-05-08 AND THAT VENTREZ SHANTAY (DAVIS) WAS ALSO AT THE FLORENCE COUNTY DETENTION CENTER AT THE SAME TIME.

Florence County Detention Center
6719 Friendfield Road
Effingham, SC 29541

NAME: Gregory D. Daniels
322 306 - 3109

FLORENCE SC 295
03 OCT 2008 PM 1 L



USA 42

Myrena Goodman



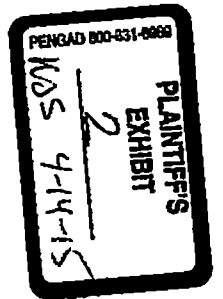
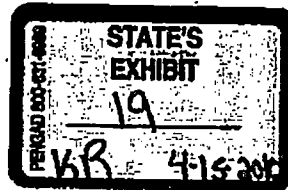
Florence, S.C.

27501

23501+2031



1092



10-2-08

Dear My

What's going on with ya?

Hope not still around th
 stressed out, Man look here CUZZ I understand your lost b
 it's time to let that be homie. Like I told u before we a
 got to go through that it's a part of life. Everyones days on
 this earth is numbered. As for me I'm just trying to hold m
 head I miss my boy, and my mome. You already know that I
 miss you. there is not a day that goes by that I don't
 think about yall. Man I know that [redacted] is hard out there
 but u gots to be strong. All that I can tell u to do is
 pray. Go to church and stibe 4 the best. Like I told u
 when I was out there set your G.E.D. I sot a cousin wh
 will help u with the math. U can go to poyner. Also it
 is that time of year where a lot of places are going to
 start hiring set on your sring. Somebody somewhere will
 give you a chance. You just can't give up. The [redacted]
 trying to burn me but they don't have shit on me.
 I told them what happens at the cookout and after the
 argument I walked to Tonya house and we went to the

save them a time or nothing.

As bad as I want to come home they wont even give me a bond. I dont know what I goins on with the lawyer situation my moma had all be \$700 he charged \$2,000 I wrote my daddy and told him about it and I need him on my side & that bond but it he dont

I just need my family and neighborhood behind me

My boy will be home soon. So hold your head up

Tell my babies I said Hey. I love them, tell Jawan to tell my son its gonna be ok. I will be home soon. Anyway stop stressins

Love Always

Davey AKA G-MAN

P.S. You know I son love & U!!!

to waste your life and not do nothing
with your talent. I'm starting to feel
like u are backing off. I really do feel
like u are trying to set me off your mind.
It's like that. I always told u. u
cant get to be slick with it just be
straight up and tell me.

u know me I'm strong. Just like I told
my moma this shit serious. I got family
who with me and I got family who
against me. But I know how to come
up outta situations like this I'm street
smart. But it's better when you have
support on the outside. They ain't got
no gun, no bloody clothes, no shells, nothing
those are the main things they need to
actually convict me it don't matter how
many people say I did it or we argued

the time that they said this happen.
I told u that when ~~we~~ we went to
the room. Remember I said we was
together at the setting up. But you
told them u was sleep and I came
and pick up in a van. My people told me
that if u tell my solicitor that u will give
him or her a statement saying we were together
then they will give me a bond. But I
will write u more on that later. I do
not mad love 4 u girl trust and believe
me when I say this in every letter.
And like I tell u it is up to u rather
we make something out of this or not. I
know that u are real but u also no
what it was that made me back off
to. But I dont want to talk on the
past. All that I want u to do is do
like u say u are gonna do. Get that
G.E.D. and so to tech set that Cosmetology
licence and u good. I dont want u

Dear Ny

Whats up?

Whats going on with u?

I hope u still doing u and holding your
head up trying to better yourself. As for
me I'm holding my head maintaining looking
towards brighter days cause I know they
coming like I always tell u in every
letter that I write you I miss u
alot. I dream bout you some good some
bad but u stay on my mind. I need to
see your face homie.

Some things that I need to say
to u I can't write down or say on
the phone. U feel me. Someone told
me how u can help with me getting out
of here. I don't know what u told
them people but all I need is for
u to say is I was with you at

Morning noon and night. I miss
u. Do that go back to school
Set that G.E.D. so we can try
living together again. But u already
know what u gotta do. Come
to me home

Florence County Detention Center
6719 Friendfield Road
Effingham, SC 29541

NAME: *Stephany D. Daniels*

FACE SC 425

30 OCT 2006 PM 1 1



USA 42

1100

Nyiera Goodman

~~██████████~~ N. ~~██████████~~ 3-

Florence, S.C.

23501+2421



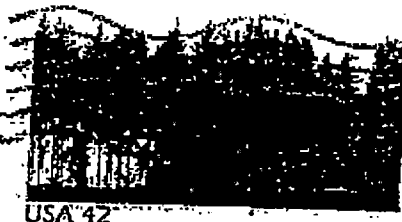
Our stories are not the same
I told them we left off Carver
Circle in a green van cab
with a old driver. we were
on the computer. But I will
tell them I was still there playing
dominoes u went home to get
clothes and I came and got u
from there. No times though
make sure dude no this story.
State Taxi. I already wrote
Shelheid. I will write u again
over the weekend. I play everyday

Florence County Detention Center
6719 Friendfield Road
Effingham, SC 29541

NAME: Cole, J. P. Van...
C-106 - 3223065575

FLORENCE SC 295

16 OCT 2008 PM 1 L



Nyrena Goodman

~~██████████~~ ~~██████████~~ SA

Florence, S.C.

2950132431 0027 2 

1102

Dear Nyrona
A.K.A.

My
NY

What's up?



U

How are u holding up? Hope u no

sitting around with your head low. It aint even that bad
 u to be stressing yourself. My moma told me about what
 went down at the house with that old girl don't stress that.
 let it be. I got bisser. and better things to worry
 about. I already told u there was nothing going on
 between me and that girl. let her go her way and
 u do u. Don't tell my moma nothing else about her
 and u just leave her alone. You asked me do I
 love u. U know I'm not gonna say that to u
 because u have some things you need to do before I
 take it there. Yes I do care 4 u alot and like
 old you before no matter what or who I chill with
 always end up with u. So stop worrying about
 nex shit and do what I told u that u would need
 do to make it work out with us. My focuss
 ht now is setting out oza here. [redacted]
 ing to sive me life over ~~some~~ a argument.

is telling them. But they can't put me at the scene
cause we was at the setting up and the room.
I miss ya the same way u miss me though.
Tell my sibs I love them and I will see them
soon. I told my mama to bring u to see me so
u need to ask her the next time she coming.
As far as money goes I aint hurting 4 nothin
right now but I do need u to send \$10 every now
and then. when I come home u know what it
is. I think about u everynight, so dont think I
got about ya. Tell my so called homeboy I said
that up and one phone call aint gonna hurt they
one bill I just be wanna talk to the sibs. Did u
urn that phone off.

Can write me ~~fuck~~ ~~at least~~ at least twice a week home
it the sibs write me 2. Talk 2 u later Keep ya
sad up and I need u to keep my mama strong
feel me. Love Allways
s. Friend 4 Eva 1104
ite back ~~_____~~
fool Killin's ~~_____~~
G-MANI

Effingham County Detention Center
5719 Friendfield Road
Effingham, SC 29541

RE: Gregory D Daniels
C-106 - 0322306

FLORENCE SC 295

17 NOV 2008 PM 2 T



USA 42

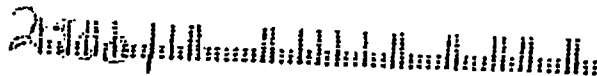
1105

Nyrena E. Goodman



Florence

2950142431



Handwritten marks and scribbles on the right side of the envelope.

11-16-08

Dear Nyxeria

What's up?

Alot. To much with
me just getting over a cold other than that
still hanging in there holding my head up
still praying hoping for the best on the
11th. First of all let me start off by saying
I miss you and you know that I got mad
Love for ya but you writting me one minute
we on the same page you tell me you aint
worrying about what the streets saying and
then you turn around and contradict yourself
by writting me about some he say she
say. That's what got me in here now.
If I hurt your feelings in the last letter
I do a pologize for that but you know that
the last thing I need is for you to be
writting me with some [redacted] and questioning
me about some he say she say them niggaz
just like the damn police just trying to figure
out what's going on. And on top of that I was

Sick. I'm thinking I'm bout to read
something to make me be at ease but
instead it was something to make me
upset. the last thing I needed in here.

[REDACTED]

[REDACTED]

But anyways I need you to
call this number 665-3055 and talk
to Mr. Jack Lawson that is my lawyer.
Tell him that you are my girl and we
were at the room during the time they
said that this occurred. You can still tell

him that I picked you up in a van
and we went to the room but tell
him that you were waiting on me at
your sisters house but you left because
I took to long. If they ask you a time
just say you don't know what time it was
but you were sleep and we was at the
room sleep when the report on the news
said at 5:00am. But anyways you don't have
to but it will help me at my board
hearing you are who I was with when they
found him. How can we talk about being
together if you still letting the streets
bother you cuz like I told you many
times before I don't have to hide nothing
from you [REDACTED]

[REDACTED] But anyways
I've been trying to reach my moma but
I can't get through. Call her and tell
her to drop me off about 125 Tuesday
tell her she aint got to come see me
just put it in my account cause this
is the week we order for Thanksgiving
also and we double our orders.

Well I just wanted to apologize for the
last letter lll boy cause I don't want
you thinking I flipped out on you. I
just don't need any negativity. Did you
go to Cosmos and talk to my homeboy
girl for me. I need you to do that
and let him know that my hand hearing
next month I'm looking at \$30,000 surety
I need to have Mr. Hinkle that for me.
It's the Chuby girl who I let pick out my
clothes she the only chubby one that work
there. Her boyfriend name Barry. Tell you
head, stay strong, survive for the best,
block out the rest. [REDACTED]
Keep praying write back soon ASAP

P.S.

[REDACTED]
[REDACTED]
[REDACTED]
Kiss my babies
and tell them I'll

Love Always

see them soon [REDACTED]
that time ASAP I need
to have that money up.

Love

Call Luck [REDACTED] 2274

tell him I said get a
duke he runnin his mouth

Florence County Detention Center
6719 Friendfield Road
Effingham, SC 29541

AME: Gregory D. Daniels
A-114 0322806

FLORENCE SC 295

20 FEB 2009 PM 2 T



USA 42

Nyrena E. Goodman

[REDACTED]
Florence, SC

29501+2431 2027



2-19-09

Dear NY

What's up?

Aint nothing much my way just trying my best to stay strong and hold my head. If it aint one thing it's another these people done gone crazy they changing our visits now I know that my name only come see me once or twice a month and only see you maybe twice a month and the only day that I get a visit from you is on Sunday and now tonight they done come up with we can't have visits but once a week and no visits on Sundays. I don't know what the hell I'm gonna do now. But anyway I got my motion of discovery on yesterday, it's got alot of different stories on what happened on that day. If I see you this weekend I will tell you what they saying. But your statement could hurt me in court because they saying you told them that it was not a Taxi and it was a young dude driving

the Van and also that you was sleep
and I was on the phone talking to
somebody about dude but that has got
to be when my phone started ringing and
that I left you and didn't come back
until 6:00 am but they said dude was dead
at 5:17 am and the receipt from the room
show us checking in at 5:34 am but the
Clerk saying he didn't see me but to
cover that up I'll just say I was smoking
a cigarette. And for you did they read you
any rights most of the statements look
like they were recorded. But all that I
have to say is you ain't never been
through a situation like that before and
you were scared because you ain't
never been in jail and they threaten
that you could get charged. But like
I said I hope to see you so we can
talk about it. Don't stress it. But my
case is weak as hell just a bunch of
he say she say it's atleast 3 more
people who were out to get dude that
they have not questioned or anything

[REDACTED]
[REDACTED]
[REDACTED] But anyway if I don't see
you I will write you and let you know
peace by peace what all my statements
say. I love you and miss you dearly,
hope you are holding yourself down, so
woull I hear from you. Keep ya head up
stay strong, keep it real, and keep it tight
I have to bond out in April I don't want
to ask for a bond reduction now because
I don't want to lose my bond. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] anyway holla back ASAP

P.S.
I miss you I love
you, kiss, kiss, tell my
girls I love them,
Don't get all upset
I'm good just try to
come see me, heh
my G know I got my
Discovery

LOVE Always
GREG

Florence County Detention Center
6719 Friendfield Road
Effingham, SC 29541

ME: Gregory O Daniels
P-10 - 0322306

FLORENCE SC 295

19 JUN 2009 PM 11



Mirena E. Goodman



Florence, S.C.

2950132431 0027



1114

6-14-09

Dear Ny (Snuggle-Puss)

What's up?

Aint too much with me just trying to maintain and hold my head and stay as strong as possible. Well I hope you holding ya head out there and not worrying about situations beyond your control. Well I told my mama to tell you I got your letter about I'm not writing and to tell you that it's nothing that you did I'm just in one of my moods where I don't be feeling like writing and envelopes done went up and I figure since you don't write me but once in a blue moon then maybe if I stop writing then I won't keep looking for a letter from you on a regular. And just because I don't write you can still come visit. You make me feel like you aint got time for me!!! I've been looking to see your face every since I got that letter from you last month a whole nother month is about to pass and

I aint seen or heard from you. My mama
came to see me yesterday and told me
that she talked to my Daddy and he still
shooting them dreams about getting me
out. But she still waiting on her lawyer
to set up a settlement hearing and he want
her to go to another doctor but she
dont want to see a doctor. She want
to settle so she can get me out. As far
as me going to court aint nothing
happening on that no time soon.

[REDACTED]

[REDACTED] So basically all I've
been trying to do is force myself to
have the patience to hold on until I can
get bonded out. She told me that you
going through some problems and that
you said you needed to come stay with
her. Now you know my mama aint just

gonna let you move in with her. like
that but she will let you stay the
night anytime you need to get away
I told you that like I told you I
know times is hard and ain't so much
you can do. But you can't give up
you got to keep pushing and striving
harder. I'm doing all that I can to
get home but it's only so much I
can do from in here. I need outside
help and support like I told you I
understand you ain't got no money, no car and
all that you can write me and let me know
what's good. I mean how do you think
I feel when I get a letter from you
saying you still here but I don't hear
from you weeks and weeks at a time.
Put yourself in my shoes you would feel
like I done said. [REDACTED] it all ya feel me.
But anywayz even if you feel like you
can't vibe with me no more just tell me
like I told you I rather you keep it 100
with me than have me wondering in the
blind!! So halleluiah at ya boy let me know
what's really good. And I need for you to

Call 617-6919 and tell Garry that you
calling for me and let him know that Eddie
Barfoot said he will take \$2000 and
come get me out tell him my mama need
\$1000. That's who was who dropped us
off at the room. Or if you see yaga
tell him to tell Garry I really need you
to do this for me ASAP. And how your
Mama come see me every two weeks
only come see me once every two weeks
on Saturdays she probably wont be back until
the 28th or see when she coming and
come with her I can have 3 visitors at
a time. Write me back ASAP and let
me know something well wait here from
you hold ya heat stay strong, keep it
cool, stay real. And remember to pray and
through every dark night comes a brighter
day. Tell my girls I miss them and I
love them.

Love

Always

[Signature]

10-18-08

Dear NY

What's up!

[REDACTED]

But all I need for u to do is
we left me with your brother in law playing dominos.
the computer u went home and I came and got u
and we went to the room in a cab. You don't know
that number but an old man was driving the van. But
got to let old boy know to tell u.

... whenever I need u to do that, ...

... I want ...

... word ...

... some ...

... your ...

... every ...

... but ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

... I ...

+ him know that u calling for Scoe. Tell that nissa I
id I need to holla at him I aint gonna put his
ame on the envelope. I just need his address. U know
y charge me extra postase if my letters are to heavy but
I call soon. I'll get some real writting paper this week.

... I ...
... I ...
... I ...

~~[REDACTED]~~

P.S.

Ceya soon

Remember Through every
dark night comes a brighter day
I want dose not kill me
I make me stonger, Hold ya
ad.

love Allways
Friend 4 eva

Gray

A.K.A.

G-man

[REDACTED]

P.S.

This is the time
to show me u gotta
all back!!!

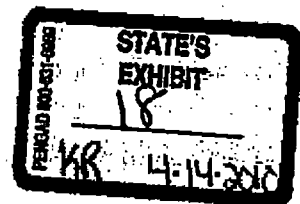
Love

Always

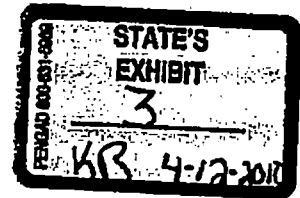
Your friend &

[Handwritten signature]

| | | |
|------------------|-----|--------------------|
| 08/29 16:45 132 | #0 | New Card |
| 08/29 17:34 132 | #0 | |
| 08/29 18:28 132 | #0 | |
| 08/29 19:21 132 | #0 | |
| 08/29 19:41 132 | #0 | |
| 08/29 22:24 132 | #0 | |
| 08/29 22:59 132 | #0 | |
| 08/30 10:12 132 | #0 | |
| 08/30 10:52 HK-M | u06 | |
| 08/30 12:21 HK-M | u09 | |
| 08/30 13:47 HK-M | u06 | |
| 08/31 13:44 132 | #0 | New Card |
| 08/31 15:43 132 | #0 | |
| 08/31 16:21 132 | #0 | |
| 08/31 18:58 132 | #0 | |
| 08/31 19:27 132 | #0 | |
| 08/31 23:17 132 | #1 | |
| 09/01 11:00 132 | #1 | |
| 09/01 12:17 HK-M | u09 | |
| 09/01 13:53 HK-M | u01 | |
| 09/03 12:29 HK-M | u01 | |
| 09/03 19:48 132 | #0 | New Card |
| 09/03 20:06 132 | #0 | |
| 09/03 21:35 132 | #0 | |
| 09/03 22:21 132 | #0 | |
| 09/04 09:34 132 | #0 | |
| 09/04 10:34 HK-M | u12 | |
| 09/04 11:28 HK-M | u09 | |
| 09/04 12:01 HK-M | u12 | |
| 09/05 06:02 132 | #0 | New Card 1st swipe |
| 09/05 07:20 132 | #0 | 2nd swipe |
| 09/05 09:22 132 | #0 | 3rd swipe |
| 09/05 10:32 HK-M | u12 | Housekeeping |
| 09/05 10:59 132 | #0 | 4th swipe |
| 09/05 11:40 132 | #0 | 5th swipe |
| 09/05 15:35 HK-M | u06 | Housekeeping |
| 09/05 15:45 HK-M | u06 | |
| 09/05 21:45 132 | #1 | New Card |
| 09/06 10:07 132 | #0 | |
| 09/06 10:44 132 | #1 | |
| 09/06 10:48 132 | #1 | |
| 09/06 10:59 HK-M | u12 | |
| 09/06 11:29 132 | #1 | |
| 09/06 11:38 132 | #1 | |
| 09/06 12:05 132 | #1 | |
| 09/06 12:44 HK-M | u12 | |
| 09/06 14:45 HK-M | u12 | |
| 09/07 14:32 HK-M | u09 | |
| 09/07 14:37 HK-M | u09 | |
| 09/07 15:07 HK-M | u09 | |
| 09/07 15:16 HK-M | u09 | |



FLORENCE POLICE DEPARTMENT



INDIVIDUAL GIVING STATEMENT: Gregory Daniels
DETECTIVE TAKING STATEMENT: Det. T. Compton
REFERENCE: 2008-008875
DATE AND TIME OF STATEMENT: September 10, 2008/1601 Hrs.
PAGE #: 1

Compton: Alright this is Detective Sergeant Tim Compton with the Florence Police Department. Today is September the 10th, 2008. The time now is 1601 hours. Ah this is in reference to case number 2008-008875. Reference to the Murder that occurred at Marlboro and Dargen Street, uh victim being Cory Lee Byrd. Uh we're in the conference room. Here with me giving this taped statement is Greg, Gregory Daniels. I'm sorry but I, I don't want to mess up your middle name right. I'm a hillbilly, I can't pronounce some names but anyway Mr. Daniels gone be giving a statement, statement of what was going on at the cookout the night before uh the shooting occurred. Uh here in the conference room is the Detective George Clark, Detective John Graham and narcotics agents Nida, Bob Drullis...

Spears: Kendrick Spears

Compton: (inaudible) Spears. But uh we're sitting in the conference room and what I want you to do uh Gregory is basically what you told us before after I read your rights and stuff; just tell me exactly what happened at the cookout. Why you was there and exactly what you told us before.

Daniels: I stopped at the cookout because I saw some of my adopted kids and their mother. Gave my adopted daughter and her two brothers a ride on the moped. After I finished riding them I went and conversated with them. I noticed it was getting late so I told her to go ahead and feed them and take them home. After I told her that the fight broke out. So Von was not home; she was at the store going to get liquor or whatever she was going. She came back and it was still going on, arguing. During that process I Tina, go ahead and take the kids home; I'm going home. The fight broke out between Brian and I don't know the other fellow; whoever it was, he was from (inaudible). It was basically a fight between the Woodmont boys; whoever they is. Everybody that was fighting was from Woodmont. Mr. Byrd said a couple words to me. After he said what he said to me I told Tina to take the kids home. She took the kids home and I went home. After I went home I sent in West Florence to a setting-up.

Compton: Alright uh what exactly, do you remember what exactly words that uh Greg said to you?

Daniels: The exact words that he said to me is 'you know me'. I told him I do not know you, I don't want to know you, I know nothing about you, you don't know nothing about me. I don't be in Woodmont; I be in North Florence. His exact words that 'you don't me, you gone get to know me', and I walked off; that was it.



Compton: Okay bout, you remember about what time this was?

Daniels: I don't keep up with no time (inaudible)...

Compton: (inaudible)

Daniels: Only thing I can say is was about nine-thirty when I started telling her to take the kids home and I know I left before ten-thirty. That's all I can tell you; I know I left before ten-thirty.

Clark: And you never went back?

Daniels: No, no. Never returned.

Compton: And where did you do after that?

Daniels: To a setting-up. I went home first ...

Compton: I'm sorry, to where?

Daniels: A setting-up with my girlfriend.

Compton: Okay and...

Daniels: (inaudible)

Compton: Okay. And your girlfriend's name is what?

Daniels: Nirena Goodman.

Compton: Nirena Goodman. And she lives on Chase Street?

Daniels: Yes but the setting-up was in Carver Circle.

Compton: Okay. You know the address on Chase Street?

Daniels: No I don't. That's one thing I can't tell you. I don't remember the address on Carver...

Compton: On Carver Circle?

Daniels: Yeah. I mean if you was reading the paper you'll see where the setting-up and all that was going on. The main house where the person that died lived was on Chase Street but the setting-up was at her niece house in Carver Heights, Carver Circle, on Carver Circle.

Compton: Okay. And you said you saw uh somebody pull a gun.

Daniels: Yeah, Brian, after Brian and whoever was fighting; I don't know who the boy was, I can describe him to you. Slim, dreads, him and who,

after Brian, I don't know Brian's last name. After they was fighting Brian walked round on Vista Street, the corner of Vista and Frazier.

Compton: Uh-huh.

Daniels: I don't know where he went but he got out of sight and he came back with a gun. Somebody got hit over the head with the gun ...

Compton: Okay.

Daniels: After that I don't ...

Compton: You said, you said...

Daniels: All this happened in between, all this stuff happened, I'm putting together, I ain't tell, I don't, I putting it together but it happened in between; all this stuff happened with the fight.

Compton: Uh-huh.

Daniels: But the gun, yeah I seen the gun, Brian had the gun but when I seen the gun; when I see gun, bullet don't know nobody. I get out the way; I get from around it cause I don't suppose to be affiliated with em at all.

Compton: Uh-huh.

Daniels: That's what I did; I left and went to the setting-up. Got from around that fight.

Compton: Alright. Did you say anything back to Cory when he had said those words to you?

Daniels: Only thing, when he said, I'm , I'm telling you what the argument was.

Compton: Yes sir.

Daniels: 'You know me', I don't know you. 'You know me', I don't know you from a can of paint. 'You gone get to know me'.

Compton: Then you walked away.

Daniels: Walked away.

Compton: And that's it; okay.

Daniels: Nobody can tell you no different.

Compton: Okay.

Clark: You said earlier that when uh Cory was talking to you you said something about you shouldn't be (inaudible)...

Daniels: No I told that, that wasn't addressed to him. That was address to the people that was fighting.

Clark: Okay. What did you say

Daniels: I just told them, I was like we got old people around here and we respect them around here. We do not fight, when them old people close their doors we do not make them scared. If, if we doing something we turn our music down and we still carry on. We don't have all that fighting and stuff and scaring the old people like that. Just like when that murder happened on Liberty Street; that hurt me to my heart cause I know that old lady since I was a little boy. I grew up in that neighborhood. That hurt me to my heart. Like, the only thing I told them when they start getting all rowdy and I was like 'we got old people stay round here and we don't do that round here'. 'We respect our elders'.

Compton: What time do you think you got at uh Ms. Goodman's house?

Daniels: I don't, I couldn't tell you what time. I don't even think she'll be able to tell you what time. I just know it was dark; it was dark.

Compton: Was it, was still night or was in the morning?

Daniels: No it was still night; it was still night.

Compton: Okay.

Daniels: So we stayed ...

Compton: But it was before, before midnight?

Daniels: Yeah cause we stayed at the uh I stayed over there at my goddaughter's house; put my goddaughter to sleep and me and her left and went to the room. And we stayed at the room that night.

Clark: What room?

Daniels: The uh, what that is on Irby Street?

Clark: The motel?

Daniels: The uh what one that is; uh it use to be the Park Inn.

Clark: You got Colonial...

Daniels: Country Inn and Suites. Country Garden Inn and Suites.

Clark: Oh you got a room there?

Daniels: Yeah.

Clark: Was it in your name or...

Daniels: It was in her name.

Clark: Her name ... Nyrene

Daniels: Nyrenia Goodman.

Clark: Nyrenia.

Daniels: We went straight from the setting-up to the room.

Clark: Alright.

Daniels: Now you know everything you wanted to know.

Compton: Okay. Uh and that's it. Did you see anybody else while you were with this Cory Byrd?

Daniels: The only thing I can tell you sir like I've already explained and what I witnessed is Cory was arguing with basically everybody at the cook-out; everybody at the cook-out from Woodmont.

Compton: Could you hear what the arguments were about?

Daniels: Only thing I can say is he was arguing with everybody at the cook-out. I ain't gone go to every argument and try calm him down and see what going on cause a bullet - - - like I say, a bullet don't know nobody. I got kids getting ready to be teenagers; I ain't got time to be losing my life over nobody else fight. I'm not a violent person. I don't, I don't agree with that.

Clark: You never run into Cory any, any time before that?

Daniels: I don't know him; that's what I'm saying. I don't know him. That what I tried to tell him that night. 'I don't know you man; I don't know you'. I say I got family in Woodmont. We look alike but you might mistaken one of my cousins for me but that ain't me. I don't even, I ain't, when they have stuff in Woodmont I don't even go. I don't hang in Woodmont. I don't like Woodmont.

Clark: Okay.

Daniels: Knocking nobody in Woodmont, nothing like that. I just don't hang in Woodmont.

Compton: Okay you said you left; who did you say you left with?

Daniels: I didn't leave with nobody.

Compton: Okay you...

Daniels: I left by myself and walked around the corner on Vista Street to kiss the kids goodnight. And then I went home and then went to West Florence. That's what happened. Went to the setting-up. I told you I told Tina to take the kids home.

Clark: She walk home?

Daniels: She live right around the corner.

Clark: Then you walked to her house then you...

Daniels: Left and went home. Ain't never ...

Clark: Walked home?

Daniels: I never returned to the cook-out.

Clark: You walked home from your uh Ms. Goodman's house?

Daniels: Oh you talking bout, no I ain't walk home from Ms. Goodman house. Me and Ms. Goodman went to the room. Remember I just told you that.

Clark: Alone Vista Street, Vis..

Daniels: Yeah I walked over...

Clark: Walked over there and from there you walked over to...

Daniels: Then from there I walked to my house first and then I went home, went uh West Florence.

Clark: What, what happened to the moped?

Daniels: The moped was on the porch.

Clark: Of where?

Daniels: On First Street at my grandma house.

Clark: Oh you brought that home (inaudible)

Daniels: I been put that up.

Clark: Okay.

Compton: Uh now Tina, do you know Tina's address?

Daniels: I don't know.

Compton: Does she have a phone or anything?

Daniels: Ummm... yeah she got a phone.

Compton: Do you know the number?

Daniels: Not off hand.

Clark: No?

Daniels: It's in my phone.

Compton: Alright you said you walked, after you kissed the kids goodnight on Vista Street at Tina's house, you walked home. And then you left from there ... (inaudible)

Clark: Ummmmmmmmmmmmmmmm ...I don't plan on it; I didn't have... (inaudible). (Believe he is talking on the phone in background)

Daniels: I tell you I'm moving on Frazier Street.

Compton: Frazier Street, so you went to, you say, [REDACTED] ...

Clark: No I don't have; I've got everything I need from her. She, she came in and admitted it. Bye. (Talking on phone)

Compton: How long did you think you stayed there.

Daniels: (inaudible) long enough to turn some lights on.

Compton: Lights on or off? I'm sorry.

Compton: On.

Compton: Okay. Then you walked to, you said, to West Florence?

Daniels: Yes sir.

Compton: And that was to pick up uh Ny...

Daniels: That was to go to a setting-up.

Compton: Alright you picked Nyrina and then y'all walked to County Hart Inn?

Daniels: No we didn't walk, we (inaudible)

Compton: Okay.

Daniels: You're rearranging my words now I feel like I'm being (inaudible)

Compton: No, no, no I, I, I misunderstood you.

Daniels: Okay then let me explain it to you one more time.

Compton: Okay.

Daniels: When I got in West Florence we went to the setting-up on Carver Circle. Left the setting-up on Carver Circle and went to the room after I kissed my goddaughters goodnight. Stayed at the room and when we left the room we went back to the setting-up.

Compton: Who got the room?

Daniels: She did.

Compton: Okay.

Clark: You remember what room number that was? What was that on the side of the building

Daniels: 132.

Clark: 132.

Daniels: Yes.

Compton: What time did you leave the, the room and went back to the setting-up?

Daniels: Check out time. Laid down till check out time.

Compton: Probably eleven o'clock then in the morning?

Daniels: Yes sir.

Compton: Okay. Okay. Alright any, anything else you add or anything?

Clark: No she came in this morning (inaudible) (talking on phone).

Daniels: I told you everything I know.

Compton: I'm sorry.

Daniels: I told you, telling you everything I know.

Compton: Alright, that's it?

Daniels: Yes sir.

Compton: Okay well you comfortable with me turning off the tape now... cause that's all you got to say, right?

Clark: Uh-huh (believe he is still talking on the phone)

Compton: Okay the time now is 1614 hours.

Signature of Person Giving Statement

_____/_____/_____
Date

Witness

_____/_____/_____
Date

Witness

_____/_____/_____
Date

SWORN TO BEFORE ME THIS

_____ DAY OF _____, 2001

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA.

MY COMMISSION EXPIRES: _____

STATE OF SOUTH CAROLINA

County/Municipality of FLORENCE

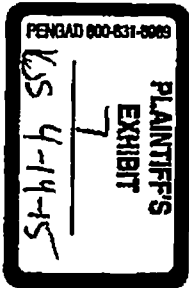
COPY

SEARCH WARRANT

Date 04/09/2010

Officer TIM COMPTON

1134



100000000060

Date Printed: 04/09/2010 10:18:32 AM

Personally appeared before me, one TIM COMPTON who, being duly sworn, says that there is probably cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

ALL CONTACT PERSONS AND/OR INFORMATION, RECENT INCOMING AND OUTGOING PHONE CALLS, TEXT MESSAGES, PHOTO MESSAGES AND OR/ VIDEO MESSAGES SENT AND RECEIVED THAT IS ON THE CELLULAR PHONE AND/OR SIM CARD.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

A GRAY AND BLACK CINGULAR SAMSUNG FLIP CELLULAR PHONE MODEL # SGH-D407 / SERIAL NUMBER RVBA 608478T AND A SIM CARD #89014104211142451684.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

ON 9/05/2008 THE VICTIM (CORY BYRD) WAS SHOT AND MURDERED BY THE DEFENDANT (GREGORY DANIELS). THE DEFENDANT ADMITTED TO THE AFFIANT HE WAS WITH HIS GIRLFRIEND ALL NIGHT AT COUNTRY HEARTH INN IN THE CITY OF FLORENCE BETWEEN 9/04/2008 AND 9/05/2008. THE DEFENDANT'S GIRLFRIEND (NYRENA GOODMAN) ADMITTED IN A TAPED STATEMENT SHE WAS WITH THE DEFENDANT AT COUNTRY HEARTH INN BUT DID NOT CHECK INTO THE INN UNTIL 5:34 AM ON 9/05/2008 WHICH WAS AFTER THE MURDER HAD OCCURRED. THE PHONE RECORDS OF THE DEFENDANT AND HIS GIRLFRIEND CONFIRMED CALLS WERE MADE TO EACH OTHER BEFORE AND AFTER THE MURDER. A WITNESS (ANDRE BRADLEY) GAVE A TAPED STATEMENT TO THE AFFIANT STATING HE RECEIVED A PHONE CALL FROM THE DEFENDANT TELLING HIM THAT HE HAD SHOT THE VICTIM. THE WITNESS FURTHER STATED THE DEFENDANT HAD TOLD HIM HE WAS HIRED BY GARY BOSTICK TO KILL THE VICTIM. THE DEFENDANT'S PHONE RECORDS SHOWED MULTIPLE PHONE CALLS WERE MADE TO THE WITNESS AND GARY BOSTICK. WE ARE SEARCHING FOR ANY AND ALL INFORMATION ON THE DEFENDANT'S CELLULAR PHONE THAT IS CURRENTLY IN THE FLORENCE POLICE DEPARTMENT'S CUSTODY.

Sworn to and Subscribed before me

this 9th day of April, 2010

Signature of Judge

(L.S.)

Tim Compton
Affiant

Address FLORENCE POLICE DEPT. 180 N. IRBY
FLORENCE SC 29501

Phone 843-665-3191

Date Printed: 04/09/2010 10:18:32 AM

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF FLORENCE

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A GRAY AND BLACK CINGULAR SAMSUNG FLIP CELLULAR PHONE MODEL # SGH-D407 / SERIAL NUMBER RVBA 608478T AND A SIM CARD #89014104211142451684.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

ALL CONTACT PERSONS AND/OR INFORMATION, RECENT INCOMING AND OUTGOING PHONE CALLS, TEXT MESSAGES, PHOTO MESSAGES AND OR/ VIDEO MESSAGES SENT AND RECEIVED THAT IS ON THE CELLULAR PHONE AND/OR SIM CARD.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Florence, S.C.
April 9 2010

[Signature] (L.S.)
Signature of Judge

RETURN

I received the attached Search Warrant _____, and have executed it as follows:

On 04-09-2010 at 1250 HRS o'clock PM, I searched

(the person) described in the warrant and (the premises) CONCLUDED AT APPROX. 1510 HRS ON 4-9-2010

I left a copy of the warrant with JACK LAWSON

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

DIGITAL PHOTOS OF THE DESCRIBED CELL PHONE AND CONTACT LIST; INCOMING AND OUTGOING CALLS; AND TEXT AND PHOTO MESSAGES WHICH WERE STORED ON THE PHONE.

DIGITAL PHOTOS WERE THEN TRANSFERRED TO A DISC.

This inventory was made in the presence of CPL. THOMAS MYERS

AND _____

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 9th day of April

[Signature]
Signature of Judge

(L.S.)

[Signature]
(Signature of Officer Executing Warrant)

Date Printed: 04/09/2010 10:18:32 AM

INCIDENT REPORT SUPPLEMENTAL

Page #: 1

Case Number: 2008-008875

Officer: 221D MOREAU, C

Date Entered/Changed: 10/14/2008

Reviewer:

Review Date:

DETAILED STATEMENT OF INVESTIGATION:

2008-008875

HOMICIDE

CPL C MOREAU 221D

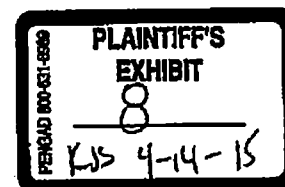
10/14/2008

ON 09/05/2008 AT APPROXIMATELY 0530 HRS, INVESTIGATOR MYERS NOTIFIED ME OF A HOMICIDE SCENE NEAR THE INTERSECTION OF N DARGAN ST AND MARLBORO ST. I ARRIVED A SHORT TIME LATER AND MET WITH INV MYERS, SGT COMPTON, CORONER B MATTHEWS, AND SEVERAL OTHER OFFICERS. THE SCENE WAS SECURED WITH CRIME SCENE BARRIER TAPE AND THE VICTIM'S (COREY LEE BIRD) BODY WAS COVERED WITH A WHITE SHEET THAT WAS PLACED THERE BY EMS PERSONNEL. IT APPEARED THAT THE VICTIM HAD BEEN STRUCK IN THE HEAD WITH A SINGLE PROJECTILE. NEAR THE BODY WAS A LARGE TRAFFIC CONE THAT WAS BEING USED AS AN EVIDENCE MARKER AS IT WAS COVERING THE VICTIM'S CELL PHONE. A FEW DROPS OF WHAT APPEARED TO BE BLOOD WERE LOCATED IN THE ROADWAY IN CLOSE PROXIMITY TO THE BODY. INV MYERS PHOTOGRAPHED THE SCENE USING HIS ISSUED NIKON D200 DIGITAL CAMERA WHILE I TOOK SEVERAL PHOTOGRAPHS USING A NIKON N70 35MM CAMERA. INV MYERS THEN RECORDED THE SCENE USING THE CRIME SCENE UNIT'S 8MM VIDEO CAMERA. THE RED SUBSTANCE TESTED POSITIVE FOR BLOOD USING A PHENOLPHTHALEIN PRESUMPTIVE BLOOD TEST KIT. SEVERAL SAMPLES OF THE BLOOD WERE TAKEN BY INVESTIGATOR MYERS. EVIDENCE MARKERS WERE THEN PLACED IN THE AREA OF THE BODY, BLOOD STAINS, CELL PHONE, AND AN EMPTY BEER CAN LYING ON THE SIDE OF THE ROAD. ADDITIONAL PHOTOGRAPHS WERE THEN TAKEN BY INV MYERS. THE VICTIM'S HANDS WERE THEN SECURED INSIDE PAPER BAGS AND THE BODY WAS REMOVED BY EMS. I COMPLETED A SKETCH OF THE SCENE USING GRAPH PAPER AND SEVERAL MEASUREMENTS WERE TAKEN. ALL EVIDENCE WAS SECURED BY INV MYERS. WE WERE UNABLE TO LOCATE ANY SHELL CASINGS AT THE SCENE. WE THEN LEFT THE SCENE AND RETURNED TO THE FPD CRIME SCENE OFFICE. AT APPROXIMATELY 1615 HRS, I TRANSFERRED THE DIGITAL AUDIO FILES (FILE #'S DW_B0017 AND DW_B0018) FROM OFFICER USSERY'S OLYMPUS DIGITAL AUDIO RECORDER TO A WRITE PROTECTED CD-R. I THEN TRANSFERRED THE DIGITAL ALLY IN-CAR VIDEO FROM UNIT #54 (OFFICER USSERY'S VEHICLE) TO A WRITE PROTECTED DVD+R. BOTH DISCS WERE SECURED IN THE CRIME SCENE SAFE FOR INV MYERS. AT APPROXIMATELY 1730 HRS, INVESTIGATOR CLARK BROUGHT A SUBJECT TO THE CRIME SCENE OFFICE AND REQUESTED THAT I TEST A STAIN ON HIS BLUE JEANS TO SEE IF IT WAS BLOOD. THE SUBJECT ADVISED ME THAT THE STAIN WAS HOT SAUCE THAT HE HAD SPILLED THE PREVIOUS NIGHT. THE SUBJECT SIGNED A CONSENT TO SEARCH FORM TO ALLOW ME TO SWAB THE STAIN. I THEN CONDUCTED A PHENOLPHTHALEIN PRESUMPTIVE BLOOD TEST ON THE STAIN (LEFT KNEE AREA OF THE JEANS) AND OBTAINED A POSITIVE RESULT FOR BLOOD. A SAMPLE WAS THEN COLLECTED USING A SET OF STERILE COTTON TIPPED SWABS. I THEN REQUESTED THAT THE SUBJECT GIVE ME A BUCCAL SWAB FOR COMPARISON PURPOSES AND HE REFUSED. HE DID HOWEVER ALLOW ME TO TAKE PHOTOGRAPHS OF THE STAIN. THE SWABS WERE ALLOWED TO DRY AND WERE THEN SECURED INSIDE A PAPER ENVELOPE IN THE CRIME SCENE SAFE. THE DIGITAL PHOTOGRAPHS WERE TRANSFERRED TO A CD-R AND THE CD-R WAS ALSO SECURED IN THE CRIME SCENE SAFE.

ON 09/10/2008 AT APPROXIMATELY 2035 HRS, SGT COMPTON BROUGHT ME A SAMSUNG CELL PHONE AND REQUESTED THAT I TAKE PHOTOGRAPHS OF THE PHONE AS WELL AS PHOTOGRAPHS OF AN ORANGE MOPED THAT HAD BEEN SECURED IN THE FPD BASEMENT. I THEN PHOTOGRAPHED THE PHONE (INCLUDING A MESSAGE THAT APPEARED ON THE SCREEN DURING THE PHONE'S POWER UP SEQUENCE) AND THE MOPED. I TRANSFERRED THE DIGITAL PHOTOGRAPHS TO A CD-R AND SECURED THE CD-R IN THE CRIME SCENE SAFE FOR INVESTIGATOR MYERS.

REVIEWED BY:

DATE REVIEWED:



Subscriber Activity
(CDR)

PLAINTIFF'S
EXHIBIT
25 4-14-08
FORD 800-831-8888

1139

| Call Date/Time | Call Site (last 4 digits) | City Called | State | Calling Num | Num Called | Call Duration (In Seconds) |
|----------------|---------------------------------|-------------|----------------|-------------|-------------|-------------------------------|
| 9/5/2008 13:15 | 3104100832130170 | - | South Carolina | 8436171270 | 18034775816 | 191 |
| 9/5/2008 13:15 | 3104100832130170 | FLORENCE | - | 8034775816 | 18436171270 | 0 |
| 9/5/2008 13:15 | 3104100000000000 | - | North Carolina | 8034775816 | 17047789988 | 6 |
| 9/5/2008 11:27 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| 9/5/2008 11:27 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| 9/5/2008 10:12 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| 9/5/2008 10:02 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| 9/5/2008 10:01 | - | FLORENCE | - | 8436175339 | 18436171270 | 1 |
| 9/5/2008 10:01 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| 9/5/2008 9:59 | - | FLORENCE | - | 8436175339 | 18436171270 | 1 |
| 9/5/2008 8:17 | - | FLORENCE | - | 8436175339 | 18436171270 | 1 |
| 9/5/2008 8:15 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| 9/5/2008 5:38 | 3104100832130130 | - | South Carolina | 8436171270 | 18436783699 | 26 |
| 9/5/2008 5:26 | 3104100832130170 | - | South Carolina | 8436171270 | 18436783699 | 35 |
| 9/5/2008 5:21 | 3104100832131270 | FLORENCE | - | 8436175339 | 18436171270 | 14 |
| 9/5/2008 4:32 | 3104100832131270 | FLORENCE | - | 8436171270 | 18436175339 | 92 |
| 9/5/2008 4:28 | 3104100832130170 | FLORENCE | - | 8436175339 | 18436171270 | 0 |
| 9/5/2008 4:28 | 3104100000000000 | - | North Carolina | 8436175339 | 17047789988 | 4 |
| 9/5/2008 3:04 | 3104100832130170 | FLORENCE | - | 8436175339 | 18436171270 | 0 |
| 9/5/2008 3:04 | 3104100000000000 | - | North Carolina | 8436175339 | 17047789988 | 4 |
| 9/4/2008 23:52 | 3104100832130020 | FLORENCE | - | 8436795407 | 18436171270 | 1204 |
| 9/4/2008 23:43 | 3104100832131270 | - | South Carolina | 8436171270 | 18436795407 | 36 |
| 9/4/2008 22:51 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| 9/4/2008 22:38 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| 9/4/2008 22:22 | 3104100832130020 | FLORENCE | - | 8033787750 | 18436171270 | 0 |
| 9/4/2008 22:22 | 3104100000000000 | - | North Carolina | 8033787750 | 17047789988 | 4 |
| 9/4/2008 22:13 | - | FLORENCE | - | 8436245944 | 18436171270 | 1 |
| 9/4/2008 21:52 | - | FLORENCE | - | 8436168527 | 18436171270 | 1 |
| 9/4/2008 21:51 | - | FLORENCE | - | 8436245944 | 18436171270 | 1 |
| 9/4/2008 21:25 | 3104100832130020 | FLORENCE | - | 8436171270 | 18436175339 | 147 |
| 9/4/2008 21:17 | 3104100832130170 | FLORENCE | - | 8436175339 | 18436171270 | 0 |
| 9/4/2008 21:17 | 3104100000000000 | - | North Carolina | 8436175339 | 17047789988 | 3 |
| 9/4/2008 19:38 | 0 | - | South Carolina | 8436171270 | 18436245944 | 1 |

All "Calls to Destination" and "Subscriber Activity" reports are recorded in Local Switch Time.
 PROPRIETARY AND CONFIDENTIAL
 Not for use or disclosure outside AT&T and its Affiliates except under written agreement

| Call Type | Service Type | Call Date/Time | Cell Sites (last 9 digits) | City Called | State | Calling Num | Num Called | Call Duration (In) |
|-------------|------------------------|----------------|----------------------------|-------------|----------------|-------------|-------------|--------------------|
| Originating | PAYGO Limited Text SMS | 9/5/2008 11:27 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| Originating | PAYGO Limited Text SMS | 9/5/2008 11:27 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| Originating | PAYGO Limited Text SMS | 9/5/2008 10:12 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| Originating | PAYGO Limited Text SMS | 9/5/2008 10:02 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| Terminating | PAYGO Limited Text SMS | 9/5/2008 10:01 | - | FLORENCE | - | 8436175339 | 18436171270 | 1 |
| Originating | PAYGO Limited Text SMS | 9/5/2008 10:01 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| Terminating | PAYGO Limited Text SMS | 9/5/2008 9:59 | - | FLORENCE | - | 8436175339 | 18436171270 | 1 |
| Terminating | PAYGO Limited Text SMS | 9/5/2008 8:17 | - | FLORENCE | - | 8436175339 | 18436171270 | 1 |
| Originating | PAYGO Limited Text SMS | 9/5/2008 8:15 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| Originating | Local Call | 9/5/2008 5:38 | 3104100832130130 | - | South Carolina | 8436171270 | 18436783699 | 26 |
| Originating | Local Call | 9/5/2008 5:26 | 3104100832130170 | - | South Carolina | 8436171270 | 18436783699 | 35 |
| Terminating | Local Call | 9/5/2008 5:21 | 3104100832131270 | FLORENCE | - | 8436175339 | 18436171270 | 14 |
| Originating | Local Call | 9/5/2008 4:32 | 3104100832131270 | FLORENCE | - | 8436171270 | 18436175339 | 92 |
| Terminating | Local Call | 9/5/2008 4:28 | 3104100832130170 | FLORENCE | - | 8436175339 | 18436171270 | 0 |
| Forwarded | Voice Mail Deposit | 9/5/2008 4:28 | 3104100000000000 | - | North Carolina | 8436175339 | 17047789988 | 4 |
| Terminating | Local Call | 9/5/2008 3:04 | 3104100832130170 | FLORENCE | - | 8436175339 | 18436171270 | 0 |
| Forwarded | Voice Mail Deposit | 9/5/2008 3:04 | 3104100000000000 | - | North Carolina | 8436175339 | 17047789988 | 4 |
| Terminating | Local Call | 9/4/2008 23:52 | 3104100832130020 | FLORENCE | - | 8436795407 | 18436171270 | 1204 |
| Originating | Local Call | 9/4/2008 23:43 | 3104100832131270 | - | South Carolina | 8436171270 | 18436795407 | 36 |
| Originating | PAYGO Limited Text SMS | 9/4/2008 22:51 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| Originating | PAYGO Limited Text SMS | 9/4/2008 22:38 | 0 | FLORENCE | - | 8436171270 | 18436175339 | 1 |
| Terminating | Local Call | 9/4/2008 22:22 | 3104100832130020 | FLORENCE | - | 8033787750 | 18436171270 | 0 |
| Forwarded | Voice Mail Deposit | 9/4/2008 22:22 | 3104100000000000 | - | North Carolina | 8033787750 | 17047789988 | 4 |
| Terminating | PAYGO Limited Text SMS | 9/4/2008 22:13 | - | FLORENCE | - | 8436245944 | 18436171270 | 1 |
| Terminating | PAYGO Limited Text SMS | 9/4/2008 21:52 | - | FLORENCE | - | 8436168527 | 18436171270 | 1 |
| Terminating | PAYGO Limited Text SMS | 9/4/2008 21:51 | - | FLORENCE | - | 8436245944 | 18436171270 | 1 |
| Originating | Local Call | 9/4/2008 21:25 | 3104100832130020 | FLORENCE | - | 8436171270 | 18436175339 | 147 |
| Terminating | Local Call | 9/4/2008 21:17 | 3104100832130170 | FLORENCE | - | 8436175339 | 18436171270 | 0 |
| Forwarded | Voice Mail Deposit | 9/4/2008 21:17 | 3104100000000000 | - | North Carolina | 8436175339 | 17047789988 | 3 |
| Originating | PAYGO Limited Text SMS | 9/4/2008 19:38 | 0 | - | South Carolina | 8436171270 | 18436245944 | 1 |
| Terminating | PAYGO Limited Text SMS | 9/4/2008 13:55 | - | FLORENCE | - | 8436168527 | 18436171270 | 1 |
| Terminating | PAYGO Limited Text SMS | 9/4/2008 13:49 | - | FLORENCE | - | 8436168527 | 18436171270 | 1 |
| Terminating | Local Call | 9/4/2008 7:30 | 3104100832131270 | FLORENCE | - | 8436623048 | 18436171270 | 8 |
| Terminating | Local Call | 9/4/2008 7:26 | 3104100832131270 | FLORENCE | - | 8436623048 | 18436171270 | 22 |
| Originating | Local Call | 9/3/2008 23:59 | 3104100832130170 | - | South Carolina | 8436171270 | 18436659069 | 54 |
| Terminating | Local Call | 9/3/2008 23:23 | 3104100832131270 | FLORENCE | - | 8436795407 | 18436171270 | 124 |
| Terminating | Local Call | 9/3/2008 23:01 | 3104100832131270 | FLORENCE | - | 8436175339 | 18436171270 | 208 |
| Originating | Local Call | 9/3/2008 22:10 | 3104100832131270 | - | South Carolina | 8436171270 | 18436783699 | 34 |
| Originating | Local Call | 9/3/2008 21:49 | 3104100832130020 | - | South Carolina | 8436171270 | 18436795407 | 947 |
| Terminating | Local Call | 9/3/2008 21:49 | 3104100832130020 | FLORENCE | - | 8436171270 | 18436171270 | 0 |

1140

All "Calls to Destination" and "Subscriber Activity" reports are recorded in Local Switch Time.
 PROPRIETARY AND CONFIDENTIAL
 Not for use or disclosure outside AT&T and its Affiliates except under written agreement

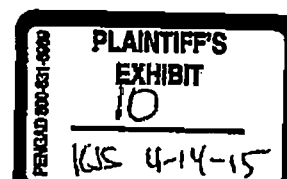
A1-3

Voice Usage For
Account Number

(843)617-0731
39997608

Bill Cycle: 1

| Item Switch | Date Sid | Time | Number Serving Area Called | LAC | Calls To CID | Mins Used | Feature | Usage Type | Charge | Roam Type |
|-------------|-------------------|--------|----------------------------------|-----|----------------------|--------------|---------|---------------|--------|--------------|
| 1 08321 | 09/05/08 40013 | 05:26P | (843)617-6491 08321 | | FLORENCE SC 30172 | 1 | | P | \$0.00 | H |
| 2 08321 | 09/05/08 40013 | 05:27P | (843)617-9734 08321 | | FLORENCE SC 30172 | 2 | | P | \$0.00 | H |
| 3 08321 | 09/05/08 40013 | 05:29P | (843)230-5053 08321 | | FLORENCE SC 30172 | 1 | | P | \$0.00 | H |
| 4 08321 | 09/05/08 40013 | 05:31P | (843)496-1108 08321 | | FLORENCE SC 30172 | 1 | | P | \$0.00 | H |
| 5 08321 | 09/05/08 40013 | 05:32P | (843)230-5073 08321 | | FLORENCE SC 30172 | 1 | | P | \$0.00 | H |
| 6 08321 | 09/05/08 40013 | 05:51P | (843)617-9734 08321 | | INCOMING 30011 | 1 | | P | \$0.00 | H |
| 7 08321 | 09/05/08 40013 | 05:55P | (843)230-5053 08321 | | FLORENCE SC 31272 | 1 | | P | \$0.00 | H |
| 8 08321 | 09/05/08 40013 | 05:57P | (843)260-2460 08321 | | INCOMING 30131 | 1 | | P | \$0.00 | H |
| 9 08321 | 09/05/08 40013 | 05:59P | (843)229-2274 08321 | | FLORENCE SC 30131 | 1 | | P | \$0.00 | H |
| 10 08321 | 09/05/08 40013 | 06:04P | (843)679-2416 08321 | | FLORENCE SC 31273 | 1 | | P | \$0.00 | H |
| 11 08321 | 09/05/08 40013 | 06:05P | (843)496-6000 08321 | | FLORENCE SC 31273 | 1 | | P | \$0.00 | H |
| 12 08321 | 09/05/08 40013 | 06:07P | (843)617-1270 08321 | | FLORENCE SC 31273 | 1 | | P | \$0.00 | H |
| 13 08321 | 09/05/08 40013 | 06:15P | (843)496-6000 08321 | | FLORENCE SC 30021 | 2 | | P | \$0.00 | H |
| 14 08321 | 09/05/08 40013 | 06:20P | (843)617-1270 08321 | | FLORENCE SC 30172 | 1 | | P | \$0.00 | H |



A1-3

| | | | | | | | |
|-------------|-------------------|---|---|---|---|--------|---|
| 64 08322 | 09/06/08 40013 | 01:34A (843)664-2439 FLORENCE SC 08322 31352 | 1 | W | N | \$0.00 | H |
| 65 08322 | 09/06/08 40013 | 01:35A (843)665-2770 INCOMING 08322 31352 | 1 | W | N | \$0.00 | H |
| 66 08322 | 09/06/08 40013 | 01:40A (843)617-1270 INCOMING 08322 31352 | 1 | W | N | \$0.00 | H |
| 67 08322 | 09/06/08 40013 | 01:44A (843)617-1270 FLORENCE SC 08322 31352 | 1 | W | N | \$0.00 | H |
| 68 08322 | 09/06/08 40013 | 01:48A (843)496-2275 FLORENCE SC 08322 31352 | 2 | W | N | \$0.00 | H |
| 69 08321 | 09/06/08 40013 | 09:49A (843)230-5073 INCOMING 08321 31271 | 4 | W | N | \$0.00 | H |
| 70 08321 | 09/06/08 40013 | 10:21A (843)667-0197 FLORENCE SC 08321 30172 | 2 | W | N | \$0.00 | H |
| 71 08321 | 09/06/08 40013 | 10:33A (843)667-0197 FLORENCE SC 08321 30172 | 1 | W | N | \$0.00 | H |
| 72 08321 | 09/06/08 40013 | 11:57A (843)667-0197 FLORENCE SC 08321 30021 | 2 | W | N | \$0.00 | H |
| 73 08321 | 09/06/08 40013 | 11:59A (843)245-7302 FLORENCE SC 08321 30022 | 3 | W | N | \$0.00 | H |
| 74 08321 | 09/06/08 40013 | 12:08P (843)260-2460 INCOMING 08321 31273 | 1 | W | N | \$0.00 | H |
| 75 08321 | 09/06/08 40013 | 12:21P (843)665-2770 INCOMING 08321 31273 | 3 | W | N | \$0.00 | H |
| 76 08321 | 09/06/08 40013 | 12:24P (843)665-2770 FLORENCE SC 08321 31273 | 3 | W | N | \$0.00 | H |
| 77 08321 | 09/06/08 40013 | 12:29P (843)617-6919 FLORENCE SC 08321 30022 | 1 | W | N | \$0.00 | H |
| 78 08321 | 09/06/08 40013 | 12:32P (843)496-1108 FLORENCE SC 08321 31273 | 2 | W | N | \$0.00 | H |
| 79 | 09/06/08 | 04:27P (843)229-6852 FLORENCE SC | 1 | W | N | \$0.00 | H |

| Line No | Date | Time | Phone No | Location | Count | Day | Week | Rate | Code |
|---------|----------|--------|---------------|-------------|-------|-----|------|--------|------|
| 128 | 09/07/08 | 01:30A | (843)230-5073 | FLORENCE SC | 2 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 31402 | | | | | | |
| 129 | 09/07/08 | 02:07A | (843)229-6616 | INCOMING | 1 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 30173 | | | | | | |
| 130 | 09/07/08 | 02:16A | (843)245-7302 | FLORENCE SC | 1 | W | N | \$0.00 | H |
| 08322 | 40013 | | 08322 30031 | | | | | | |
| 131 | 09/07/08 | 02:21A | (843)230-5073 | FLORENCE SC | 1 | W | N | \$0.00 | H |
| 08322 | 40013 | | 08322 30031 | | | | | | |
| 132 | 09/07/08 | 02:22A | (843)230-5073 | INCOMING | 4 | W | N | \$0.00 | H |
| 08322 | 40013 | | 08322 30033 | | | | | | |
| 133 | 09/07/08 | 02:29A | (843)496-2275 | INCOMING | 3 | W | N | \$0.00 | H |
| 08322 | 40013 | | 08322 30031 | | | | | | |
| 134 | 09/07/08 | 02:47A | (843)245-7302 | FLORENCE SC | 1 | W | N | \$0.00 | H |
| 08322 | 40013 | | 08322 30031 | | | | | | |
| 135 | 09/07/08 | 02:53A | (843)229-6616 | INCOMING | 1 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 30171 | | | | | | |
| 136 | 09/07/08 | 03:02A | (843)496-2275 | FLORENCE SC | 1 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 31273 | | | | | | |
| 137 | 09/07/08 | 03:13A | (843)230-5073 | INCOMING | 1 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 31271 | | | | | | |
| 138 | 09/07/08 | 03:21A | (843)617-1270 | FLORENCE SC | 1 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 30021 | | | | | | |
| 139 | 09/07/08 | 09:35A | (843)260-2460 | INCOMING | 1 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 30172 | | | | | | |
| 140 | 09/07/08 | 09:38A | (843)617-1270 | INCOMING | 1 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 30172 | | | | | | |
| 141 | 09/07/08 | 09:50A | (843)260-2460 | INCOMING | 2 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 31271 | | | | | | |
| 142 | 09/07/08 | 09:58A | (843)229-2274 | FLORENCE SC | 2 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 30022 | | | | | | |
| 143 | 09/07/08 | 10:06A | (843)496-6000 | INCOMING | 3 | W | N | \$0.00 | H |
| 08321 | 40013 | | 08321 30173 | | | | | | |

| Line | Date | Time | Phone | Area | City | Count | Rate | Class | Code |
|--------------|-------------------|--------|------------------------------|------------------|------|-------|--------|-------|------|
| 321 08321 | 09/09/08 40013 | 05:20P | (843)662-0814 08321 30172 | A1-3 INCOMING | | 1 | \$0.00 | H | P |
| 322 08321 | 09/09/08 40013 | 05:33P | (843)453-4100 08321 30172 | FLORENCE SC | | 1 | \$0.00 | H | P |
| 323 08321 | 09/09/08 40013 | 06:18P | (843)617-6919 08321 31271 | FLORENCE SC | | 2 | \$0.00 | H | P |
| 324 08321 | 09/09/08 40013 | 07:28P | (843)617-6919 08321 30172 | FLORENCE SC | | 1 | \$0.00 | H | P |
| 325 08321 | 09/09/08 40013 | 07:35P | (843)229-4989 08321 30172 | FLORENCE SC | | 1 | \$0.00 | H | P |
| 326 08321 | 09/09/08 40013 | 07:40P | (843)229-2274 08321 30172 | FLORENCE SC | | 1 | \$0.00 | H | P |
| 327 08321 | 09/09/08 40013 | 07:40P | (843)229-4989 08321 30172 | INCOMING | | 1 | \$0.00 | H | P |
| 328 08321 | 09/09/08 40013 | 07:47P | (843)229-8180 08321 30172 | FLORENCE SC | | 1 | \$0.00 | H | P |
| 329 08321 | 09/09/08 40013 | 07:48P | (843)229-4989 08321 30172 | FLORENCE SC | | 1 | \$0.00 | H | P |
| 330 08321 | 09/09/08 40013 | 07:49P | (843)230-5073 08321 30172 | FLORENCE SC | | 2 | \$0.00 | H | P |
| 331 08321 | 09/09/08 40013 | 07:51P | (843)617-1270 08321 30172 | INCOMING | | 1 | \$0.00 | H | P |
| 332 08321 | 09/09/08 40013 | 07:55P | (843)413-0894 08321 31271 | INCOMING | | 1 | \$0.00 | H | P |
| 333 08321 | 09/09/08 40013 | 08:45P | (843)496-6000 08321 30152 | INCOMING | | 2 | \$0.00 | H | P |
| 334 08321 | 09/09/08 40013 | 08:51P | (843)617-6919 08321 30152 | INCOMING | | 1 | \$0.00 | H | P |
| 335 08321 | 09/09/08 40013 | 09:02P | (843)617-1270 08321 30151 | INCOMING | | 1 | \$0.00 | H | W O |
| 336 08321 | 09/09/08 40013 | 09:03P | (843)617-6919 08321 30152 | FLORENCE SC | | 1 | \$0.00 | H | W O |
| 337 | 09/09/08 | 09:04P | (843)617-6919 | INCOMING | | 2 | \$0.00 | H | W O |

A1-3

| | | | | | | | | |
|-------|----------|--------|---------------|-----------|---|---|--------|---|
| 354 | 09/10/08 | 03:10P | (607)343-2980 | INCOMING | 3 | P | \$0.00 | H |
| 08321 | 40013 | | 08321 30172 | | | | | |
| 355 | 09/10/08 | 04:39P | (843)617-1270 | INCOMING | 2 | P | \$0.00 | H |
| 08321 | 40013 | | 08321 30013 | | | | | |
| 356 | 09/10/08 | 04:47P | (843)245-7302 | INCOMING | 4 | P | \$0.00 | H |
| 08321 | 40013 | | 08321 31271 | | | | | |
| 357 | 09/10/08 | 07:41P | (843)617-0731 | VMAIL CL | 1 | P | \$0.00 | H |
| 08321 | 40013 | | 08321 31271 | | | | | |
| 358 | 09/10/08 | 07:42P | (843)617-0731 | VMAIL CL | 2 | P | \$0.00 | H |
| 08321 | 40013 | | 08321 31271 | | | | | |
| 359 | 09/12/08 | 10:45A | (704)778-9988 | CHARLOTTE | 1 | P | \$0.00 | H |
| 00000 | 40013 | | 00000 00272 | | | | | |
| | | | NC | | | | | |
| 360 | 09/12/08 | 10:45A | (704)778-9988 | CHARLOTTE | 1 | P | \$0.00 | H |
| 00000 | 40013 | | 00000 00272 | | | | | |
| | | | NC | | | | | |
| 361 | 09/12/08 | 10:57A | (704)778-9988 | CHARLOTTE | 1 | P | \$0.00 | H |
| 00000 | 40013 | | 00000 00272 | | | | | |
| | | | NC | | | | | |
| 362 | 09/12/08 | 12:51P | (704)778-9988 | CHARLOTTE | 1 | P | \$0.00 | H |
| 00000 | 40013 | | 00000 00272 | | | | | |
| | | | NC | | | | | |

Run Date: 09/15/08

Run Time: 05:20:07

GPRS/Text Usage For (843)617-0731

Account Number 39997608 Bill cycle: 1

| Item Area | Date | Time | Qty Used | Usage Type | Charge | Roam Type | Carrier Code | Serving |
|-----------|----------|--------|----------|------------|--------|-----------|--------------|---------|
| 1 | 09/09/08 | 12:11P | 31 KB | GPRS | \$0.00 | H | 00000 | |
| | 08321 | 30172 | | | | | | |
| 2 | 09/10/08 | 07:41P | 2 KB | GPRS | \$0.00 | H | 00000 | |
| | 08321 | 31271 | | | | | | |

A1-3

| | | | | | | | | |
|--------------|-------------------|-------------------------------------|-------------|----|---|---|--------|---|
| 173 08321 | 09/03/08 40013 | 11:23P (843)679-5407 08321 31273 | INCOMING | 3 | W | O | \$0.00 | H |
| 174 08321 | 09/03/08 40013 | (843)665-9069 08321 30172 | FLORENCE SC | 1 | W | O | \$0.00 | H |
| 175 08321 | 09/04/08 40013 | 07:26A (843)662-3048 08321 31271 | INCOMING | 1 | | P | \$0.00 | H |
| 176 08321 | 09/04/08 40013 | 07:30A (843)662-3048 08321 31271 | INCOMING | 1 | | P | \$0.00 | H |
| 177 08321 | 09/04/08 40013 | 09:25P (843)617-5339 08321 30022 | FLORENCE SC | 3 | W | O | \$0.00 | H |
| 178 08321 | 09/04/08 40013 | 11:43P (843)679-5407 08321 31273 | FLORENCE SC | 1 | W | O | \$0.00 | H |
| 179 08321 | 09/04/08 40013 | 11:52P (843)679-5407 08321 30021 | INCOMING | 21 | W | O | \$0.00 | H |
| 180 08321 | 09/05/08 40013 | 04:32A (843)617-5339 08321 31271 | FLORENCE SC | 2 | W | O | \$0.00 | H |
| 181 08321 | 09/05/08 40013 | 05:21A (843)617-5339 08321 30172 | INCOMING | 1 | W | O | \$0.00 | H |
| 182 08321 | 09/05/08 40013 | 05:26A (843)678-3699 08321 30172 | FLORENCE SC | 1 | W | O | \$0.00 | H |
| 183 08321 | 09/05/08 40013 | 05:38A (843)678-3699 08321 30133 | FLORENCE SC | 1 | W | O | \$0.00 | H |
| 184 08321 | 09/05/08 40013 | 01:15P (803)477-5816 08321 30172 | COLUMBIA SC | 4 | | P | \$0.00 | H |
| 185 08321 | 09/05/08 40013 | 01:28P (843)617-5339 08321 30172 | FLORENCE SC | 1 | | P | \$0.00 | H |
| 186 08321 | 09/05/08 40013 | 01:30P (843)679-5407 08321 30172 | FLORENCE SC | 2 | | P | \$0.00 | H |
| 187 08321 | 09/05/08 40013 | 01:33P (843)773-9069 08321 31271 | FLORENCE SC | 1 | | P | \$0.00 | H |
| 188 08321 | 09/05/08 40013 | 01:34P (843)992-3013 08321 30172 | FLORENCE SC | 1 | | P | \$0.00 | H |



RECEIVED
APR 14 2010

U.S. Department of Justice

United States Attorney

District of South Carolina

PUBLIC DEFENDER'S OFFICE
BY *[Signature]*

PLAINTIFF'S
EXHIBIT
20
KJS 4-4-15

Wachovia Building
Suite 500
1441 Main Street
Columbia, SC 29201
(803) 929-3000
FAX (803) 254-2912

151 Meeting Street
Suite 200
Post Office Box 978
Charleston, SC 29402
(843) 727-4381
FAX (843) 727-4143

John L. McMillan Federal
Building, Room 222
401 W. Evans Street
Post Office Box 1567
Florence, SC 29503
(843) 665-6688
FAX (843) 678-8809

105 N. Spring Street
Suite 200
Post Office Box 10067
Greenville, SC 29603
(864) 282-2100
FAX (864) 233-3158

Reply to: Florence

January 20, 2010

John M. Ervin, III, Esquire
[Redacted]
Darlington, SC 29540

RE: Andre Marquise Bradley

Dear Mr. Ervin:

The following constitutes the proffer agreement between the Attorneys for the Government and Andre Marquise Bradley, hereinafter referred to as "Client."

PROFFER AGREEMENT

The purpose of Client making a Proffer is to provide the Government with an opportunity to assess the value, extent, and truthfulness of Client's information about the criminal liability of Client and others.

THIS IS NOT A COOPERATION AGREEMENT. Client has agreed to provide the Government with statements and information, and to respond to questions so that the Government may evaluate Client's statements and other information in making prosecutive decisions. By receiving Client's Proffer, the Government does not agree to make a motion for downward departure on the Client's behalf or to enter into a cooperation agreement, plea agreement, immunity or non-prosecutive agreement. The Government makes no representation about the likelihood that any such agreement will be reached in connection with this Proffer.

By signing this "Proffer Agreement," Client agrees to be fully truthful and forthright with the United States Attorney's Office for the District of South Carolina and federal law enforcement agents in their investigation of all unlawful activities, to include, but not limited to, truthful and complete debriefings with no misstatements or material omissions of fact of Client's knowledge concerning all unlawful activities. Also, Client understands that Client must fully disclose and provide truthful information to Government including any books, papers, or documents or any other items of evidentiary value to the investigation. Client must also testify fully and truthfully before any grand juries and at any trials or other proceedings if called upon to do so by the Government, subject to prosecution for perjury for not testifying truthfully. Client's failure to be fully truthful and forthright at any stage will, at the sole election to the Government,

John M. Ervin, III, Esquire

January 20, 2010

Page 2

cause the obligations of the Government within this Agreement to become null and void. Further, it is expressly agreed that if the obligations of the Government within this Agreement become null and void due to the lack of truthfulness on Client's part:

(1) the Government may file any and all charges known to the Government in the appropriate district; and

(2) the Government may use for any purpose any and all statements made and other information provided by Client in the prosecution of Client on any charges, including perjury. Client accepts this provision being fully advised that under Fed.R.Evid. 410, statements made by Client pursuant to this Agreement would not ordinarily be admissible in any criminal proceedings including perjury and making false statements unless the statements were made under oath, on the record, and in the presence of counsel.

Client agrees to submit to polygraph examination(s) by any qualified polygraph examiner should Client be requested to do so. Failure to pass to the satisfaction of the Government any polygraph examination administered pursuant to this Agreement constitutes a breach of the Agreement, and the Government may use for any purpose any statements made and other information provided by Client in the prosecution of Client on any charges.

Provided Client is truthful as described above, remaining terms of the Agreement are as follows:

1. No statements made or other information provided by Client during this Proffer or discussion will be used against Client in any criminal or civil case except as provided herein.
2. The Government may make derivative use of and may pursue any investigation leads suggested by any statements made or other information provided by Client for the purpose of obtaining other evidence which may be used in a prosecution of Client. This is necessary to prevent the Government from having to prove that evidence it would introduce at any future trial is not tainted by any statements made or other information provided by Client during this Proffer.
3. In the event that Client is a witness at a trial or other proceeding concerning any matter discussed in this Proffer and testifies materially different from any statements made or other information provided during this Proffer, the Government may cross-examine Client concerning any statements made or other information provided during this Proffer or use such to rebut any evidence or arguments offered by or on behalf of Client (including arguments made or issues raised sua sponte by the District Court) at any stage of the criminal prosecution (including bail, trial, and sentencing) should any prosecution of Client be undertaken.

John M. Ervin, III, Esquire

January 20, 2010

Page 3

4. The Government agrees that any self-incriminating statements made and other information provided by Client during this Proffer will not be used in determining the applicable sentencing guideline range should Client be convicted or enter a guilty plea unless there is a breach of this Agreement. However, these statements made and other information provided will be made available to the court for its consideration pursuant to 18 U.S.C. § 3661. The provisions of this paragraph shall not be applied to restrict the use of any such statements or information:

(A) known to the Government prior to the date Client makes this Proffer;

(B) concerning the existence of prior convictions and sentences in determining § 4B1.1 (career offender);

(C) in a prosecution for perjury or giving false statement; or

(D) in the event there is a breach of the terms of this Agreement or subsequent plea agreement. §1B1.8, United States Sentencing Commission Guidelines.

The obligations of and restrictions on the Government within this Agreement are expressly contingent upon Client's abiding by federal and state laws and complying with the terms and conditions of any bond executed in this case. Therefore, Client's violation of federal or state law or of the provisions of any bond executed in this case constitutes a breach of this Agreement, and upon such violation, the Government may use for any purpose any and all statements made and other information provided by Client in the prosecution of Client on any charges.

Client is hereby informed and understands that this Agreement does not extend to any statements or other information involving any homicides or other crimes of extreme violence. Any statements made or other information provided by Client during the Proffer regarding any homicide or other extreme acts of violence may be used against Client in any criminal proceedings which may be undertaken by any authorities.

To the extent the Government is entitled under this Agreement to offer in evidence any statements made or other information provided by Client or leads obtained therefrom, Client shall assert no claim under the United States Constitution, any Statute, Rule 410 of the Federal Rules of Evidence, or any other federal rules that such statements made or other information provided or any leads therefrom should be suppressed. It is the intent of this Agreement to waive all rights in the foregoing respects.

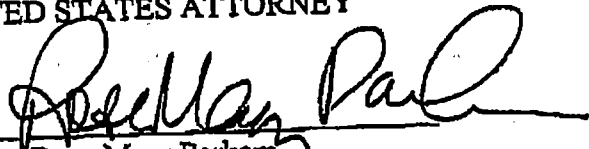
Client is advised that making a false statement in a matter within the jurisdiction of the United States is a federal offense punishable by imprisonment for up to five years, and a fine of up to \$250,000.

The parties hereby agree that this Agreement contains the entire agreement of the parties; that this Agreement supersedes all prior promises, representations and statements of the parties;

John M. Ervin, III, Esquire
January 20, 2010
Page 4

that this Agreement may be modified only in writing signed by all parties; and that any and all other promises, representations and statements made prior to this Agreement are null and void.


W. WALTER WILKINS
UNITED STATES ATTORNEY

By: 
Rose Mary Parham
Assistant U.S. Attorney

I AGREE AND ACCEPT THE TERMS OF THIS AGREEMENT:


ANDRE MAROLIE BRADLEY

1/20/10
Date


JOHN M. ERVIN, III

THE GARDNER LAW FIRM

FLORENCE OFFICE
POST OFFICE DRAWER 6557
2184 W. EVANS ST.
FLORENCE, S.C. 29502
(843) 662-9899

FAX (843) 662-6528

TOLL FREE 1-877-267-1818

December 22, 2008

JOHN R. ETHERIDGE, JR.
ATTORNEY AT LAW
South Carolina Bar 12510

PERSONAL

Stg. Tim Compton, Investigator
City of Florence Investigations
Police Department
City-County Complex JJ
180 N. Irby Street
Florence, South Carolina 29501-3456

DARLINGTON OFFICE
POST OFFICE BOX 81
119 EAST HAMPTON ST.
DARLINGTON, SC 29532
(843) 393-9899
FAX (843) 395-1899

MARION OFFICE
POST OFFICE DRAWER 1188
2518 EAST HIGHWAY 76
MARION, S.C. 29571
(843) 423-9899
FAX (843) 423-9914

RE: State vs. Gary Bostick
Charges: ABWIK
Our File No.: FC-2006

Dear Tim:

Mr. Bostick has indicated to me he is willing to talk to you but, wants to do this in my office. I have no objection to this meeting.

My office will be closed a good bit during the holidays but, would ask you contact Julie in my office concerning a possible mutual agreeable time.

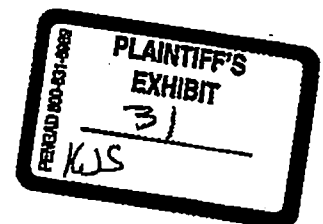
With warm personal regards and best wishes for the holiday season, I am

Sincerely yours,

Johnny

JOHN R. ETHERIDGE, JR.
JRE, Jr./jrs

Received on
Mon. 12-29-08



9-1-09



Dear Mr. Jack W. Lawson Jr.

My name is Gressoy Deleon Daniels I am currently a Client of yours that is incarcerated at the Florence County Detention Center I do realize that on top of my case you have many clients with similar charges and am aware that you have other clients with similar charges and am aware that you have my best interests at heart. You are representing clients for Florence County and I am sure you are very busy. Due to the fact that my time is very consuming and that you don't just have the time to constantly go over one case meticulously. However I would just ask of you to give me a couple of minutes of your time to address a couple of issues. I will do my best to be as brief as possible and make my point as quickly as possible. I would like to start off by saying that I appreciate the things that you have done for me and for my family as far as getting a lawyer and other things that you have done for me. Before I get into this point to you that I'm not trying to tell you how to do your job or anything. The purpose of this letter is to address with this letter are just questions and facts of missing evidence against me. My reason for sending this to you is I don't know when you would be coming back to work.

... to see your clients and this seemed like the best way
to let you know my opinion on the case. My mother came to see
me on last week and I was trying to explain to her the case
but we both keep coming to the same conclusion. And that
conclusion being it there is no evidence in the case against
me and you have agreed to this also why can't you put in for
a motion to have the case dismissed. I know that you are
the lawyer and you feel that the longer the better in this
defense but I have to say my life has been on hold for
a year now with no chance of getting out. I've been asking
also for the motion for a speedy trial and I recall you
telling me that April 1971 was the date that you
put the motion in for a bond reduction and if the motion
was denied you were going to move for a speedy trial.
What happened to those motions? I know that you keep
asking the witnesses but I don't see anywhere
in my file where all of the witnesses can say that
they saw me do any harm to the victim or say that
I was in any kind of threat to the victim. ALSO
I don't deny having an argument with the victim but
I do deny murdering the victim. You say that Judge
Arde is the chief judge of the Judge and that he
is over all motions I don't feel like putting the
motions before Judge Arde.

determined to no have enough evidence and to hold me by
the book. So if you are willing me to bond out and just
let the charge disposed of. Then why can't we put the
motions in and have a Judge decide on them? I'm in this
County jail holding my phone and I'm writing to myself I hope
that this fortune teller is going to be right and I can get out
all that I hear from you whenever you do come to the jail
is the same thing basically that I've been hearing, as every
visit the case is great and is getting weaker and weaker
everyday. All that I want to do is to go home and be with
my kids and family. I'm ready to put all of this behind
me. So I ask of you once again as my attorney will
you do two things for me Number one is put the motions
in that I ask of ever and Mrs. Parr would she consider
dropping the charges. Number two is contact my mother
and have a meeting with her as but as the case goes
and she has some very important issues to discuss with
you I would wise. In closing I ask that you please go over
it and please pay me a visit.

P.S.
is there anyway to get
motion to strike the
was used in my

Thank you

Sincerely

Gregory D. [Signature]

Resinald Coleman stated that he was transferred from
Williamsburg County Detention Center back to Florence County
Detention Center on his birthday 9-5-08. He heard Corey
Byrd had been killed. He stated rumors were going
around that Garry Bostic and his little brother AKA.
Little Body had hired someone to kill Corey. He stated that
he knows that victim Byrd goes out and robs drug dealers
He stated he knows that the victim Byrd had robbed Garry
Bostic in the past and Garry Bostic shot him but word
had it that beef was over. He stated I could talk to
another Federal inmate by the name of Ventrez Shantay
Davis who told him about Garry Bostic had hired someone
to kill the victim Corey Byrd. He stated Davis may have
heard it from somebody but he dose not know. Pages #6+7

Tiesha Brown left a voicemail message stating that
some girls were talking about the suspect Daniels was
paid \$500 before the murder and \$500 after the murder.

Tiesha Brown stated that she observed a Tall Dark man wearing Dark clothing walk off Dargun Street North onto Malboro Street towards Cammander Street

Later in Tiesha Brown's statement about observing Subject Ryan Evans drive up in a Green SUV when he asked her if she see anything Tiesha's answer was NO! NO!

Later in Tiesha Brown's statement she said that she did not see the shooting but only heard gunshot. Earlier she stated that she heard gunshots.

Tiesha Brown also stated later that she didn't get a good look at the Black male walking away in Dark clothing away from the crime scene.

Shavonne Gas stated to Gabbie on the phone that Corey was
dead and Greg did it.

Shavonne Gas gave a statement to Detectives that she
thinks Greg did it but don't think that he is capable of doing
something like this.

Shavonne Gas stated that she could have told Gabbie that Cor
told her on the phone that Greg was following her on the phone.
Gabbie could have told her that Greg was following her on the phone.
Y's 214

In page #2 Shavonne Gas conversation with victim when he left her house at 4:55am. hours lasted (10) to (15) minutes and victim stopped talking.

Liesha Brown's conversation with the victim was stated on page #2 that she received a call from the victim at 5:14am hours.

In page #2 it states that from 3:39am. to 5:14am. were the ongoing call to the victim's phone.

In page #6 states that the victim's phone records show that the victim had called Shavonne Gas at 4:53am. and take 14 minutes and 14 seconds and ended at 5:07am.

It was said that the phone records confirm Shavonne Gas's story in the investigation on page #6.

The phone conversation between the victim and Shavonne Gas had supposedly taken place when the victim left her house at 4:55am and supposedly had lasted 10 to 15 minutes. A 10 minute phone call would have taken place from 4:55am to 5:05am. A 15 minute conversation would have been from 4:55am to 5:10am.

Shavonne Gas stated that she did not recall the victim calling her. She said calling back the victim's phone number. Later states she called the victim's phone and a girl answered the phone asking was this his mother.

Shavonne Gas stated to Detectives that the victim called her when leaving her house just checking in so if this was her number. On page 1 it states that the victim's phone records on 1 show 1 call to Shavonne's house at 4:53am and ends at 5:07am. But yet on page 2 it states ongoing calls from victim's phone from 5:59am to 5:14am.

Questions on above matter.
[] Tiesha Brown states that the victim called her at 5:14 a.m. He said that he had a ride and was going to be dropped off on the corners of Dargun and Malboro streets and states she heard the victim answer another truck. She heard the victim say to be dropped off. Also Tiesha Brown states she heard the victim ask Shavonne to hold up let me get my charger.

How could the victim could have been on the phone with Shavonne Gas at the above times if he was on the phone with Tiesha Brown while still at Shavonne's house?

Answers to Phone Conversations

Tiesha Browns Conversation with the victim on page #2 that she received a call from the victim at 5:14 a.m. hours. Victim was telling that he had a ride and was going to be dropped off on the corner of Malboro and Dargan streets, Tiesha Brown states that she could hear rap music in the background along with a black male voice say you going to Malboro street Tiesha Brown states that she did not reply yes and also heard the victim tell Shaovonne hold up for me.

Questions on the above matter

1. If Shaovonne was stated that the victim was not alone walking in the area at the time of the incident, how long did the conversation between Tiesha Brown and the victim last take place?
2. If investigators are saying that phone records show that the victim was on the phone with Shaovonne Gas from 4:53 a.m. until 5:07 a.m. and this information Shaovonne Gas was telling the truth.
3. What about the confirmation of the phone call that took place to Tiesha Brown at 5:14 a.m. by checking her call log on her phone?
4. What about the phone call from Shaovonne's house to the victim's phone that was answered by a girl asking was this his mother?

In the Incidental Supplemental Report Coroner Bubba M.G. Mathew confirmed the time of death of the victim to be 5:15 a.m. Also on the Autopsy report the same confirmation was made.

In the Incidental Supplemental Report investigators stated that after review of phone records that the last call was made at 5:07 a.m. So this information was used as there confirmation of the time of death to the victim to be 5:07 a.m.

Questions on the above matter

1. If the time of death pronounced by Coroner Bubba M.G. Mathews is correct at 5:15 a.m. then this would confirm that both Shavonne and Tiesha did have calls from the victim between the hours of 3:39 a.m. to 5:14 a.m.

b. Where was the victim when he was actually shot?

2. If the time of the victim's death is correct that investigators have confirmed to be 5:07 a.m. That would only confirm the conversation with Shavonne but not the conversation with Tiesha Brown that was confirmed by investigators upon review of the call log to her cell phone.

b. What was the actual time of death?

Brian Timmons

Unknown Suspect hanging out window of Green SUV with rifle cocking gun

Brandon Fludds Father

Kevin Hennicks

Slim

Other Possible Causes of Victims Death

Victim was out on bond as witness to murder case

Victim had a known reputation for robbing drug dealers

It was stated by CI that the victim had robbed Slim for \$3,600 before victims death.

Tiesha Browns boyfriend Brandon Fludds father had threaten both the victim and Tiesha about cheating on his son

Victim had already been shot twice on two separate incidents.

Cross Examination of witnesses by defense

Crime scene was dark

Witness was far away

Witness was particularly close and

Argue that judge should not allow suspect to be identified as

Suspect in Courtroom while sitting with Council

Motions that I would like for you to file

Motion to suppress all new witnesses or statements being made by prosecution.

Motion to suppress Grand jury transcripts.

Motion to dismissal due to lack of sufficient evidence

Motion to Boné instruction

Motion to speedy trial

Motion to limit

Motion to strike priors

Arrest Charge 01 - Breach of Peace 13 years old
Offense Date - 01-22-1996

Court Charge 01 Breach of Peace
Court Disp - convicted 300
Suspended in lieu of bond 6-11-1996

Arrest Charge 01 - Criminal Domestic Violence 13 years old
Offense Date 5-19-1996

Court Charge 01 Criminal Domestic Violence
Court Disp - convicted #304 Bond Forfeit
Court Date 5-20-1996

Arrest Charge 01 - Assault + Battery with a Dangerous Weapon + Aggravated Assault
Offense Date 3-15-1999 10 years old

Arrest Charge 01 - Forgery value less than \$5,000 9 years
Offense Date 11-14-2000

Arrest Charge 02 - Forgery Value less than \$5,000
Court Disp. convicted sent
Jail 5 years susp CC and
Probation 3 years and PS 030
Day and 323 Rest. Court Date 1-31-2001

Arrest Charge 01 Possession of Concealed Weapon 8 years
Offense Date 6-20-2001

Charge 01 - Trafficking In Goods; Crack,
10G But 20G 1st

Offense Date 8-23-2002

6 years

Court Charge 01 - Criminal Conspiracy

Court Disp - Convicted sent
300 days years susp cr and
Probation 02 years and 100 Post
Court Date 3-24-2003

S.C. Department of Corrections

Start Date 10-30-02

5 years

Court Charge 01 - Felony; More than 3000
1st degree

Court Disp Convicted, 11 months

Court Charge 02 - Criminal Conspiracy

Court Disp Convicted 11 months

CC Court Date 10-30-02

It has been stated that any person who
convicted of a crime in prison time for ... after a period
of 10 years no other Felony in the same category or same
crime status he or she is ... be rehabilitated and
therefore ... felons are no longer to be brought up in the
courts to be considered as evidence of past history. Is this
is ... like to know what were charges over ten
years old and non conviction ... up at my
Dane hearing? Strike Law (Statute of limitations)

In Reborn so the victims ...
I would like to know why wasn't the Court aware of the victim
background at my bond hearing as well?

STATE OF SOUTH CAROLINA
COUNTY OF Florence
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2013 CP-21-280

Gregory D. Daniels #29449

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : Plaintiff Defendant
OR
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 10(f), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: _____

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk : _____

2015 JUN 11
CONNIE REEL-SCRP
FLORENCE COUNTY

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property. If any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount To be Enrolled (List amount(s) below) |
|--|--|--|
| | | \$ |
| | | \$ |
| | | \$ |

If applicable, describe the property, including tax map information and address, referenced in the order.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

CERTIFIED - A TRUE COPY
CLERK OF DISTRICT COURT
FLORENCE COUNTY, S.C.
Connie Reel

For Clerk of Court Office Use Only

This judgment was entered on the 10 day of June, 2015, with copy mailed first class or placed in the appropriate attorney's box on this 11 day of June, 2015, to attorneys of record or to parties (when appearing pro se) as follows:

J.D. Waller
1720 Main St, Suite 104
Columbia, S.C. 29201
ATTORNEY(S) FOR THE PLAINTIFF(S)
T.A. Blanchette
P.O. Box 12725
Columbia, S.C. 29211
Court Reporter:

J.C. Hunter
P.O. Box 11549
Columbia, S.C. 29211
ATTORNEY(S) FOR THE DEFENDANT(S)
Cornie Reed - Shearman
CLERK OF COURT

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Gregory D. Daniels, #297449,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Case No. 2013-CP-21-0280

ORDER OF DISMISSAL

FILED
2015 JUN 10 PM 3:11
CONNIE REEL-SHEARIN
CLERK C.C.P. & G.S.
FLORENCE COUNTY, S.C.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on February 1, 2013. Respondent made its Return on September 17, 2013. An evidentiary hearing into the matter was convened on April 14, 2015, at the Florence County Courthouse. Due to time constraints, the hearing was broken into two days and concluded on April 17, 2015. Applicant was present at the hearing and was represented by Tricia A. Blanchette, Esquire. Respondent was represented by Assistant Attorney General J. Croom Hunter of the South Carolina Attorney General's Office.

At the evidentiary hearing, Applicant testified on his own behalf. Applicant also presented testimony from Gary Bostic, Johnny Etheridge, Esquire, Tristan Shaffer, Esquire, private investigator Pete Skidmore, and Andrew Williams. Respondent presented testimony from Deputy Solicitor John Jupertinger, Esquire, who prosecuted the murder case against Applicant, Grayson Smith, Esquire, who sat as second chair with Jack Lawson (Trial Counsel) at Applicant's trial, and Lieutenant Timothy Compton, who was the chief investigator on the State's case leading to Applicant's trial for murder. This Court also had before it a copy of the trial transcript, the Florence County Clerk of Court records, the Applicant's South Carolina

CERTIFIED: A TRUE COPY

Connie Reel Shearin

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Department of Corrections records, the PCR application, the appellate records, a number of exhibits, and the Return.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. The Florence County Grand Jury indicted Applicant in April 2009 for murder and possession of a weapon during the commission of a violent crime (2009-GS-21-427, Counts 1 and 2). Jack W. Lawson Jr., Esquire, represented Applicant.¹ On April 16, 2010, a jury convicted Applicant as indicted. The Honorable Thomas A. Russo sentenced Applicant to life in prison for the murder charge and a concurrent five (5) years for the weapon possession charge.

Applicant filed a timely notice of appeal. Tristan M. Shaffer, Esquire, and Wanda H. Carter, Esquire, of the Office of Appellate Defense represented Applicant on appeal. The South Carolina Supreme Court affirmed Applicant's convictions on October 10, 2012. State v. Daniels, 401 S.C. 251, 737 S.E.2d 473 (2012). The remittitur was returned to the circuit court on October 26, 2012.

ALLEGATIONS

At the post-conviction relief hearing, Applicant proceeded to argue his confinement is unlawful based upon the following grounds:

1. Ineffective assistance of counsel.
 - a. Failure of trial counsel to provide Applicant with a complete copy of discovery and review it with him prior to trial.
 - b. Failure to conduct an independent investigation and properly prepare Applicant's case for trial.
 - c. Failure to call witnesses at trial.
 - d. Failure to interview Gary Bostic.
 - e. Failure to object to the State being allowed to proceed on two

¹ Mr. Lawson was deceased at the time of the PCR hearing; thus, he was unable to testify on his own behalf.

- theories: murder for hire and argument at cookout.
- f. Failure to raise a third party guilt defense.
 - g. Failure to make all viable contemporaneous objections at trial.
 - h. Failure to review Applicant's statement with him prior to trial, utilize Applicant at the Jackson v. Denno hearing and make a proper argument for suppression of Applicant's statement.
 - i. Failure to utilize Applicant as a witness at trial.
 - j. Failure to investigate and object at trial to the search and resulting records obtained on and from Applicant's phone.
 - k. Failure to advise Applicant of the State's intention to use his girlfriend's letters as evidence against him, failure to utilize the complete letters and/or additional letters to put the selected text into context, failure to prepare and utilize Applicant to testify in response to the introduction of the letters.
 - l. Failure to impeach the state's witnesses.
 - m. Failure to advise Applicant of the evidence the state intended to introduce involving the phone call between the victim and Shavonne Gass.
 - n. Failure to review the statements of Andre Bradley and Jasmine Barrett with Applicant prior to trial.
 - o. Failure to make the record clear as to the disclosure of the proffer agreement between Andre Bradley and the Federal government.
 - p. Failure to properly preserve the arguments made by appellate counsel regarding the jury charge.
2. Ineffective assistance of appellate counsel, specifically failure to address the following objections made by trial counsel:
 - a. Objection to the testimony of Shavonne Gass regarding the call with the victim and the admission of such under the present sense impression exception.
 - b. Objection to the admission of the Applicant's letters to his girlfriend.
 - c. The Jackson v. Denno hearing and admission of Applicant's statement.
 3. Prosecutorial misconduct for failing to disclose the law enforcement interview of Gary Bostic.

SUMMARY OF THE FACTS OF THE CASE

On September 5, 2008, sometime after 5:00 AM, authorities were dispatched to the corner of Dargan and Marlboro Streets in Florence. Upon their arrival, authorities found Corey Byrd's (Victim) lifeless body in the street. Tiesha Brown, who was friends with Victim and awaiting his arrival pursuant to an earlier phone conversation, informed authorities that just before she discovered the body, she heard a gunshot and observed an individual wearing black fleeing the scene.

The subsequent investigation revealed that both Victim and Applicant had been at a nearby cookout hosted by Victim's cousin, Shavonne Gass.² During the cookout, Victim and Applicant got into an argument, prompting Applicant to try and fight Victim throughout the rest of the night. Applicant, who lived near Gass, left the cookout sometime after midnight.³ When Applicant left the cookout, he was wearing black clothing.

Meanwhile, Victim remained at the cookout with Brown, who had arrived around midnight. Shortly before 4:00 AM, Victim and Gass decided to leave the cookout to purchase cigarettes. When Victim and Gass returned to the cookout, Victim discovered Brown had left with a friend. Upon finding Brown left the cookout, Victim called Brown and asked if she wanted to return. Brown told Victim she would return and the two agreed to meet at the corner of Dargan and Marlboro Street. According to Brown, this conversation took place around 4:15 AM.

Following his conversation with Brown, Victim attempted to get a ride to Marlboro Street with Clifton "Ryan" Evans, who had recently arrived at the cookout. While Evans initially agreed to give Victim a ride, Evans changed his mind because Victim took too long to retrieve a cell phone charger left in Gass' house. When Evans and Gabriel Petterson, who was riding with Evans, left Victim at the cookout around 4:35 AM, Petterson observed Applicant, in the area, on his moped.

Shortly after Evans and Petterson left the cookout, Victim began walking towards Dargan and Marlboro to meet Brown. After he left, Victim called Gass. The phone call was placed at 4:55 AM, lasted fourteen (14) minutes thirty-three (33) seconds and ended at 5:09 AM. The call ended when Victim's phone went dead. Immediately before the line went dead, Victim told Gass, "the n---a I was arguing with at the cookout is behind me, do you want to talk to him?"

² At the cookout, Applicant told Gass that Victim had previously robbed him.

³ Gass also noted that Applicant frequently hung around Fraser Street near her house.

When Gass called back at 5:15 AM, Brown had already discovered Victim's dead body. Later that day, Applicant would tell his associate, Andre Bradley, and Bradley's girlfriend, Jasmine Barrett, that he killed Victim. Applicant was arrested for Victim's murder on September 11, 2008.

At trial, the State theorized Applicant was paid to kill Victim by one of Applicant's associates, Gary Bostic, in retaliation for a fraudulent drug deal. To that end, the State introduced evidence that: (1) approximately a month prior to Victim's shooting, Bostic, who lost \$3,500 as a result of the fraudulent drug deal, offered Applicant \$1,000 to kill Victim; (2) pursuant to the arrangement, Applicant would receive \$500 up front and another \$500 after Victim was killed; (3) prior to the murder, Applicant told Bradley he was going to kill Victim multiple times; (4) Bostic's phone number was in Applicant's phone by his nickname, "G.A."; (5) the picture assigned to Bostic's number was a stack of money; (6) Bradley believed Applicant had gone through the first \$500 and killed Victim to receive the additional \$500; (7) in the four days after the murder, Applicant called Bostic forty-one (41) times; and (8) Applicant wrote his then-girlfriend, Nyrena Goodman from jail and instructed her to contact Bostic on his behalf to raise money for his bond.

The State also presented testimony from Goodman, explaining on the evening of September 4, 2008, she received a phone call from Applicant. Over the course of the phone call, Applicant informed Goodman he was at a cookout down near her house and there was an individual at the cookout who had previously attempted to rob him. Continuing, Goodman explained she did not see Applicant until approximately 5:30 AM when he and a man named

Gary⁴ picked her up in a van and the trio proceeded to a local hotel.⁵ Goodman added that after she checked into the hotel, Applicant briefly joined her in the hotel room before leaving again. She further explained that while the two were in the hotel room, Applicant received a phone call during which he began talking to the other person on the line about "the dude from the cookout[.]"

On cross-examination, Goodman, when asked by defense counsel why the couple decided to stay at a hotel that night, explained that Applicant wanted to use her as an alibi. This proposition was subsequently corroborated in the form of letters written by Applicant to Goodman in which he urged Goodman to tell police he was with her in a hotel on the night in question.

At the close of the State's case, Applicant moved for a directed verdict on all charges. The motion was denied. Following the charge conference, the defense rested, closing arguments were conducted and the jury was charged. Applicant was subsequently convicted on both counts of the indictment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

⁴ Applicant later told Goodman the man named Gary was Gary Bostic.

⁵ A receipt from the hotel indicated Goodman checked-in at 5:34 AM.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

This Court finds Applicant failed to demonstrate that Counsel's performance was deficient in any way. This Court further finds that Applicant presented no evidence to show any prejudice resulting from Counsel's representation. As an initial matter, this Court finds that Applicant's testimony is not credible. This Court notes that Trial Counsel earned an impressive reputation among the bench and the bar and finds that Applicant's self-serving testimony is unpersuasive in convincing this Court that Counsel's performance in this case was outside the realm of competent representation.

A. Failure to properly investigate and review discovery with Applicant

With regard to Applicant's allegations that Trial Counsel failed to review discovery with Applicant prior to trial, this Court finds Applicant's testimony not credible. At the PCR hearing, Applicant alleged that Trial Counsel did not thoroughly review and discuss the discovery

materials with him. To support these allegations, PCR Counsel attempted to enter into evidence numerous audio and transcribed witness statements, incident reports, and polygraph reports from Trial Counsel's file that Applicant claims Trial Counsel never went over with him. Applicant alleged he never saw these documents until PCR Counsel reviewed them with him. The State stipulated to the authenticity of the exhibits due to the fact that they were contained within Trial Counsel's file, but the State objected to their admission based on hearsay and relevance grounds. PCR Counsel asserted she was not attempting to enter the exhibits for the truth of the matter asserted, but rather to show that Applicant would have wanted Trial Counsel to go over them with him prior to trial. The State responded that in order for Applicant to show prejudice resulting from his alleged inability to review the files prior to trial, the content of the exhibits would necessarily have to be examined. The State further argued that such examination was impermissible because the documents were rife with hearsay since the witnesses who gave the statements or created the documents were not present to testify at the PCR hearing. The State further argued that if the content of the exhibits was inadmissible in order to show any resulting prejudice, then the exhibits themselves were not relevant to Applicant's claims of ineffective assistance of counsel. PCR Counsel argued that normally the exhibits would be admissible through Trial Counsel, but this case presented an unusual situation because Trial Counsel is deceased. However, PCR Counsel's arguments are unpersuasive; even if Trial Counsel was alive and able to testify, the State has already stipulated to the authenticity of the exhibits. This Court notes that Applicant would still have the burden of overcoming the hearsay contained within the exhibits. See S.C. Code Ann. § 17-27-80 (2014) (PCR actions are governed by the usual rules of civil procedure); Wilson v. State, 348 S.C. 215, 559 S.E.2d 581 (2002). As such, after much careful deliberation, this Court sustained the State's objections and refused to admit the majority

of Applicant's proposed exhibits into evidence.⁶ This Court further notes that it is the Applicant's burden to prove the allegations he has raised, and this Court can see no reason why Applicant could not have subpoenaed the subjects of the exhibits which he attempted to introduce. Additionally, the State showed great restraint in allowing, without objection, thorough testimony by Applicant in regard to the exhibits in question and how he specifically felt he was prejudiced. Thus, it is this Court's opinion that admission of the exhibits was further made irrelevant because Applicant was permitted great latitude in discussing each proposed exhibit.

With regard to each specific item Applicant attempted to introduce from Trial Counsel's file, this Court finds that the items were contained within the file, and as such, this Court must presume that Trial Counsel was aware of the items and reviewed them. Furthermore, Grayson Smith's testimony at the PCR hearing indicated that he observed Trial Counsel reviewing the audio files on multiple occasions. Smith also testified that Trial Counsel was an extremely dedicated attorney, and he thought it highly unlikely Trial Counsel would have proceeded to trial unprepared, without having reviewed the evidence and discussed it with his client. Smith further testified it was highly unlikely that Trial Counsel would not have used an investigator from the Public Defender's Office to visit the crime scene and attempt to investigate possible defenses or additional witnesses.

Additionally, John Jepertinger testified his office turned over all discovery and Rule 5 materials to Trial Counsel. Jepertinger further testified that he had a good working relationship with Trial Counsel going back many years, and he had tried multiple cases with Trial Counsel,

⁶ Applicant attempted to enter multiple audio files as exhibits, specifically the 911 call, audio from the microphones of the officers who arrived on the scene of the murder, the statement of Gregory Daniels, and the statement of Nyrena Goodman. The 911 call and Daniels' statement were entered without objection, and the Officers' audio from the scene was entered over the State's objection. Nyrena Goodman's audio statement is also included on the disc provided to this Court by PCR Counsel; however, Goodman's statement was not admitted as an exhibit and should not be construed as such.

both while in private practice and as a public defender, before becoming a solicitor. Jepertinger noted that he defended a death penalty case with Trial Counsel in 1991. Jepertinger testified that he believed Trial Counsel would customarily review discovery with his clients.

Additionally, Lieutenant Compton testified he met with Trial Counsel, as well as Frank White and Ron Smith, both investigators from the Public Defender's Office, in preparation for Applicant's trial. As such, this Court must presume that if Trial Counsel elected not to utilize certain items as part of Applicant's defense, he had a valid strategy for doing so, whether Applicant agreed with it or not. Under Strickland, there is a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance. "[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable[.]" Strickland, 466 U.S. at 690; see also Meyer v. Branker, 506 F.3d 358, 374 (4th Cir. 2007) ("[L]egal judgments based on thorough investigation are virtually unassailable on collateral review."). The determination of what strategy to pursue was trial counsel's to make, not Respondent's. See Abney v. State, 408 S.C. 41, 48, 757 S.E.2d 544, 547. (Ct. App. 2014).

While Applicant may claim that he felt Trial Counsel failed to adequately review the evidence in his case, testimony from others at the PCR hearing, as well as the fact that the items in question were in Trial Counsel's file, leaves no doubt in this Court's mind that Trial Counsel spent many hours preparing for Applicant's trial, and that his reasons for not utilizing certain pieces of evidence were strategic. Furthermore, Applicant presented no testimony, other than his opinion, that neither Trial Counsel nor someone from the Public Defender's Office ever visited the crime scene or performed any independent investigation. Accordingly, this Court finds Applicant's claims that Trial Counsel failed to properly investigate, review the evidence, and prepare for trial to be without merit.

B. Failure to utilize Applicant as a witness

Applicant claims that due to Trial Counsel's alleged deficiencies in preparing for trial and reviewing discovery with him, Applicant was unprepared to testify at trial, and that he would have testified had he known what evidence the State was planning to use against him. This Court finds Applicant's testimony in this regard wholly not credible.

Applicant specifically alleges that had he known about the State's intention to use the Goodman letters and the testimony of Andre Bradley and Jasmine Barrett against him, he would have insisted on testifying. The record before this Court refutes Applicant's assertions. The trial transcript clearly indicates that all such testimony was entered into the record during the State's case in chief. Once the State rested, the trial judge asked Trial Counsel if Applicant was planning to testify, to which Trial Counsel responded, "We have discussed it, but we're not in a position to make a final decision right now, Your Honor." (Trial p. 542). At that point, the trial judge ended proceedings for the day and gave Applicant the night to decide whether he wished to testify. The next morning, trial resumed, and Trial Counsel indicated to the trial judge that Applicant did not wish to testify. Applicant's intention was memorialized when the trial judge went over his right to testify, and Applicant indicated on the record that he did not wish to testify. (Trial pp. 544-45). Furthermore, this Court finds Applicant's claims that Trial Counsel never discussed the Goodman letters or the testimony of Andre Bradley and Jasmine Barrett prior to trial inconceivable, especially considering the weight of such evidence. As such, this Court finds the allegation to be without merit.

C. Failure to discuss Shavonne Gass' testimony

At the PCR hearing, Applicant alleged that Trial Counsel never discussed Shavonne

Gass' statement or testimony with Applicant. This Court finds such an allegation preposterous. Gass testified at trial that she was on the telephone with Victim moments before his death, and the victim stated the person he was arguing with at the cookout was following him. Trial Counsel had Gass' statement in his file, as well as the telephone records, and for Applicant to claim Trial Counsel never discussed the State's proverbial "nail in the coffin" with him completely undermines any remaining facade of credibility Applicant may have had. As such, this Court finds this allegation to be without merit.

D. Failure to call witnesses at trial

Applicant alleges Trial Counsel was ineffective for failing to subpoena and call defense witnesses at trial, specifically Gary Bostic and Andrew Williams. In order to support a claim that trial counsel was ineffective for failing to interview or call potential alibi witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. Glover v. State, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. Id. A witness's credibility and demeanor is crucial to an attorney's trial strategy, and an attorney cannot be said to be deficient if there is evidence to support his decision to not call a witness with serious credibility questions. See Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992) (finding counsel's decision to not call witnesses reasonable where their testimony would have been of no value to the case and they made inconsistent statements in the past); Edwards v. State, 392 S.C. 449, 458, 710 S.E.2d 60, 65 (2011).

This Court will address Gary Bostic more thoroughly in the section devoted to him below, but as an initial matter, this Court finds Trial Counsel was not ineffective for not utilizing

Gary Bostic as a witness. With regard to Andrew Williams, this Court also finds Trial Counsel was not ineffective for not utilizing him as a witness.

Applicant testified at the PCR hearing that Williams was with him the entire time he and Goodman were at the hotel after Victim was murdered, and that Goodman was never in the hotel room alone with Williams. This conflicts with Goodman's testimony at trial that she woke up and Applicant was not in the room but Williams was present. Williams testified at the PCR hearing that he was Applicant's uncle and was at the hotel room with Goodman and Applicant, and that he was never in the room alone with Goodman. Williams testified he took Applicant to get a rental car that morning and that nothing seemed out of the ordinary. Williams claimed he would have been willing to testify at Applicant's trial, but that he was never subpoenaed or contacted by anyone about Applicant's case.

However, on cross-examination, Williams' credibility began to fade. When asked why he never contacted Trial Counsel or law enforcement to give a statement vouching for Applicant's whereabouts or activity, Williams testified that he was unaware Applicant was facing murder charges. Williams further testified he was unaware Applicant was detained.⁷ This assertion conflicts with Williams' earlier testimony that he had a close relationship with Applicant and that he saw him on a regular basis. Furthermore, when asked whether he had been convicted of passing a fraudulent check in 2008, Williams became indignant and denied that he ever faced such a charge. This Court does not find that Williams' answer was truthful. Having had an opportunity to observe Williams and listen to his testimony, this Court finds that his testimony was not credible and likely would have hurt Applicant at trial. Additionally, this Court finds Williams could not have accounted for Applicant's whereabouts at the time of the murder

⁷ This Court notes Applicant was detained from September 11, 2008 until trial began on April 12, 2010.

anyway. To qualify as an alibi, a witness's testimony must account for the defendant's whereabouts during the time of the crime such that it would have been physically impossible for the defendant to commit the crime. Walker v. State, 397 S.C. 226, 237, 723 S.E.2d 610, 616 (Ct. App. 2012). Accordingly, this Court finds Trial Counsel was not deficient for failing to utilize Williams as a witness, and the allegation is without merit.

E. Failure to object to the State being allowed to proceed on two theories

Applicant alleges Trial Counsel was ineffective for failing to object to the State proceeding under what Applicant characterizes as dual theories of the case. Applicant alleges ineffectiveness and posits Trial Counsel should have objected to the State being allowed to proceed and present evidence at trial of both the murder for hire scheme and the theory that Applicant murdered Victim because of the fight at the cookout. This Court finds this allegation to be without merit.

Applicant was indicted and convicted of murder. Murder is defined as the killing of any person with malice aforethought, either expressed or implied. See S.C. Code Ann. § 16-03-10. Conspicuously missing from the elements of murder is motive. This Court interprets Applicant's allegation as an argument that Trial Counsel should have objected to the State proceeding on multiple theories behind the motive for murdering Victim. Nonetheless, "[m]otive is not an essential element of crime [(murder)] and need not be shown." State v. Thrailkill, 73 S.C. 314, 318, 53 S.E. 482, 484 (1906). This Court is aware of no jurisprudence requiring the State to select a particular motive to go forward with, nor is this Court aware of any cases showing Trial Counsel is ineffective for failing to argue the State should have to elect a particular motive on which to proceed. Furthermore, this Court notes there was ample evidence presented at trial to support that Applicant fought with Victim at the cookout, and that Applicant was hired to murder

Victim. While Applicant's specific reasons for murdering Victim are not known, such definitive proof is not required nor expected to prove the elements of the charged offense. Additionally, based on the record, this Court has no doubt as to the guilt of Applicant. As such, this Court finds the allegation to be without merit.

F. Third Party Guilt

Applicant alleges Trial Counsel was ineffective for electing not to pursue a third party guilt defense. This Court finds this allegation to be without merit.

In State v. Gregory, 16 S.E.2d 532 (S.C. 1941), the South Carolina Supreme Court set forth the rule governing the admissibility of evidence offered by the defendant to establish that someone else committed the offense with which he was charged. This rule for the admission of "third party guilt" was stated as follows:

“ [E]vidence offered by accused as to the commission of the crime by another person must be limited to such facts as are inconsistent with his own guilt, and to such facts as raise a reasonable inference or presumption as to his own innocence; evidence which can have (no) other effect than to cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another, is not admissible..... [B]efore such testimony can be received, there must be such proof of connection with it, such a train of facts or circumstances, as tends clearly to point out such other person as the guilty party.’ “ 198 S.C., at 104-105, 16 S.E.2d, at 534-535 (quoting 16 C.J., *Criminal Law* § 1085, p. 560 (1918) and 20 Am.Jur., *Evidence* § 265, p. 254 (1939); footnotes omitted).

16 S.E.2d at 534-535 (quoting 16 C.J., *Criminal Law* § 1085, p. 560 (1918) and 20 Am.Jur., *Evidence* § 265, p. 254 (1939); footnotes omitted).

At the PCR hearing, Applicant attempted to lay the blame on Clifton Evans or some other unknown person, but the facts presented at trial, as well as Lt. Compton's testimony show that such allegations are not indicative of a valid third party guilt defense. Applying the rule set forth

in Gregory, this Court finds that any such evidence of third party guilt would have been inadmissible at trial. Thus, this Court finds Trial Counsel was not ineffective for not pursuing a third party guilt defense, and the allegation is without merit.

G. Failure to raise all contemporaneous objections at trial

Applicant alleges Trial Counsel was ineffective for failing to raise all possible contemporaneous objections at trial. This Court finds Applicant's allegation to be without merit. It is well founded that "any alleged impropriety must be examined on appeal in light of the entire record." State v. Brown, 333 S.C. 185, 191, 508 S.E.2d 38, 41 (Ct.App.1998). A criminal defendant is entitled to a fair trial, not a perfect one. State v. Mizell, 332 S.C. 273, 504 S.E.2d 338 (Ct.App.1998), *cert. denied* (Apr. 12, 1999). State v. Sweet, 342 S.C. 342, 348, 536 S.E.2d 91, 94 (Ct. App. 2000).

The trial transcript shows that Trial Counsel vigorously challenged the State's case, particularly in regard to the letters from Nyrena Goodman and the testimony of Andre Bradley. Furthermore, Trial Counsel challenged the Admissibility of the Applicant's statement through a Jackson v Denno hearing. Trial Counsel made multiple contemporaneous objections throughout the trial, particularly on pages 84, 95, 98, 253, 258, 269, 325, 331, 364, 372, 384, 395, 467, 474, and 476 of the transcript. He also moved for a directed verdict at the close of the State's case, and on page 546 he renewed all of his objections, which the majority opinion of the Supreme Court found to be sufficiently preserved. As such, this Court finds Applicant had a fair trial and finds the allegation to be without merit.

H. Failure to review Applicant's statement and utilize Applicant's testimony at the Jackson v. Denno hearing

Applicant alleges Trial Counsel never discussed whether Applicant should testify at the Jackson v. Denno hearing and never reviewed Applicant's statement with him. Applicant testified it was his understanding that he was only giving a statement to discuss the events that transpired at the cookout. Applicant testified his statement was taken out of context because it was only partially recorded, and he would not have given a statement if he had known he was a murder suspect. This Court finds this allegation to be without merit.

Applicant testified he was read his Miranda warnings. Lieutenant Compton also testified he read Applicant his rights prior to both times Applicant was questioned. Compton further testified that he did not obtain a waiver of rights form from Applicant prior to his second statement because he had not intended to interview Applicant that day. Compton testified Applicant approached him and wanted to give a statement. Compton testified he went over Applicant's rights prior to the second statement. With regard to Applicant's testimony that he does not remember giving the second statement, this Court finds Applicant not credible. Lieutenant Compton further testified he does not customarily begin recording statements until the person being questioned begins talking about issues that are relevant to the investigation. Compton testified he follows this procedure because he would otherwise end up with hours of irrelevant audio. On cross-examination, Compton testified that he believed he would not be able to get Applicant to confess, so his strategy throughout the interview was to develop Applicant's version of events, from which he could work backwards and find inconsistencies. Essentially, Compton's goal was to catch Applicant in a lie and develop the case from that point. Compton testified he was successful in doing this because after ruling out various potential suspects, the evidence kept pointing back to Applicant as the shooter.

This Court finds Applicant has failed to indicate anything specific that his testimony could have provided to establish that his statements were not given freely and voluntarily or that he was coerced. Accordingly, Applicant has failed to meet his burden of showing that the outcome of the trial would have been different if he had testified during the Jackson v. Denno hearing, and the allegation is without merit.

I. Failure to investigate and object to the search and resulting records obtained from Applicant's phone

Applicant alleges Trial Counsel was ineffective for failing to object to the State's search of Applicant's phone and the records resulting from the search. This Court finds Applicant has failed to present any credible evidence to support this allegation, specifically how Trial Counsel would have been able to successfully exclude the phone records from evidence at trial. Accordingly, this Court finds this allegation is without merit.

J. Failure to impeach the State's witnesses

Applicant alleges Trial Counsel was ineffective for failing to impeach the State's witnesses. To establish the requisite prejudice necessary to prove a claim of ineffective assistance of counsel, a PCR applicant must demonstrate that his attorney's errors had an effect on the judgment against him. See Strickland, 466 U.S. at 691. The validity of counsel's strategy is viewed under an 'objective standard of reasonableness.'" Edwards v. State, 392 S.C. at 456-57, 710 S.E.2d at 64 (quoting Lounds v. State, 380 S.C. 454, 462, 670 S.E.2d 646, 650 (2008)). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689; Edwards, 392 S.C. at 456-57, 710 S.E.2d at 64.

Although Trial Counsel was not present to testify at the PCR hearing, the record clearly shows that Trial Counsel vigorously cross-examined multiple witnesses at trial. Absent credible evidence to the contrary, this Court must presume Trial Counsel had a valid strategy for the method in which he cross-examined the State's witnesses. This Court finds Applicant has presented no credible evidence to the contrary; as such, this Court finds the allegation to be without merit.

K. The Andre Bradley Proffer Agreement

Applicant alleges Trial Counsel was ineffective for failing to clarify the record as to the existence of a proffer agreement between Andre Bradley and the Federal Government. This Court finds this allegation to be without merit.

Beginning on page 372, and lasting until page 377 of the trial transcript, Trial Counsel raises the issue of the proffer agreement to the trial judge, wherein the trial judge admonishes the State that he will not tolerate anything being hidden from the defense. Deputy Solicitor Jupertinger told the trial judge he was unaware of the existence of any agreement. Lieutenant Compton told the trial judge he had not seen any paperwork regarding the proffer, and he had merely been told "it's a possibility" Bradley could receive some benefit for his testimony. (Trial p. 374). The trial judge then broke for the day in order for the State to obtain all information from the Feds relating to Bradley's proffer agreement and turn it over to the defense. When the trial resumed, the record reflects the issue had been worked out and Trial Counsel was informed of the proffer agreement because on pages 436 and 437 of the trial transcript, Trial Counsel cross-examines Bradley about the proffer agreement he signed with the Federal Government. Trial Counsel again asks Bradley about the agreement on page 442.

Both Compton and Jepertinger testified at the PCR hearing that the State never had any type of agreement with Andre Bradley. Jepertinger further testified he had no control over whether the Feds signed a proffer agreement with Bradley. Compton testified it was never his intention to mislead the Court or Trial Counsel, and that he did not realize he was under any obligation to inform Trial Counsel of the possibility of a proffer agreement between Bradley and the Feds, especially considering he never even saw any paperwork related to the proffer until that day of the trial when it became an issue. Compton testified he spoke up at the trial because he did not want the trial judge to think the State was attempting to hide something from the defense.

Based on the record as well as the testimony presented by Jepertinger and Compton, this Court finds not only that Trial Counsel made the record clear with regard to the proffer agreement between Bradley and the Federal Government, but this Court finds Jepertinger and Compton's testimony credible with regard to the disclosure of the proffer agreement to Trial Counsel. Although not specifically raised by Applicant, this Court also finds that neither Compton nor Jepertinger committed misconduct regarding the proffer agreement. Accordingly, this Court finds Applicant's allegation to be without merit.

L. Failure to preserve objections to the jury charge

Applicant alleges Trial Counsel was ineffective for failing to properly preserve his objections to the jury charge. This Court finds this allegation to be without merit because the Supreme Court found Trial Counsel's objection to the jury charge was preserved. See State v. Daniels, 401 S.C. 251, 263, 737 S.E.2d 473, 479 (2012).

2. INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

A defendant is entitled to effective assistance of appellate counsel. Tisdale v. State, 357 S.C. 474, 476, 594 S.E.2d 166, 167 (2004), citing Southerland v. State, 337 S.C. 610, 615, 524

S.E.2d 833, 836 (1999). To prevail on a claim of ineffective assistance of appellate counsel, an applicant must establish both deficiency and prejudice. Southerland, 337 S.C. at 616, 524 S.E.2d at 836. If an applicant can establish both deficiency according to professional norms and prejudice to the extent that he would have been successful on appeal, he is entitled to a new trial. See Ezell v. State, 345 S.C. 312, 316, 548 S.E.2d 852, 854 (2001); Southerland, 337 S.C. 615-16, 524 S.E.2d at 836. See also Simpkins v. State, 303 S.C. 364, 401 S.E.2d 142 (1991) (post-conviction relief of a new trial granted based on appellate counsel's failure to raise an issue on appeal that constituted reversible error). "Although it is possible to bring a successful ineffective assistance of appellate counsel claim based on failure to raise a particular issue on direct appeal, the Supreme Court has reiterated that it is 'difficult to demonstrate that counsel was incompetent.'" United States v. Mason, No. 3:06-607-CMC, 2012 WL 5845807 at 1 (D. S.C. Nov. 19, 2012) (quoting Smith v. Robbins, 528 U.S. 259, 288, 120 S. Ct. 746, 765 (2000)). While appellate counsel is required to provide effective assistance of counsel, "appellate counsel is *not* required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990), citing Jones v. Barnes, 463 U.S. 745 (1983). "For judges to second-guess reasonable professional judgments and impose on . . . counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very goal of vigorous and effective advocacy . . ." Jones, 463 U.S. at 754. Additionally, our Supreme Court has expressly rejected the notion that appellate counsel has an obligation to raise all meritorious issues on appeal. Tisdale v. State, 357 S.C. 474, 476, 594 S.E.2d 166, 167 (2004). "Generally, only when ignored issues are clearly stronger than those presented, will the presumption of effective assistance of counsel be overcome." Smith v. Robbins, 528 U.S. at 288, 120 S. Ct. at 765 (quoting Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986)). "To establish prejudice relating

to the actions of appellate counsel, Defendant must establish a reasonable probability that, but for his counsel's unreasonable failure to include a particular issue on appeal, he would have prevailed on his appeal." United States v. Mason, 2012 WL 5845807 at 1 (citing Smith v. Robbins, 528 U.S. at 285-86, 120 S. Ct. at 764).

Applicant has alleged Appellate Counsel was ineffective in failing to raise three specific issues to the appellate court: 1. Trial Counsel's objection to the testimony of Shavonne Gass regarding her phone conversation with Victim prior to his death, 2. Trial Counsel's objection to the admission of the Goodman letters, and 3. The admission of Applicant's statement. This Court finds it unnecessary to further specifically address each of Applicant's allegations regarding ineffective assistance of appellate counsel. Rather, this Court finds it more expedient to address the allegations as a whole.

As an initial matter, this Court finds Appellate Counsel's testimony credible. Appellate Counsel testified at the PCR hearing that he represented Applicant while he was employed at the South Carolina Commission on Indigent Defense as an Appellate Defender. Counsel testified that he had been practicing as an Appellate Defender for approximately one year prior to being assigned Applicant's case, and by that time he had handled forty or fifty appeals. Appellate Counsel testified that his strategy was to raise the issues he felt would have the most merit on appeal. Counsel testified he raised issues with the trial judge's jury charge because he felt that it was the issue which had the greatest likelihood of success on appeal. Counsel testified the trial judge's comments were objectionable, and although Counsel testified he felt the objections to the comments were somewhat preserved, this Court notes the Opinion of the Supreme Court makes it clear the issue was preserved for review. Appellate Counsel testified he felt the issue he raised was a good one because the Supreme Court almost immediately ordered an oral argument, an

event which Counsel testified was rare. Counsel testified he did not have a specific reason for not having raised the objection to Gass' testimony about her phone conversation with Victim. Counsel testified he did not think it was all that important at the time. Appellate Counsel further testified he did not have a particular reason for not raising Trial Counsel's objection to the Goodman letters or to the admission of Applicant's statements, but Appellate Counsel reiterated he picked the issues he thought had the best chance on appeal.

After thorough review of the record and testimony presented at the PCR hearing, this Court finds Applicant has failed to show either deficiency or any resulting prejudice from Appellate Counsel's performance. At the time he handled Applicant's case, Appellate Counsel was an experienced Appellate Defender, and at the PCR hearing he did not have any trouble articulating his strategy and explaining why he chose to focus on the jury charge issue. In this Court's opinion, the issues raised by Appellate Counsel were stronger issues than those he did not raise. Furthermore, this Court finds it highly unlikely the unraised issues would have changed the outcome of Applicant's appeal, had they been raised to the appellate court. Counsel is neither required nor expected to raise every non-frivolous claim. In this Court's opinion, it is far more detrimental to a client when counsel raises every possible claim, rather than using professional judgment to select the issues which have the greatest likelihood of success. Such practice only serves to muddy the waters and detract from the legitimacy of those claims which may potentially have merit. Accordingly, this Court finds Applicant has failed to show deficiency or prejudice, and the allegation of ineffective assistance of appellate counsel is without merit.

3. GARY BOSTIC

Applicant has raised numerous allegations concerning Gary Bostic. Not only has Applicant alleged that Trial Counsel was ineffective for failing to interview Gary Bostic and call

him as a witness, but Applicant has also alleged prosecutorial misconduct with regard to an interview that allegedly took place between Bostic and Lieutenant Compton.

At the PCR hearing, Applicant presented testimony from Gary Bostic that he is currently incarcerated at the Marion County Prison Farm.⁸ Bostic testified he is serving ten years for assault and distribution convictions. Bostic testified he was represented on those charges by Johnny Etheridge, Esquire and Scott Suggs, Esquire. Bostic further testified he knows Applicant, and that he was contacted about the murder by Lieutenant Compton. Bostic testified he spoke with Compton at the Florence County Courthouse about the murder, and Compton asked him how well he knew Applicant and whether he paid Applicant to kill Victim. Bostic testified he told Compton he was not involved in the killing of Victim. Bostic testified he never gave a written statement, and he was surprised he was not called to testify at Applicant's trial. Bostic further testified he was never contacted by Trial Counsel, but that he would have spoken with Trial Counsel had he been contacted. Bostic testified he was contacted by Applicant's PCR Counsel last year, and he signed an affidavit which was admitted as an exhibit at the PCR hearing.⁹

On cross-examination, Bostic testified he never met with law enforcement regarding the charges for which he is currently incarcerated. Bostic admitted he pleaded to an ABHAN charge for shooting at Corey Byrd (Victim) on a separate occasion. However, Bostic insisted that he was only alleged to have shot at Victim. Bostic would not admit to actually shooting at victim, even

⁸ Bostic was represented at the PCR hearing by Jonathan Waller, Esquire.

⁹ The affidavit, dated September 15, 2014, states the following: 1. I affirm that I was interviewed by law enforcement regarding the murder of Corey L. Byrd on September 5, 2008, 2. I affirm that I was not contacted by Jack Lawson, Esquire, or anyone on behalf of Gregory D. Daniels prior to the trial held on April 12-16, 2010, 3. I affirm that I was not notified about the trial held on April 12-16, 2010 nor was I transported as a witness to the Florence County Courthouse, 4. I affirm that I am willing to testify to the above information.

though he testified he previously pled guilty to doing so. Bostic testified he received probation for that conviction.

At the PCR hearing, Johnny Etheridge, Esquire, testified he represented Gary Bostic at the time of Victim's murder on unrelated charges. He recalled being contacted by law enforcement who wanted to interview Bostic, but that law enforcement never mentioned Applicant's name. Etheridge testified he knew the interview was in relation to a violent crime, but he did not know with any specificity what it was. Etheridge testified he arranged for a meeting to take place, and he gave law enforcement Bostic's phone number. Etheridge testified he was not present at the meeting. Etheridge testified he assumed the meeting took place, but he was not sure because he was not present. Etheridge testified he did not remember which officer he spoke with, and he testified he did not recall meeting with Bostic after the alleged meeting took place.

Deputy Solicitor John Jupertinger testified at the PCR hearing that he spoke with multiple witnesses prior to proceeding to trial. He testified that he never spoke with Gary Bostic. Jupertinger further testified that to the best of his knowledge no one from the State ever interviewed Bostic about Corey Byrd's murder. Jupertinger did testify that he felt Bostic probably hired Applicant to kill Victim, but he felt he did not need Bostic because his case against Applicant was overwhelming. Jupertinger testified that based on all of the other evidence, to include the phone records, the Goodman letters, and Gass's testimony, he had no doubt that Applicant was the shooter. Jupertinger acknowledged he could possibly have tried Bostic as a co-conspirator in Victim's death, but at the time his main focus was on convicting Daniels as the person who actually pulled the trigger.

Lieutenant Compton testified at the PCR hearing that he was the State's lead investigator

in the murder of Victim. Compton testified he has been employed with the Florence Police Department for thirty-one years. Compton testified that as the lead investigator on the case, all of the other officers who worked the case reported to him. As such, he testified there were no witness statements he did not know about. Compton testified if anyone interviewed Bostic regarding the case, he would have known about it. Compton testified he never interviewed Bostic, nor did anyone else working the case. Compton testified he wanted to interview Bostic, but he was never able to get in touch with him. He testified he did not feel he had enough evidence to bring charges against Bostic with regard to Victim's murder. Compton testified he believes Bostic hired Applicant to shoot Victim, but he could never develop any concrete evidence against Bostic. Compton testified that in preparation for the PCR hearing he went back and made sure no one from law enforcement ever spoke with Bostic prior to Applicant's trial, and he found nothing indicating Bostic had ever been interviewed. Compton testified there was never any written, verbal, or taped statement. Compton testified he had no doubt Applicant was the shooter.

This Court has had the opportunity to review the record pertaining to Gary Bostic's alleged involvement in this case and has heard all of the testimony given at the PCR hearing. As an initial matter, this Court finds the testimony of Etheridge, Jepertinger, and Compton to be credible. This Court further finds the testimony of Bostic not credible. This Court finds it extremely difficult to believe Bostic would have been eager to speak with law enforcement about Victim's murder considering his history with Victim.

A. Ineffectiveness of Trial Counsel

With regard to any alleged ineffectiveness on the part of Trial Counsel for not speaking with Bostic or calling him as a witness, Applicant has presented no evidence that Counsel did not

attempt to contact Bostic. Furthermore, this Court is unpersuaded that any potential testimony rendered by Bostic would have benefited Applicant. At the PCR hearing, Bostic did not give any substantive testimony regarding his actions or whereabouts on the night of the murder; rather, his testimony was brief and self-serving. Undoubtedly, Bostic's goal was to attempt to influence the outcome of Applicant's PCR hearing without offering anything substantive that could implicate him in a future prosecution. As such, Bostic's testimony was largely worthless. This Court finds it equally hard to believe that Jack Lawson, an extremely experienced trial attorney, would have any interest in presenting testimony from a witness who allegedly hired his client to shoot the victim. This Court fails to see how such testimony would have shifted the blame away from the person who actually pulled the trigger, and all of the evidence and testimony before this Court, other than Applicant's self-serving testimony which is not credible, indicates Applicant was the shooter. While this Court cannot read the mind of Trial Counsel, it is not hard to imagine he felt any testimony from Bostic would likely hurt Applicant's case rather than help, especially since Bostic would be subject to cross-examination by the State. While Counsel was unfortunately unavailable to testify, this Court presumes his strategy for not calling Bostic as a witness was valid. See Section 1 Supra. As such, this Court finds Applicant has failed to show Trial Counsel was ineffective for not utilizing Gary Bostic, and Applicant has failed to show any resulting prejudice. Therefore, the allegation is without merit.

B. Prosecutorial Misconduct

With regard to the allegation that the State committed prosecutorial misconduct by failing to turn over the alleged statement given by Bostic, this Court finds the issue to be without merit. A *Brady* violation is one type of prosecutorial misconduct. Gibson v. State, 334 S.C. 515, 528, 514 S.E.2d 320, 326 (1999). An individual asserting a *Brady* violation must demonstrate that

evidence: (1) favorable to the accused; (2) in the possession of or known by the prosecution; (3) was suppressed by the State; and (4) was material to the accused's guilt or innocence or was impeaching. Riddle v. Ozmint, 369 S.C. 39, 44, 631 S.E.2d 70 (2006).

Here, Applicant has failed to prove even a single prong of the *Brady* analysis. As an initial bar to the claim, Applicant has failed to show that any alleged statement by Gary Bostic exists at all. The **only** evidence offered by Applicant is Gary Bostic's testimony, which this Court finds to be not credible. Assuming *arguendo* that such a statement did exist, Applicant has still failed to provide any evidence of the content of the alleged statement to show it would be either favorable to Applicant or material to his guilt or innocence. The testimony from both Jepertinger and Compton makes it clear that Bostic was never interviewed about Applicant's case. Furthermore, Jepertinger explained his reasoning by testifying he felt the evidence against Daniels was strong enough that it was unnecessary to use Gary Bostic. Compton testified he was unable to reach Bostic.¹⁰ Finally, in order for this Court to grant Applicant PCR on this ground, this Court would have to find that both the solicitor and the lead investigator who handled Applicant's prosecution not only withheld evidence at the trial stage, but this Court would have to find their testimony at the PCR hearing was not only not credible but perjurious. After observing and listening to the testimony rendered by Jepertinger and Compton, this Court is unwilling to make such a finding. As such, Applicant has presented no credible evidence that such a statement was ever made, or that the State committed any *Brady* violations. Therefore, this Court finds all of Applicant's allegations concerning Gary Bostic to be without merit.

ALL OTHER ALLEGATIONS

¹⁰ A letter from Etheridge to Compton was entered as an exhibit by Applicant at the PCR hearing. However, this Court does not find the letter dispositive that a meeting between Compton and Bostic ever took place; rather, it merely bolsters the testimony given by Etheridge and Compton that Compton attempted to interview Bostic.

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, the Court finds Applicant failed to present sufficient evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

OVERWHELMING EVIDENCE OF GUILT

This Court notes that Applicant can show no prejudice in regards to any of the alleged allegations as there is clear overwhelming evidence of guilt, as set forth in the statement of facts Supra. See Franklin v. Catoe, 346 S.C. 563, 570, 552 S.E.2d 718, 722 (2001), cert. denied, 535 U.S. 1114, 122 S.Ct. 2332, 153 L.Ed.2d 162 (2002) (finding overwhelming evidence of guilt negated any claim that counsel's deficient performance could have reasonably affected the result of defendant's trial); Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) (concluding reasonable probability of a different result does not exist when there is overwhelming evidence of guilt).

CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Trial counsel rendered effective assistance in regard to the claims raised by Applicant. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.


The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt 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, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek

appellate review, PCR counsel must serve and file a notice of appeal on 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 8th day of June, 2015.


D. CRAIG BROWN
Presiding Judge
Twelfth Judicial Circuit

Florence, South Carolina

FILED
2015 JUN 10 PM 3:11
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY
Connie Reel Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Gregory Daniels, #297449,
 Plaintiff

State Of South Carolina
 Defendant.

FILED

2015 JUN 25 AM 11:20

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

IN THE COURT OF COMMON PLEAS

CASE NO.
2013-CP-21-0280

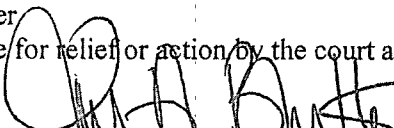
MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

| | |
|---|--|
| Plaintiff's Attorney: Tricia A. Blanchette, Bar No. 74904 Address: PO Box 12725 Columbia, SC 29211 phone: 803-988-0008 fax: 803-988-8070 e-mail: blanchettelaw@gmail.com other: | Defendant's Attorney: J. Croom Hunter, Bar No. Address: PO Box 11549 Columbia, SC 29211 phone: 803-734-3737 fax: 803-734-4113 e-mail: other: |
|---|--|

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information
 Nature of Motion: Motion Pursuant to Rule 59(A), SCRCP and/or Rule 59(E), SCRCP
 Estimated Time Needed: 30 minutes Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type
 Written motion attached
 Form Motion/Order
 I hereby move for relief or action by the court as set forth in the attached proposed order.


 Signature of Attorney for Plaintiff / Defendant

June 23, 2015
 Date submitted

SECTION III: Motion Fee

PAID - AMOUNT:
 EXEMPT: Rule to Show Cause in Child or Spousal Support
 (check reason) Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRCP)
 Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter:
 Other:

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.
 Other:

JUDGE _____
 CODE: _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____

CERTIFIED: A TRUE COPY
 Charles A. Reel
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.



motion to elect theory, motion to quash indictment, raise the argument on directed verdict or request a charge for the jury to be unanimous on the theory.

4. Ineffective assistance of trial counsel for failure to raise a third party guilt defense and utilize exculpatory evidence at trial.
5. Ineffective assistance of trial counsel for failure to make all viable contemporaneous objections at trial.
6. Ineffective assistance of trial counsel for failure to review Applicant's statement with him prior to trial, utilize Applicant at the Jackson v. Denno hearing and make a proper argument for suppression of Applicant's statement.
7. Ineffective assistance of trial counsel for failure to utilize Applicant as a witness at trial.
8. Ineffective assistance of trial counsel for failure to investigate and object at trial to the search and resulting records obtained on and from Applicant's phone.
9. Ineffective assistance of trial counsel for failure to advise Applicant of the State's intention to use his girlfriend's letters as evidence against him, failure to utilize the complete letters and/or additional letters to put the selected text into context, failure to prepare and utilize Applicant to testify in response to the introduction of the letters.
10. Ineffective assistance of trial counsel for failure to impeach the state's witnesses with contradictory testimony, oral and written statements and other discovery documents.
11. Ineffective assistance of trial counsel for failure to advise Applicant of the evidence the state intended to introduce involving the phone call between the victim and Gass. Failure to effectively argue against the admission of the testimony/evidence under the present sense impression exception.
12. Ineffective assistance of trial counsel for failure to review the statements of Andre Bradley and Jasmine Barrett and proffer agreement of Andre Bradley with Applicant prior to trial. Failure to make the record clear as to the disclosure of the proffer agreement by the State and ensure the issue was properly preserved for appeal. Failure to effectively cross-examine Andre Bradley and Jasmine Barrett.
13. Ineffective assistance of trial counsel for failure to properly preserve the arguments made by appellate counsel regarding the impermissible jury charge. See State v. Daniels, 410 S.C. 251, 737 S.E.2d 473 (2012).
14. Ineffective assistance of appellate counsel for failure to raise all meritorious issues on appeal and address the credibility and inconsistent testimony of the State's witnesses. Specifically, failure to raise the following motions/objections made by trial counsel:

- a. Objection to the testimony of Gass regarding the call with the victim and the admission of such under the present sense impression exception.
- b. Objection to the admission of the Applicant's letters to his girlfriend.
- c. The Jackson v. Denno hearing and admission of Applicant's statement.

15. Pursuant to Rule 15(b), SCRPC, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.

An evidentiary hearing was set for October 6, 2014. On September 29, 2014, Respondent filed a Motion for Continuance and Motion for Discovery. On September 30, 2014, Applicant, through counsel, submitted a Motion in Opposition to Respondent's Motion for Continuance and Discovery. On October 1, 2014, the Honorable William H. Seals, Jr. issued an Order granting Respondent's request for a continuance. On October 6, 2014, a motion hearing was held in front of the Honorable Edgar W. Dickson. Applicant was present and represented by Tricia A. Blanchette, Esquire. Respondent was represented by J. Croom Hunter, Assistant Attorney General. After hearing from both parties, the Honorable Edgar W. Dickson ordered that an evidentiary hearing be set for a full day of Applicant's choosing during the next term of court and granted Respondent's request for limited discovery. An Order Granting Limited Discovery was issued on October 22, 2014, which was filed on October 30, 2014.

An evidentiary hearing was conducted at the Florence County Courthouse on April 14 and 17, 2015 in front of the Honorable D. Craig Brown. Applicant was present and represented by Tricia A. Blanchette, Esquire. Respondent was represented by J. Croom Hunter, Assistant Attorney General, and Josh Thomas, Assistant Attorney General. Applicant was called to the stand, along with the following witnesses on his behalf: Tristan Shaffer, Esquire, Gary Bostic, Johnny Etheridge, Esquire, Andrew Williams, and Pete Skidmore. Respondent called the following witnesses: Investigator Tim Compton, Grayson Smith, Esquire, and John Jepertinger, Assistant Solicitor for the 12th Judicial Circuit. Applicant attempted to admit thirty-one exhibits.

Respondent admitted one exhibit. At the conclusion of the hearing, the Honorable D. Craig Brown instructed the parties to prepare proposed Orders, which were submitted as requested.

On June 8, 2015, the Honorable D. Craig Brown signed an Order of Dismissal, which was filed on June 10, 2015. On June 15, 2015, Applicant, through counsel, received written notice of the entry of the Order from the Florence County Clerk of Court's Office, from which this Motion timely follows.

In Marlar v. State, 375 S.C. 407, 653 S.E.2d 266 (2007), the South Carolina Supreme Court made it clear that a post conviction relief judge must make specific findings of fact and state expressly the conclusions of law relating to each issue presented. See also S.C. Code Ann. § 17-27-80. Therefore, Applicant would respectfully request that this Court ensure that specific findings of fact and conclusions of law are entered and that the arguments and testimony of each witness is properly addressed. Applicant would further request that this Court review the evidentiary hearing transcript, reconsider the standing Order of Dismissal, reconsider the attached Order proposed by Applicant and/or rehear Applicant's case pursuant to Rule 59(a), SCRPC.

As threshold matter, Applicant would hereby incorporate by reference the attached Order Granting Application for Post Conviction Relief, which was proposed by Applicant's counsel in compliance with the request of this Court. Applicant submits that the attached proposed Order addresses each issue raised and makes detailed findings of facts and conclusions of law that are omitted from the standing Order of Dismissal.¹ Therefore, Applicant would urge this Court to reconsider the proposed Order as a whole and utilize it as a basis to examine the overall

¹ As the finding in the Orders are different, Applicant understands that the Orders will not be consistent on findings but urges this Court to find that the Order of Dismissal accurately reflects the testimony offered and issues raised at the evidentiary hearing.

omissions from the standing Order. Specifically, but not limited to the following, Applicant would urge this Court to address:

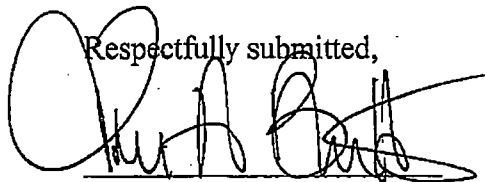
1. The findings regarding the Applicant's exhibits, arguments made by Applicant's counsel and findings of this Court in the standing Order do not properly reflect the arguments made and findings by this Court on the record. See Order pp. 7-9. Specifically, on the second day of the evidentiary hearing, this Court informed Applicant's counsel that he did not need to hear further from her on the State's hearsay objection since he had considered her arguments and was excluding the exhibits since they were cumulative to Applicant's testimony, which is not reflected in the Order.
2. The blanket findings of credibility in favor of Respondent and repeated reliance upon deceased counsel's reputation and strategy when little to no testimony was offered regarding counsel's actual work on Applicant's case by Respondent. See Applicant's Proposed Order pp. 6-8.
3. The finding that the "State showed great restraint in allowing, without objection" a number of exhibits is a comment on the State's failure to object that is not supported by the record and is simply the writer ("the State") of the Order interjecting his opinion into an Order issued by this Court.
4. Section F, entitled "Third Party Guilt" fails to address the testimony offered and exhibits admitted and/or testified to by Applicant regarding his allegations on the matter of third party guilt. See Applicant's Proposed Order pp. 9-11.

5. The standing Order fails to address all allegations and testimony offered regarding matters involving Andre Bradley and Jasmine Barrett. See Applicant's Proposed Order pp. 11-12.
6. The summary of the testimony offered by Appellant Counsel and reasoning stemming therefrom does not properly reflect the testimony offered at the evidentiary hearing by Appellant Counsel.
7. As to the issue entitled "Gary Bostic," Applicant would urge this Court to set aside the blinders that have somehow caused this Court to view the testimony offered and evidence presented in a light that is not only favorable to the State but in a light that is also not supported by the record of the evidentiary hearing. Applicant would ask this Court to recall how the issue played out in open court, even with the State having a several day brake to prepare their witnesses in reply, and would ask this Court to reconsider the summary of the evidence and findings on this issue set forth in Applicant's proposed Order. Simply put, Applicant submits that the testimony that is not credible from the evidentiary hearing was the testimony offered by the State's witnesses that Gary Bostic was, for lack of better terms, not worth charging in this case in light of the State's theory at trial. The standing Order fails to address the incredulous and unexplained resulting dichotomy. The standing Order also fails to address the clear Brady violation resulting from the obvious investigation and decision not to charge Bostic, which was not addressed in the documents contained in trial counsel's file nor clearly known to counsel based upon his comments made in closing argument. See Applicant's Proposed Order pp. 15-22.

8. As to the findings that counsel was not ineffective for failing to contact /utilize Attorney Etheridge and/or utilize Gary Bostic as a witness at trial, Applicant would urge this Court to reconsider such findings, review the proposed findings in Applicant's Order and reconsider the erroneous finding of a valid strategy for not utilizing Gary Bostic when no testimony was offered regarding counsel's strategy.

For the above stated reasons, Applicant would respectfully request that this Court reconsider the Order of Dismissal and Applicant's proposed Order, obtain and review the evidentiary hearing transcript, and hold a motion hearing to ensure that all the testimony and arguments are fully addressed by this Court prior to appeal. Applicant would specifically move before this Court to direct the entry of a new judgment, pursuant to Rule 59(a)(2), and/or amend the findings of fact and conclusions of law in the standing Order of Dismissal, pursuant to Rule 59(e), SCRCP.

Respectfully submitted,



Tricia A. Blanchette
Attorney for Applicant
Post Office Box 12725
Columbia, South Carolina 29211

June 23, 2015
Columbia, SC

| | | |
|-----------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| |) | |
| COUNTY OF FLORENCE |) | DOCKET NO.: 2013-CP-21-280 |
| |) | |
| Gregory D. Daniels, #297449 |) | |
| Applicant, |) | |
| v. |) | ORDER GRANTING APPLICATION |
| |) | FOR POST CONVICTION RELIEF |
| State of South Carolina, |) | |
| Respondent. |) | |

PROCEDURAL HISTORY

I. Post Conviction Relief

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed February 1, 2013. The State filed a Return on or about September 17, 2013. On September 22, 2014, Applicant, through counsel, filed an Amendment to Application for Post Conviction Relief, which amended the Application by adding the following specific allegations of ineffective assistance of trial and appellate counsel:

1. Ineffective assistance of trial counsel for failure to provide Applicant with a complete copy of discovery and review it with him prior to trial.
2. Ineffective assistance of trial counsel for failure to conduct an independent investigation and properly prepare Applicant's case for trial. Ineffective assistance of trial counsel for failure to call witnesses at trial. Specifically, failure to interview Gary Bostic and subpoena him for trial, which would have resulted in the discovery of a Brady violation and/or prosecutorial misconduct for failing to disclose the law enforcement interview of Gary Bostic. See attached Affidavit of Gary Bostic, Transcript pp. 598, lns. 22-25. Alternatively, prosecutorial misconduct and/or newly discovered evidence of a Brady violation regarding the failure of the State to disclose the law enforcement interview of Gary Bostic.
3. Ineffective assistance of trial for counsel for failure to object to the State being allowed to proceed on two theories: murder for hire and argument at cookout. Failure to file a motion to elect theory, motion to quash indictment, raise the argument on directed verdict or request a charge for the jury to be unanimous on the theory.

4. Ineffective assistance of trial counsel for failure to raise a third party guilt defense and utilize exculpatory evidence at trial.
5. Ineffective assistance of trial counsel for failure to make all viable contemporaneous objections at trial.
6. Ineffective assistance of trial counsel for failure to review Applicant's statement with him prior to trial, utilize Applicant at the Jackson v. Denno hearing and make a proper argument for suppression of Applicant's statement.
7. Ineffective assistance of trial counsel for failure to utilize Applicant as a witness at trial.
8. Ineffective assistance of trial counsel for failure to investigate and object at trial to the search and resulting records obtained on and from Applicant's phone.
9. Ineffective assistance of trial counsel for failure to advise Applicant of the State's intention to use his girlfriend's letters as evidence against him, failure to utilize the complete letters and/or additional letters to put the selected text into context, failure to prepare and utilize Applicant to testify in response to the introduction of the letters.
10. Ineffective assistance of trial counsel for failure to impeach the state's witnesses with contradictory testimony, oral and written statements and other discovery documents.
11. Ineffective assistance of trial counsel for failure to advise Applicant of the evidence the state intended to introduce involving the phone call between the victim and Gass. Failure to effectively argue against the admission of the testimony/evidence under the present sense impression exception.
12. Ineffective assistance of trial counsel for failure to review the statements of Andre Bradley and Jasmine Barrett and proffer agreement of Andre Bradley with Applicant prior to trial. Failure to make the record clear as to the disclosure of the proffer agreement by the State and ensure the issue was properly preserved for appeal. Failure to effectively cross-examine Andre Bradley and Jasmine Barrett.
13. Ineffective assistance of trial counsel for failure to properly preserve the arguments made by appellate counsel regarding the impermissible jury charge. See State v. Daniels; 410 S.C. 251, 737 S.E.2d 473 (2012).
14. Ineffective assistance of appellate counsel for failure to raise all meritorious issues on appeal and address the credibility and inconsistent testimony of the State's witnesses. Specifically, failure to raise the following motions/objections made by trial counsel:
 - a. Objection to the testimony of Gass regarding the call with the victim and the admission of such under the present sense impression exception.
 - b. Objection to the admission of the Applicant's letters to his girlfriend.

c. The Jackson v. Denno hearing and admission of Applicant's statement.

15. Pursuant to Rule 15(b), SCRPC, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.

An evidentiary hearing was set for October 6, 2014. On September 29, 2014, Respondent filed a Motion for Continuance and Motion for Discovery. On September 30, 2014, Applicant, through counsel, submitted a Motion in Opposition to Respondent's Motion for Continuance and Discovery. On October 1, 2014, the Honorable William H. Seals, Jr. issued an Order granting Respondent's request for a continuance. On October 6, 2014, a motion hearing was held in front of the Honorable Edgar W. Dickson. Applicant was present and represented by Tricia A. Blanchette, Esquire. Respondent was represented by J. Croom Hunter, Assistant Attorney General. After hearing from both parties, the Honorable Edgar W. Dickson ordered that an evidentiary hearing be set for a full day of Applicant's choosing during the next term of court and granted Respondent's request for limited discovery. An Order Granting Limited Discovery was issued on October 22, 2014, which was filed on October 30, 2014.

An evidentiary hearing was conducted at the Florence County Courthouse on April 14 and 17, 2015 in front of the Honorable D. Craig Brown. Applicant was present and represented by Tricia A. Blanchette, Esquire. Respondent was represented by J. Croom Hunter, Assistant Attorney General, and Josh Thomas, Assistant Attorney General. Applicant was called to the stand, along with the following witnesses on his behalf: Tristan Shaffer, Esquire, Gary Bostic, Johnny Etheridge, Esquire, Andrew Williams, and Pete Skidmore. Respondent called the following witnesses: Investigator Tim Compton, Grayson Smith, Esquire, and John Jepertinger, Assistant Solicitor for the 12th Judicial Circuit. Applicant attempted to admit thirty-one exhibits. Respondent admitted one exhibit. At the conclusion of

the hearing, the Honorable D. Craig Brown instructed the parties to prepare proposed Orders, from which this Order follows.

II. General Sessions

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. The Georgetown County Grand Jury indicted Applicant in April 2009 for murder and possession of a weapon during the commission of a violent crime (2009-GS-21-427, Counts 1 and 2). Jack W. Lawson Jr., Esquire, represented Applicant. On April 16, 2010, a jury convicted Applicant as indicted. The Honorable Thomas A. Russo sentenced Applicant to life in prison for the murder charge and a concurrent five (5) years for the weapon possession charge.

Applicant filed a timely notice of appeal. Tristan M. Shaffer, Esquire, and Wanda H. Carter, Esquire, of the Office of Appellate Defense represented Applicant on appeal. The South Carolina Supreme Court affirmed Applicant's conviction on October 10, 2012. State v. Daniels, 401 S.C. 251, 737 S.E.2d 473 (2012). The remittitur was returned to the circuit court on October 26, 2012.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. Ineffective Assistance of Trial Counsel

In order to prove counsel was ineffective, a PCR applicant must show: (1) counsel's performance was deficient; and (2) there is a reasonable probability that, but for counsel's errors, the result of the trial would have been different. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 Rhodes v. State, 349 S.C. 25, 561 S.E.2d 606 (2002). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Id.

A. Allegations Involving Preparation and Investigation

This Court has had the opportunity to review the records and the pleadings, listen to the testimony offered, and review the exhibits admitted at the evidentiary hearing. This Court finds that a majority of Applicant's allegations and testimony can be addressed in this Court's finding that trial counsel rendered ineffective assistance of counsel in his preparation with Applicant prior to trial, which resulted in Applicant not being utilized as a witness at trial and a prejudicial outcome for Applicant in both the circuit and appellate court.¹ Here, prejudice is evidenced by the Applicant being found guilty despite the State's admission at trial that there was no physical evidence or eyewitnesses to the murder. Transcript p. 83. Clearly, the defense fell short, when the Supreme Court reasoned that Applicant's conviction should not be reversed since the State "presented substantial circumstantial evidence that Appellant committed the crime charged." Daniels, 401 S.C. 251, 260, 737 S.E.2d 473, 478. As a result of a thorough review of the record, and in consideration of the testimony and evidence offered at the evidentiary hearing, this Court finds that counsel's below detailed ineffective assistance on the matters relating to preparation and investigation affected the outcome of Applicant's trial and appeal.

As is addressed in detail herein, Applicant offered numerous evidentiary items, turned over to PCR counsel as being contained in trial counsel's file, that he claimed that counsel failed to review with him. He explained how he would have wanted for counsel to utilize such in the preparation and defense of his case and how such would have affected his decision to take the stand at trial. Applicant also offered the testimony of Pete Skidmore, private investigator, and Andrew Williams to demonstrate how further preparation and investigation could have aided his defense.

¹ Consequently, this Court finds the testimony of Applicant on such matters to be credible.

At the evidentiary hearing, Applicant explained that he met with trial counsel six to seven times at the detention center, and he attempted to regularly communicate with counsel when he was present at the jail meeting with other clients and through written correspondence. This Court has reviewed a letter (Respondent's Exhibit 1) written by Applicant to counsel, which this Court finds establishes that Applicant was trying to raise issues he recognized in the case documents he was provided, but the letter, despite being introduced as Respondent's exhibit, fails to address what counsel did in response to Applicant's concerns.

It must be noted that Jack Lawson, trial counsel, lost his battle to cancer eight months after handling Applicant's trial; therefore, his testimony could not be offered to address whether he reviewed all of the evidence with Applicant, how he prepared with Applicant for trial, what strategy factored into his presentation of Applicant's defense and if Applicant made a fully informed decision when he chose not to take the stand at trial. Over Applicant's objection, this Court did allow the State to offer testimony regarding the reputation of Jack Lawson as an excellent attorney, but, as was argued by Applicant's counsel, this Court cannot allow reputation testimony to refute the specific allegations made by Applicant. In Ingle v. State, 348 S.C. 467, 470, 560 S.E.2d 401, 402 (2002) the South Carolina made the following clear:

Counsel must articulate a **valid** reason for employing a certain strategy to avoid a finding of ineffectiveness. Roseboro v. State, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). Where counsel articulates a strategy, it is measured under an objective standard of reasonableness. Roseboro, *supra*.

Here, this Court cannot assess the reasonableness of counsel's preparation or trial strategy since counsel was not present to testify before this Court and the testimony this Court allowed from the State's witnesses did not address the specific allegations made by

Applicant.² See Lounds v. State, 380 S.C. 454, 670 S.E.2d 646 (2008). (Reversing the lower court and granting relief since trial counsel did not testify at the PCR hearing and did not offer an objectively valid strategic reason for not calling witnesses).

At the evidentiary hearing, Applicant testified about several issues that pertained to Nyrena Goodman (his girlfriend at the time) who testified for the State. Applicant explained that Andrew Williams (Applicant's uncle) was present in the hotel room with himself and Nyrena Goodman and that counsel failed to contact Andrew Williams and utilize him as a witness at trial. Andrew Williams was called at the evidentiary hearing, and he made it clear that he was never alone in the hotel room with Nyrena Goodman, which directly refutes the testimony she provided at trial.³ Transcript pp. 391-3, 407-10. As is addressed above, counsel did not testify regarding interviewing Andrew Williams

² The State did call Grayson Smith, Esquire, who served as second chair, but his testimony established that Applicant's case was solely handled by Mr. Lawson and he only testified to observing counsel working on Applicant's case but to no meetings or interaction between counsel and Applicant. He also explained that he only assisted as a note taker and in making arguments on the court's charge at trial.

³ In Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1999), the South Carolina Supreme Court addressed whether trial counsel was ineffective for failing to call a witness at trial. The Court reasoned as follows:

This Court has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Pauling v. State, 331 S.C. 606, 503 S.E.2d 468 (1998)(applicant established prejudice where nurse's notes presented at PCR hearing corroborated lack of penetration in sexual assault case); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995)(where witnesses applicant claimed could have provided an alibi defense did not testify at the PCR hearing, he could not establish any prejudice from counsel's failure to contact these witnesses); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992) (where applicant did not offer witnesses at PCR hearing but merely alleged they would have provided him with alibi defense and testified victims had recanted their trial testimony, he failed to establish prejudice); see also Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998) (applicant failed to establish prejudice from counsel's failure to investigate criminal backgrounds of victims and witnesses where he failed to substantiate at PCR hearing that victims and witnesses had criminal records). "The applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice." Glover v. State, supra, S.C. at 498-99, S.E.2d at 540.

Bannister, 333 S.C. at 303, 509 S.E.2d at 809.

nor did counsel provide a strategic reason for failing to utilize him at trial.⁴ Therefore, based upon the record and testimony of Applicant, this Court finds ineffective assistance of counsel and prejudice.

Also, Applicant testified that counsel failed to put him on notice that the State intended to utilize a number of letters he exchanged with Nyrena Goodman while in the county detention center as evidence against him at trial. Applicant pointed out that counsel informed the Court about what he anticipated the State's plan to be for the letters and made an objection to the introduction of the letters. Transcript pp. 327-8. Applicant explained that he would have provided counsel with additional letters and taken the stand to explain the context of the letters, as he did at the evidentiary hearing, if counsel had informed him about and reviewed the letters with him prior to trial. This Court agrees with Applicant that the letters were not a minor piece of evidence as the State quoted and heavily relied upon the letters in their opening and closing arguments. Transcript pp. 84, 563, 586. More importantly, the South Carolina Supreme Court deemed the letters the "most revealing evidence of guilt" and quoted the letters in reaching their finding that the "State presented substantial circumstantial evidence that Appellant committed the crime charged." Daniels, 401 S.C. 251, 260-63, 737 S.E.2d 473, 478-79. The State provided no testimony that trial counsel reviewed the letters with Applicant prior to trial, discussed the potential of introducing additional letters, or utilizing Applicant to refute the letters at trial.⁵ Therefore, based upon the record and the testimony and exhibits

⁴The State did offer the testimony of Investigator Compton on the fact that he did not interview Andrew Williams, but this Court is not convinced by Investigator Compton's testimony that Andrew Williams was not a necessary witness as the State called Nyrena Goodman to testify of the events of the day following the early morning murder of Corey Byrd.

⁵ Applicant also testified that counsel failed to utilize State's Exhibit 18 (Applicant's Exhibit 5) at trial to question Nyrena Goodman about the motel key card swipes. This Court is not convinced that this allegation rises to the level of ineffective assistance of counsel.

offered at the evidentiary hearing, this Court finds that counsel rendered ineffective assistance of counsel, which prejudiced Applicant.

Turning to Applicant's statements admitted at trial, Applicant alleged that counsel was ineffective for failing to review the statement with him prior to trial, utilize him as a witness at the Jackson v. Denno hearing, and ultimately call him as a witness at trial to address the statements to the jury. Applicant explained that he was arrested on an unrelated charge when he spoke to Investigator Compton and gave the audio recorded statement that was transcribed and admitted at trial. Applicant was adamant that he would have requested counsel and not gone forward with the interview if he had known that he was being questioned as a murder suspect.⁶ Applicant's Exhibit 6 (Trial Exhibit 3). Additionally, Applicant testified that he did not give the statement on September 11, 2008 that Investigator Compton testified to at trial. At the evidentiary hearing, Respondent did not offer any testimony or evidence to establish that counsel discussed the statements with Applicant or offer a strategic reason for counsel not utilizing Applicant as a witness at the Jackson v. Denno hearing or at trial to address the admission and contents of the statements attributed to him. As a result, this Court finds that counsel was ineffective for failing to do such, as is addressed in the above stated finding of ineffectiveness and prejudice.

At the evidentiary hearing, a majority of Applicant's testimony centered around counsel's failure to discuss evidence with him that could have been used to establish a third party guilt defense, used as exculpatory or impeachment evidence at trial, or would have caused him to take the stand if it had been addressed with him prior to trial. This

⁶ At trial, Investigator Compton admitted that Applicant was being held on an unrelated charge, but he intended to get a murder warrant but Applicant was not advised of his intention. Transcript pp. 53, lns. 23-24, 58, lns. 12-20.

Court has considered the testimony of Applicant regarding the following: 1) the investigative report contained in counsel's file regarding the victim being involved in an unrelated murder case, 2) the statement and polygraph findings regarding Bernard Cooper, 3) the statement of Brian Timmons and Investigator Compton's testimony regarding Timmons, 4) the information contained in Investigator Compton's report regarding the victim being involved in a robbery the week prior, 5) the information contained in Investigator Compton's report regarding threats made by the Fludd's father, 6) the information contained in the investigative reports and audio recordings that Tiesha Brown thought it was "set up" and providing details about threats being made to the victim from a green SUV, seeing Ryan Evans next to the body immediately after hearing the shot, and confronting Evans at the home of Shavonne Gass, 7) the conflicting/evolving information from Tiesha Brown regarding what she saw and from where (as to the shot and the suspect), 8) the absence of evidence of a phone charger, and 9) the State's failure to call Reginald Coleman regarding the information he gave to Investigator Compton regarding Gary Bostic paying for the murder of the victim and that such information could be confirmed with inmate Ventrez Davis.

Despite counsel eluding to "other" reasons for the victim being shot in his opening argument, this Court does not see where counsel properly addressed these "other" reasons during the course of the trial. Transcript p. 88. Here, counsel did not offer a strategic reason for failing to make a motion to present third party guilt evidence or for failing to elicit a majority of the information testified to by Applicant in cross-examination of the State's witnesses. See Miller v. State, 397 S.C. 108, 665 S.E.2d 596 (2008) (Reversing the lower court and finding counsel was ineffective by inadequately

cross-examining a witness related to the defense of mistaken identity and third party guilt).

In addition to his testimony, Applicant offered the testimony of Pete Skidmore, private investigator, on the issues involving the scene and the information given by Tiesha Brown regarding what she saw and from where. Respondent did not provide testimony from a private investigator that worked on Applicant's case to establish if such was looked into prior to trial or offer any testimony as to why a private investigator was not called at trial or a request made for the jury to visit the scene.

This Court finds that Applicant has offered credible testimony regarding the items that he would have wanted to review with counsel prior to trial, what he would have wanted to discuss with counsel and how the information contained therein should have been utilized as part of his defense strategy, which would have included him choosing to take the stand at trial. Respondent has offered no testimony to refute the testimony of Applicant or his private investigator, as discussed above. Therefore, this Court cannot ignore the lengthy testimony of Applicant on the above listed matters and find counsel effective in the face of it. As a result, this Court finds that the record and the testimony offered establishes that counsel rendered ineffective assistance, which affected the outcome of trial.

As a final matter regarding counsel's lack of preparation and the impact of such on trial, Applicant testified that counsel asked him during trial if he knew Andre Bradley and Jasmine Barrett. Applicant explained that counsel failed to review the audio statements of Andre Bradley and statement of Jasmine Barrett with him prior to trial, and he explained that he reviewed the audio of each and corresponding transcription for the

first time in preparation for his evidentiary hearing. Applicant made it clear that he would have wanted to take the stand to refute their testimony and he would have wanted counsel to further question both of them if he had known that their testimony was going to be utilized against him at trial. Not only was their testimony considered by the jury without the input of Applicant, but the South Carolina Supreme Court considered their unrefuted testimony and cited to the testimony of Andre Bradley that Applicant was paid by Gary Bostic to murder the victim and reasoned that his girlfriend corroborated such in finding that the State presented "substantial circumstantial evidence" against Applicant. 401 S.C. 251, 260-1, 737 S.E.2d 473, 478.

In conclusion, this Court finds that trial counsel rendered ineffective assistance of counsel in his preparation with Applicant prior to trial, which resulted in Applicant not being utilized as a witness at trial, and a prejudicial outcome for Applicant in both the circuit and appellate court. Here, prejudice is evidenced by the Applicant being found guilty despite the State's admission at trial that there was no physical evidence or eyewitnesses to the murder. Transcript p. 83. Clearly, the defense fell short, when the Supreme Court reasoned that Applicant's conviction should not be reversed since the State "presented substantial circumstantial evidence that Appellant committed the crime charged." 401 S.C. 251, 260, 737 S.E.2d 473, 478. As a result of a thorough review of the record and in consideration of the testimony and evidence offered at the evidentiary hearing, this Court finds that counsel's above detailed ineffective assistance on the matters relating to preparation and investigation affected the outcome of Applicant's trial and appeal.

B. Issues Involving Gary Bostic

By way of his Amendment, Applicant made the following allegation:

Ineffective assistance of trial counsel for failure to conduct an independent investigation and properly prepare Applicant's case for trial. Ineffective assistance of trial counsel for failure to call witnesses at trial. Specifically, failure to interview Gary Bostic and subpoena him for trial, which would have resulted in the discovery of a Brady violation and/or prosecutorial misconduct for failing to disclose the law enforcement interview of Gary Bostic. See attached Affidavit of Gary Bostic, Transcript pp. 598, lns. 22-25. Alternatively, prosecutorial misconduct and/or newly discovered evidence of a Brady violation regarding the failure of the State to disclose the law enforcement interview of Gary Bostic.

In support of this allegation, an affidavit of Gary Bostic dated September 15 2014, was attached to the Amendment, which stated:

1. I affirm that I was interviewed by law enforcement regarding the murder of Corey L. Byrd on September 5, 2008.
2. I affirm that I was not contacted by Jack Lawson, Esquire, or anyone on behalf of Gregory D. Daniels prior to the trial held on April 12-16, 2010.
3. I affirm that I was not notified about the trial held on April 12-16, 2010 nor was I transported as a witness to the Florence County Courthouse.
4. I affirm that I am willing to testify to the above information.

At the evidentiary hearing, Bostic was called to the stand. He affirmed the information contained in his Affidavit. He further explained that law enforcement spoke with him about the murder investigation of Cory Byrd. He told them he was not involved, and he heard nothing further from any of the parties. He explained that he did not speak with law enforcement during the meeting in question about his pending charges and his attorney on those charges (Johnny Etheridge) was not present at the meeting. He did know that the meeting was approved by Attorney Etheridge, but Attorney Etheridge did not attend, so he reported back to him about it. He also acknowledged that he had read through the trial transcript and was surprised to see his name in it. He affirmed, as stated

in his Affidavit, that he was not contacted by anyone on behalf of Gregory Daniels. He further affirmed, as stated in his Affidavit, that he would have spoken with trial counsel or an investigator for Gregory Daniels, and he would have testified at trial.

When Johnny Etheridge, Esquire, was called to the stand, he recalled his representation of Bostic prior to his current incarceration, which began in September 2010. He recalled being contacted by Investigator Compton about meeting with Bostic about another "violent crime." He recalled that the meeting did not take place in his office nor did he attend since he had a good relationship with law enforcement. When asked, he explained that he knew that the meeting took place since Bostic reported back to him about it. He did not recall being contacted by anyone on behalf of Gregory Daniels.

After the State had proceeded at trial on the theory that Gregory Daniels was hired to kill the victim by Bostic, trial counsel raised the common sense argument to the jury about the absence of Bostic from the trial, counsel argued: "It does not stand the test of critical judgment. Bostic supposedly paid someone to hit someone, he is never interviewed. He is never accused. He is never confronted." Transcript p. 598, lns. 22-5. Throughout the course of the trial, the jury repeatedly heard the name Gary Bostic. The State elicited testimony from Andre Bradley, Nyrena Goodman and Investigator Compton attempting to connect Bostic to Gregory Daniels and attempting to show Bostic as the person that orchestrated the murder of Corey Byrd.⁷ The State also elicited testimony and offered phone records to show forty-one phone calls between Applicant and Bostic, and the State offered testimony and introduced evidence of the screen shot

⁷ Andre Bradley testified that Applicant was hired by Gary Bostic to murder Corey Byrd due to a drug deal gone bad for \$1,000.00. Transcript p. 425-6.

(money) that was utilized in Applicant's phone for Bostic. Transcript pp. 350-1, 493. All of the testimony and evidence regarding Bostic culminated in his name specifically being included in the facts section of the South Carolina Supreme Court's opinion. Not only did the jury appear to accept the fact that Gary Bostic hired Gregory Daniels to murder the victim, but the South Carolina Supreme Court did as well.

As a threshold matter, this Court finds that trial counsel rendered ineffective assistance when he failed to contact Johnny Etheridge, Esquire, and Gary Bostic as part of his investigation of Applicant's case. Obviously, counsel had the questions he posed to the jury regarding Bostic prior to closing argument, but no evidence has been offered to establish that he did anything about it. Both Attorney Etheridge and Bostic testified that they were not contacted by anyone on behalf of Applicant, and this Court was not provided any testimony or evidence that the failure to do so was any part of a reasonable trial strategy. Here, Applicant utilized a private investigator and obtained an Affidavit of Bostic and offered his testimony at the evidentiary hearing -- testimony which this Court finds to be credible and finds to be the basis of a viable defense. Yet, this Court was not provided any reason or explanation as to why no one for the defense contacted nor subpoenaed Bostic for trial. In light of the State's theory of the case and the importance of the testimony and evidence offered regarding Bostic, this Court finds that counsel's failure to contact and utilize Bostic amount to ineffective assistance that affected the outcome of Applicant's trial and appeal.

Additionally, this Court finds that this issue is not simply a matter of ineffective assistance, as it is clear from the record and the evidentiary hearing that it was not disclosed to the defense that Bostic was investigated, that a letter was in the investigative

file regarding a meeting with Bostic, and that Bostic and his attorney both would swear under oath with penalty of perjury that a meeting took place. Despite denying that he had knowledge that a meeting took place and Investigator Compton denying that a meeting took place, neither the Solicitor nor Investigator Compton denied that Bostic was investigated. When both were asked why Bostic was not charged, neither responded that he was not investigated, but both responded that there was not enough evidence to arrest or charge him. It is clear from the absence of information regarding an investigation in the file of trial counsel turned over to PCR counsel, specifically no mention of trying to or meeting with Bostic in the report of Investigator Compton (Applicant's Exhibit 1), and by his closing argument that nothing was disclosed to Jack Lawson regarding the investigation of Bostic. It is also clear from his cross-examination of Investigator Compton that trial counsel was not aware of his investigation or the determination regarding arresting / charging Bostic as testified to at the evidentiary hearing. Additionally, it is clear from the testimony of Bostic and Johnny Etheridge, Esquire, which this Court finds to be credible, that a meeting took place between Bostic and law enforcement.⁸ It is also clear that Jack Lawson, had no disclosure regarding attempts to

⁸ Investigator Compton testified that he was not aware of meeting that took place with Gary Bostic. This Court finds the evidentiary hearing testimony of Investigator Compton and Solicitor Jepertinger to be reminiscent of a situation that played out during the trial prior to the testimony of Andre Bradley. At trial, Jack Lawson, Esquire, made a motion regarding any deals made with Andre Bradley. Transcript p. 372. Thereafter, the trial court specifically questioned Solicitor Jepertinger and Investigator Compton about any knowledge of any deals or information regarding his federal charges, stating: "I'm not going to tolerate hiding anything, step up to the plate. Has there been any conversation with the federal authorities for this guy's cooperation in this case?" Transcript pp. 373-374, lns 1-14. In response, Investigator Compton admitted that he had been told it was a possibility that he could get leniency for his cooperation, but he explained that he had not met Bradley. Transcript p. 374. The following morning when court resumed, the trial court gave a stern warning to the prosecution, specifically, to Investigator Compton, he stated: "You had better disclose everything you know because I am not messing around. I'm not playing anything hiding under the table springing something on anybody." Transcript pp. 375, ln. 17 - 376, ln. 4. After which the following took place:

Compton: I haven't lied or done anything.

meet with Bostic or a meeting with Bostic, otherwise he made a fraudulent closing argument before the court and jury.

Our judicial system relies upon the integrity of the participants. State v. Quattlebaum, 338 S.C. 441, 527 S.E.2d 105 (2000). With this in mind, the Constitution requires only that a defendant receive a fair, not a perfect trial. U.S. Const. Am. VI; State v. Johnson, 334 S.C. 78, 512 S.E.2d 795 (1999), Riddle v. Ozmint, 369 S.C. 69, 631 S.E.2d 70 (2006). In Berger v. United States, 295 U.S. 78, 88, 55 S.Ct. 629, 633 (1935), the Supreme Court of the United States explained the importance of the prosecutor's role in the judicial process:

The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor -- indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

Court: I haven't said you lied, but I am going to say you withheld the facts that this guy's got a deal cut in federal court and you knew it.

Compton: I didn't know what the law was in the court. I didn't know about that. I didn't know what to do in this courtroom, Your Honor.

Court: Well, you know that this gentleman, John Jepertinger, is your prosecutor and he needs to be given full disclosure when he's going to use a witness on the witness stand.

Solicitor: Judge, we'll provide whatever or call the federal entities here and provide it to the defense.

Transcript p. 376, lns. 11-24.

At the evidentiary hearing, Applicant introduced a copy of the proffer agreement of Andre Bradley (Applicant's Exhibit 20) time stamped by the Public Defender's Office on April 14, 2010. Applicant also testified and Investigator Compton was questioned about the statements of Andre Bradley taken by the Florence Police Department in February 2010. This Court also heard testimony from Solicitor Jepertinger on the issue and he offered his opinion that he was not in agreement with how the matter was reflected in the transcript or how it was handled by the trial court.

This Court finds that relief must be granted on the basis of a Brady violation and prosecutorial misconduct and further finds that this basis for granting relief on post conviction relief is commonly accepted in South Carolina. In Gibson v. State, 334 S.C. 515, 514 S.E.2d 320 (1999), the prosecution failed to disclose that a witness, whose credibility was already in question, was taken to the scene and gave an additional version of events. After Gibson pled guilty this information was discovered during the course of a civil trial. The South Carolina Supreme Court addressed prosecutorial misconduct in the form of a Brady violation and reasoned:

The prosecutor committed a Brady violation by not disclosing certain evidence to Gibson. A Brady violation is one type of prosecutorial misconduct. It is misconduct of a different type than, for instance, an attempt to introduce inadmissible evidence, tamper with the jury, or some other inappropriate action. E.g., United States v. Alderdyce, 787 F.2d 1365, 1370 (9th Cir. 1986) (finding no evidence of prosecutorial misconduct giving rise to a Brady violation); Buffington v. Copeland, 687 F. Supp. 1089, 1095-96 (W.D. Tex. 1988) (distinguishing Brady violations from other types of prosecutorial misconduct in which, for example, a prosecutor tries to inject prejudice into a trial by introducing inadmissible evidence or making inappropriate opening statements or closing arguments). We affirm the PCR judge's decision to set aside Gibson's guilty plea and grant him a new trial based on the Brady violation.

Id. at 528-9, 514 S.E.2d at 327.

A Brady claim is based upon the requirement of due process. Such a claim is complete if the accused can demonstrate (1) the evidence was favorable to the accused, (2) it was in the possession of, or known to the prosecution, (3) it was suppressed by the prosecution, and (4) it was material to guilt or punishment. Kyles v. Whitley, 514 U.S. 419, 115 S. Ct. 1555, 1565-69, 131 L. Ed. 2d 490, 505-10 (1995); Brady, 373 U.S. at 87, 83 S. Ct. at 1196, 10 L. Ed. 2d at 218; State v. Von Dohlen, 322 S.C. 234, 241, 471 S.E.2d 689, 693 (1996). This rule applies to impeachment evidence as well as

exculpatory evidence. United States v. Bagley, 473 U.S. 667, 676, 105 S. Ct. 3375, 3380, 87 L. Ed. 2d 481, 490 (1985).

Here, Applicant has shown that law enforcement investigated Gary Bostic and this investigation per Investigator Compton and Solicitor Jepertinger culminated in a decision not to arrest or charge Bostic in connection with the murder of Corey Byrd. Through the trial record and evidentiary hearing record, Applicant has further shown that the evidence, that Bostic's involvement was investigated and did not warrant any charges, and that Bostic's testimony in which he told law enforcement that he was not involved, would have been very favorable to the defense if disclosed. Clearly, defense counsel thought it was favorable enough to argue to the jury that Bostic was not accused, investigated or confronted, so it can be deduced how much more favorable it would have been to argue that Bostic was accused, investigated or confronted and he was not charged. Additionally, the entire State's theory hinged on Bostic's involvement and culpability, so is clearly material to the issue of guilt and punishment. Under the State's theory of the case, Applicant was guilty of committing the murder of Corey Byrd as hitman hired by Gary Bostic. At the evidentiary hearing, Bostic clearly testified that he was not involved and that he told such to law enforcement. It is clear from the record that the investigation of Gary Bostic, as testified to by Investigator Compton and Solicitor Jepertinger, as well as the interview of Gary Bostic, as testified to by Bostic and Attorney Etheridge, were not disclosed to the defense; otherwise, Jack Lawson made a fraudulent argument by telling the jury that Bostic was never accused, investigated or confronted.

In Riddle v. Ozmint, 369 S.C. 39, 631 S.E.2d 70 (2006), the South Carolina Supreme Court reversed the lower court's denial of relief on the basis of a Brady

violation and prosecutorial misconduct when the prosecution suppressed evidence involving a trial witness (defendant's brother). Despite having an open-file policy, the Court found that the prosecution did not meet its burden of disclosing information to the defense that the witness had been taken to the scene by an investigator and given an additional statement and details prior to trial. Id. at 46-47, 631 S.E.2d at 74. Additionally, the Court made a finding of prosecutorial misconduct for the prosecutor having knowledge of this information and not correcting discrepancies and inconsistencies during the witness's trial testimony. Id. at 47-8, 631 S.E.2d at 75.

In the instant case, this Court is concerned that the prosecution not only failed to disclose the investigation of Bostic, but the prosecution, with Investigator Compton sitting at their table in the courtroom, failed to correct knowingly false information offered by trial counsel that Bostic was never accused, investigated or confronted.⁹

Similar concerns are addressed in Washington v. State, 324 S.C. 232, 235-236, 478 S.E.2d 833, 834 (1996), where the South Carolina Supreme Court affirmed the granting of relief on the issue of prosecutorial misconduct and held:

Here, the PCR court found that Washington was entitled to a new trial because of the State's misconduct in failing to fully disclose the nature of its relationship with a witness. The United States Supreme Court in Giglio v. United States, 405 U.S. 150, 92 S. Ct. 763, 31 L. Ed. 2d 104 (1972) stated that deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with rudimentary demands of justice; the same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears.

Under the present facts, the State allowed to go uncorrected false information about its relationship with one of its witnesses. Although it had entered into a

⁹ As stated previously, this Court finds this matter to be highly similar to the matter involving Andre Bradley as discussed above.

plea agreement with this witness, the State, in its opening argument, told the jury that no such agreement existed. Furthermore, there was testimony that no deal existed between the State and the witness. The PCR court's findings are supported by competent evidence of probative value in the record.

Accordingly, the granting of relief is affirmed.

This Court reverses the fairness of the judicial system; and therefore, this Court is compelled to find that a new trial must be granted. It is unrefuted that the prosecution investigated Bostic and no evidence has been presented to show that it was disclosed to defense counsel in a case where the State's entire theory hinged on the actions of Bostic. As explained by the United States Supreme Court:

The overriding theme of the Brady cases is the emphasis the Supreme Court has placed on the prosecutor's responsibility for fair play. In close cases, "the prudent prosecutor will resolve doubtful questions in favor of disclosure. This is as it should be. Such disclosures will serve to justify trust in the prosecutor as the representative of a sovereignty whose interest in a criminal prosecution is not that it shall win a case, but that justice shall be done. And it will tend to preserve the criminal trial, as distinct from the prosecutor's private deliberations, as the chosen forum for ascertaining the truth about criminal accusations."

Kyles v. Whitley, 514 U.S. at 438-40 (quotes omitted) (citing Berger v. United States, 295 U.S. 78, 88, 55 S. Ct. 629, 79 L. Ed. 1314 (1935)).

Our judicial system relies upon the integrity of the participants. State v. Quattlebaum, 338 S.C. 441, 527 S.E.2d 105 (2000). Here, the truth was not disclosed to the defense regarding the investigation of Gary Bostic. Therefore, this Court finds that due to a Brady violation resulting in prosecutorial misconduct, a new trial must be granted.

C. Other Issues of Ineffective Assistance of Counsel

At the evidentiary hearing, Applicant explained that he was confused by the State being allowed to proceed on two separate theories: 1) a fight at the cook-out with the victim, and 2) a hit paid for by Gary Bostic, and he explained that counsel never addressed the issue of the two

theories with him or at trial. This Court has heard the testimony of Applicant and reviewed the record and finds that this allegation does not rise to the level of ineffective assistance of counsel as it is apparent that the State did not proceed on two separate theories at trial.

By way of his Amendment and through his testimony, Applicant also alleged that trial counsel was ineffective for failing to investigate and object at trial to the search and resulting phone records obtained on and from Applicant's phone. This Court has considered Applicant's testimony, examined the exhibits offered and reviewed the record and this Court is not convinced that counsel rendered ineffective assistance as counsel did object to the evidence obtained from the phone. Transcript pp. 326-333.

By way of his Amendment and through his testimony, Applicant also alleged that trial counsel was ineffective for failing to advise him that the State intended to introduce testimony regarding a phone call between Shavonne Gass and the victim and for not arguing effectively to keep the evidence out at trial. Regardless of Applicant's notice of the testimony, it appears from the record that counsel was prepared and did argue against the admission of the evidence. Therefore, this Court finds that Applicant has failed to show that counsel was ineffective on this issue.

Finally, Applicant alleged that trial counsel failed to properly preserve the arguments made on appeal regarding the impermissible jury instruction. This Court finds that this argument must fail based upon the findings in the appellate court decision.

II. Ineffective Assistance of Appellate Counsel

In analyzing a claim of ineffective assistance of appellate counsel, the South Carolina Supreme Court has held that the lower court must apply the two prong Strickland test just as it would be to a claim of ineffective assistance of trial counsel. See Southerland v. State, 337 S.C.

610, 616, 524 S.E.2d 833, 836 (1999). In Bennett v. State, 383 S.C. 303,309, 680 S.E.2d 273, 277 (2009), the South Carolina Supreme Court explained that the lower court should “ask 1) whether appellate counsel’s performance was deficient, and 2) whether Petitioner was prejudiced by appellate counsel’s deficient performance.”

By way of his Amendment and at the evidentiary hearing, Applicant alleged ineffective assistance of appellate counsel for failing to raise all meritorious issues on appeal. Specifically, Applicant alleged that appellate counsel failed to raise the following issues: 1) trial counsel’s objection to the testimony of Shavonne Gass regarding the call with the victim and the admission of her testimony regarding the phone call under the present sense impression exception to the hearsay rule, 2) trial counsel’s objection to the admission of Applicant’s letters to his girlfriend, and 3) the Jackson v. Denno hearing and admission of Applicant’s statement.

At the evidentiary hearing, Tristan M. Shaffer, Esquire, testified that he handled Applicant’s direct appeal while he was employed at the South Carolina Commission on Indigent Defense. When asked about the issues raised by Applicant, Attorney Shaffer explained that he may have very well “missed” the issues. He explained that in his review of the trial transcript, he had anticipated raising a directed verdict issue, due to the lack of evidence against Applicant, until he read the testimony of Andre Bradley that established that Applicant told him that Gary Bostic hired him to commit the murder in question.

This Court has considered the testimony of Attorney Shaffer, reviewed the appellate court filings and the record before this Court, and this Court finds that Applicant has failed to carry his burden to show that appellate counsel rendered ineffective assistance of counsel. Counsel testified that he reviewed the transcript and raised the issues he found to be meritorious. Additionally, the majority of the South Carolina Supreme Court found the arguments made by

counsel to be meritorious but affirmed Applicant's conviction due to the adequacy of the jury instruction as a whole. Therefore, this Court finds that appellate counsel's performance was not deficient nor was Applicant prejudiced due to appellate counsel's performance.

III. Conclusion

Based upon the foregoing, this Court orders that the Application for Post Conviction Relief is hereby granted. This Court further finds that no other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

IT IS THEREFORE ORDERED:

1. That Applicant has met his burden of proof as to his specific allegation of ineffective assistance of trial counsel as detailed above, but has failed to meet his burden of proof as to all other allegations of ineffective assistance of trial counsel as detailed above;
2. That Applicant has not met his burden of proof as to his allegation of ineffective assistance of appellate counsel;
3. That the Application for Post Conviction Relief be granted and the Applicant's convictions be vacated and he be granted a new trial;
4. That Applicant be transferred from the custody of South Carolina Department of Corrections to the custody of Florence County pending the disposition of his criminal case, with normal bond proceedings.

AND IT IS SO ORDERED this ___ day of _____, 2015

Honorable D. Craig Brown
Circuit Court Judge
Twelfth Judicial Circuit

_____, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
TWELTH JUDICIAL CIRCUIT

Gregory Daniels, #297449,)
Applicant,)

2013-CP-21-0280

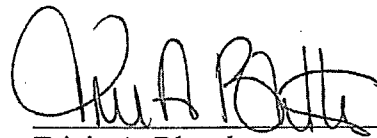
v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
Respondent.)

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I placed in the mail this 23rd day of June 2015 a copy of a Motion Pursuant to Rule 59(A), SCRPC and/or Rule 59(E), SCRPC to J. Croom Hunter of the Attorney General's Office, at:

Office of the Attorney General
Att: J. Croom Hunter, Ast. AG
PO Box 11549
Columbia, SC 29211



Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
(803) 988-0008

2015 JUN 25 AM 11:20
FILED
CONNIE REEL-SHEARIN
CLERK
C.C.P. & G.S.
FLORENCE COUNTY, S.C.

June 23, 2015

CERTIFIED: A TRUE COPY
Connie Reel Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)
Gregory D. Daniels, #297449,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Case No. 2013-CP-21-0280

**RETURN TO APPLICANT'S
RULE 59(e) MOTION**

Respondent, by and through undersigned counsel, making a Return to Applicant's Motion to Alter or Amend a Judgment, would respectfully show unto this Court:

1. The matter is before the Court by way of a post-conviction relief action filed February 1, 2013.
2. An evidentiary hearing was convened on April 14 and 17, 2015, at the Florence County Courthouse.
3. Applicant was present at the hearing and represented by Tricia Blanchette, Esquire. Applicant testified in his own behalf. Also testifying was Tristan Shaffer, Esquire, Johnny Etheridge, Esquire, Grayson Smith, Esquire, John Jupertinger, Esquire, Gary Bostic, Andrew Williams, Pete Skidmore, and Tim Compton.
4. After a full review of the evidence presented at the evidentiary hearing, this Court issued an order dated June 8, 2015, and filed June 10, 2015, denying the application for post-conviction relief.
5. Applicant – through counsel – submitted a Motion to Alter or Amend Judgment on June 23, 2015 (which was received by Respondent on June 25, 2015). Applicant argues the

Order of Dismissal fails to properly address his allegations that counsel's ineffective assistance caused Applicant's conviction. Furthermore, Applicant argues that the standing Order of Dismissal fails to properly reflect the arguments made and evidence presented at the evidentiary hearing in order to support the Court's ruling.

6. Respondent submits Applicant's motion to alter or amend should be denied. Applicant is not requesting either an alteration or amendment to the Order of Dismissal. Rather, Applicant is asking the Court to reverse its decision and grant post-conviction relief. Such a request is more properly addressed through the appellate process. See Wilder Corp. v. Wilke, 330 S.C. 71, 77, 497 S.E.2d 731, 734 (1998) ("Post-trial motions are not necessary to preserve issues that have been ruled upon at trial; they are used to preserve those that have been raised to the trial court but not yet ruled upon by it." (citing Hubbard v. Rowe, 192 S.C. 12, 5 S.E.2d 187 (1939))).

7. Respondent submits the post-conviction relief court fully reviewed and properly ruled upon all issues raised in the motion to alter or amend.

8. Therefore, Respondent submits Applicant's Motion to Alter or Amend should be denied

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CROOM HUNTER
Assistant Attorney General

S.C. Bar No. 101253

By: 
ATTORNEYS FOR RESPONDENT

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

June 30, 2015

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE.)

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Gregory D. Daniels, #297449,)

Case No. 2013-CP-21-0280

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER

FILED
2015 AUG 24 AM 11:29
CORINNE REEL-SPENCER
CLERK OF COURT & G.S.
FLORENCE COUNTY, S.C.

This matter comes before this Court by way of a post-conviction relief (PCR) application filed by Gregory Daniels (Applicant) on February 1, 2013. The State (Respondent) made its return on September 17, 2013. An evidentiary hearing in to the matter was convened on April 14 and 17, 2015, at the Florence County Courthouse. Applicant was present at the hearing and was represented by Tricia Blanchette, Esquire. Respondent was represented by Assistant Attorney General J. Croom Hunter of the South Carolina Attorney General's Office. This Court issued an Order filed June 10, 2015, denying the application for post-conviction relief.

Applicant filed a motion pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, in which he asks this Court to alter or amend its order dismissing his PCR application. Respondent made its return to the motion, requesting this motion be dismissed.

Based upon careful reconsideration of the evidence in this case, including Applicant's motion and supporting memorandum, this Court is not persuaded to alter or amend its judgment. This Court further finds oral argument would not aid in the reconsideration of the original judgment. The Order of Dismissal issued by this Court


*PCR
8.10.15*

CERTIFIED: A TRUE COPY
Corinne Reel Spencer
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

contains the required findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code (2014) and Rule 52(a) of the South Carolina Rules of Civil Procedure.

IT IS THEREFORE ORDERED that Applicant's motion be denied and dismissed.

AND IT IS SO ORDERED this 5 day of August, 2015.


D. CRAIG BROWN
Presiding Judge
Twelfth Judicial Circuit

FILED
2015 AUG 24 AM 11:29
CORNIE REEL-SHEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

Florence, South Carolina

CERTIFIED: A TRUE COPY
Cornie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

*D Ch
p. 2 of 2*