

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

Honorable Brooks P. Goldsmith, Circuit Court Judge

QUENTIN L. PATRICK,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001090

APPENDIX

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S.C. SUPREME COURT

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State of South Carolina)
)
County of Sumter)
)

Quentin L. Patrick,
Plaintiff

2009-GS-43-00470
Guilty Plea

vs.

The State of South Carolina,
Defendants

October 8, 2013
Sumter, S.C.

BEFORE THE HONORABLE W. Jeffrey Young, Judge.

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

Mr. Ernest A. Finney,
Solicitor for the State

Mr. John David Clark,
Attorney for Defendant

Margaret T. Sullivan,
Court Reporter

1 MR. FINNEY: May it please the court, Your
2 Honor.

3 THE COURT: Yes, sir.

4 MR. FINNEY: We would like to go back on
5 the record in the State vs. Quentin Lamar Patrick.
6 Docket No. 2009-43-470. It is now my
7 understanding that Mr. Patrick having spoken with
8 his lawyer, wishes to enter a plea.

9 THE COURT: What are the terms?

10 MR. FINNEY: There are four counts to the
11 indictment, Your Honor. Count 1, charges murder.
12 To that charge, Mr. Patrick will plead guilty.
13 And the State will recommend a 30-year concurrent
14 sentence to this charge -- to the sentence that he
15 now serving in Federal Court. The stipulation is
16 that that sentence will start today, it will not
17 be back dated to the date of arrest.

18 On the count charging Mr. Patrick with
19 assault and battery with intent to kill, he would
20 plead guilty. The State will recommend a
21 concurrent sentence. That will also be the case
22 on Count 3, assault and battery with intent to
23 kill. A recommendation of concurrent time by the
24 State. And also, Your Honor, with the assault
25 with intent to kill, I believe the maximum

1 sentence on that is 10 years. The State would
2 recommend a concurrent sentence on that.

3 THE COURT: The assault and battery with
4 intent to kill is concurrent. That would be up to
5 20 years?

6 MR. FINNEY: 0 to 20 years; yes, Your
7 Honor. I am going to hand up the plea sheets to
8 the court.

9 THE COURT: Thank you. Mr. Clark, you
10 represent Quentin Lamar Patrick on all these
11 charges.

12 MR. CLARK: Yes, Your Honor.

13 THE COURT: And these will be the charges,
14 which would be Count 1, murder. Count 2, assault
15 with intent to kill. Count 3, assault and battery
16 with intent to kill. And count 4, assault and
17 battery -- or assault with intent to kill under
18 indictment 2009-GS-43-470. Is that correct?

19 MR. CLARK: That's correct, Your Honor.

20 THE COURT: Now have you had ample
21 opportunity to explain to him the charges
22 contained in the indictment, the possible
23 punishment that he faces and his constitutional
24 rights?

25 MR. CLARK: Yes, Your Honor.

1 THE COURT: And in your opinion the time
2 that you've had to spend with him, do you believe
3 he understands these elements?

4 MR. CLARK: I believe he does, Your Honor.

5 THE COURT: And does your client wish to
6 plead guilty or not guilty?

7 MR. CLARK: He has indicated he wishes to
8 plead guilty Your Honor.

9 THE COURT: And do you agree with your
10 client's decision?

11 MR. CLARK: Yes, sir, Your Honor.

12 THE COURT: And do you believe based upon
13 your investigation of the facts and circumstances
14 and the law in this matter, that if this case were
15 to go to trial that there would be a substantial
16 likelihood that he could be found guilty beyond a
17 reasonable doubt.

18 MR. CLARK: Yes, Your Honor.

19 THE COURT: Now, please place Mr. Patrick
20 under oath.

21 (Whereupon, the defendant is sworn.)

22 THE COURT: Mr. Patrick, I need to ask you
23 a series of questions to make sure that you're
24 entering into these pleas freely, voluntarily,
25 knowingly and intelligently. But the first

1 question I have is, are you under the influence of
2 alcohol or drugs today?

3 THE DEFENDANT: No, sir.

4 THE COURT: Are you taking any medication
5 that would cloud your judgment in any way?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you aware of any physical,
8 emotional or nervous condition that would make it
9 so that you don't understand what's happening in
10 this courtroom today?

11 THE DEFENDANT: Excuse me, could you
12 repeat?

13 THE COURT: Are you aware of any physical,
14 emotional or nervous condition that would keep you
15 from understanding what we are doing in court
16 today?

17 THE DEFENDANT: No, sir.

18 THE COURT: Now your attorney tells me
19 that you want to plead guilty to four counts of
20 the indictment, and I am going to go through each
21 one of these. Count 1, is murder. And it says
22 that Quentin Lamar Patrick did in Sumter County on
23 or about October 31st 2008, feloniously and
24 willfully and with malice aforethought, either
25 express or implied, kill one minor 1 by

1 means of shooting him multiple times with an
2 AK-47 Romanian assault rifle and the said minor

1
did die as a proximate result thereof.

4 Is what's stated in this indictment under Count 1
5 of murder the truth?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Under Count 2, assault and
8 battery with the intent to kill, Quentin Lamar
9 Patrick did in Sumter County on or about October
10 31st 2008, violate Section 16-3-620 of the South
11 Carolina Code of Laws 1976 as amended; in that, he
12 with malice aforethought, committed an assault and
13 battery upon one minor 2 by shooting him
14 with an AK-47 assault rifle with intent to kill
15 the said Ahmadre Darrisaw.

16 Is what's stated in Count 2 of this
17 indictment the truth?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Under Count 3, assault and
20 battery with intent to kill, that Quentin Lamar
21 Patrick did in Sumter County on October 31st 2008,
22 violate Section 16-3-620 of the South Carolina
23 Code of Laws 1976 as amended; in that, he with
24 malice aforethought, committed an assault and
25 battery upon one Freddie Grannell by shooting him

1 an AK-47 assault rifle with intent to kill said
2 Freddie Grannell. Is what's stated in Count 3 the
3 truth?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Under Count 4, that Quentin
6 Lamar Patrick did in Sumter County on or about
7 October 31st 2008, with malice aforethought,
8 commit an assault upon one minor 3 by
9 shooting him with an AK-47 assault rifle, with
10 intent to kill the said minor 3 Is
11 what's stated in Count 4 the truth?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Solicitor, what are the facts?

14 MR. FINNEY: Your Honor, please for the
15 record, Count 5, which is a manufacturing cocaine
16 base charge will be dismissed by the State in
17 recognition of the acceptance and responsibility
18 by Mr. Patrick on the four counts.

19 THE COURT: What are the facts?

20 MR. FINNEY: Your Honor, on October 31st
21 2008, the Grannell, Darrisaw family were riding in
22 a minivan having Halloween festivities downtown
23 Sumter. When those festivities ended, they left
24 in the minivan and went out to the Broad Street
25 area to an area where they had a trick or treated

1 before. It was about 8 o'clock in the evening.
2 It was a Friday evening. Three young men, all
3 below the age of 15, and their stepfather and
4 their mother, were in the process of going from
5 house to house where they saw porch lights on, and
6 they were trick or treating, and having a great
7 time. They had done this before, and they were
8 probably out for 30 minutes that evening. When
9 they went to [REDACTED] Wise Drive, which had a porch
10 light on, which was the home of Mr. Patrick and
11 his girlfriend, Ms. Peay.

12 One of the young men in an effort to be
13 the first in line to get candy, ran up to the
14 front porch. His name was ^{min} was 12 years
15 old, and he knocked on the door and said trick or
16 treat. Within seconds, somebody appeared at the
17 door, looked outside saw him standing their in his
18 custom, and they, the next thing that we
19 understand is that an AK-47 assault rifle opened
20 fire, expending 30 cartridges within a matter of 5
21 seconds or so. As.

22 A result of that weapon being discharged,
23 ^{mi} was hit in the head, and I would like to show
24 the court a picture of ^{mi} after being taken to the
25 hospital. His brother ^{minor 2} was shot in the leg

1 and in the chest. His stepfather, Freddie, was
2 also hit with shells. As a result, mi died. The
3 other gentleman and the other child in the car
4 suffered serious injury, but not life threatening
5 injuries.

6 The police responded as a result of the
7 911 call made by the mother Ms. Daphne Grannell.
8 And investigation led to the arrest of Mr. Patrick
9 and Ms. Peay on various charges.

10 THE COURT: Mr. Patrick, do you agree with
11 the facts as stated by the solicitor?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you in fact guilty?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you understand that the
16 sentences for these on Count 1 for murder carries
17 from the 30 to life. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And you understand that on the
20 Count 2, assault and battery with intent to kill,
21 carries from 0 to 20?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And you understand that the
24 other Count 3, assault and battery with intent to
25 kill carries from 0 to 20?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And that the assault with
3 intent to kill carries up to 10 years in jail. Do
4 you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And you understand that this
7 is a recommendation that the State has made to me
8 after conferring with your attorney, but I'm not
9 required to accept it. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And if I chose to do so, I can
12 run these sentences consecutive. That would mean
13 that you could get life, plus 20, plus 20, plus
14 10. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Knowing that, do you still
17 want to plead guilty?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And do you understand that the
20 murder charge is day for day.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And the other charges, you
23 will have to serve, if I would not run them
24 currently, that they would carry up to 85 percent.
25 And they would be 2 of your strikes on the most

1 serious charges on those matters. Do you
2 understand?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you fully understand the
5 nature of the charges against you and the range of
6 possible punishments that you face?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now you also realize that when
9 you plead guilty, you waive certain constitutional
10 rights. The first right that you waive is your
11 right against self incrimination. Not in this
12 court or any other court in this great land, would
13 you ever be required to testify against yourself;
14 however, when you plead guilty you are doing that.
15 Do you understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: So you wish to waive your
18 right against self incrimination at this point and
19 time.

20 THE DEFENDANT: Yes, sir, I understand.

21 THE COURT: You also realize that you have
22 a right to a jury trial. And that's what we're
23 here for. In fact, we have already selected the
24 jury for this case. During a jury trial there
25 would be a presumption that you are innocent until

1 the jury is satisfied that there was evidence of
2 your guilt beyond a reasonable doubt. During that
3 trial you would, as I said, you would not have to
4 testify, and I would instruct the jury that they
5 cannot hold that against you; that they would not
6 even be able to discuss that in the jury room.

7 Also during the trial, Mr. Clark would
8 have the opportunity to cross examine all the
9 witnesses presented by the State. And if he
10 thought it was your best interest, he could call
11 witnesses on your behalf. But when you plead
12 guilty, the State doesn't have to prove anything.
13 And you don't get to ask any questions about the
14 evidence. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: So do you wish to waive your
17 right to have a jury trial and confront the
18 witnesses against you?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Now do you understand that
21 when you plead guilty, you also waive any
22 affirmative defenses that you may have. So if you
23 have a possible defense of self defense that
24 you're waiving that, and any constitutional rights
25 that may have in your eyes have been violated, are

1 hereby waived by this plea. Do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Now and I understand that the
4 only plea negotiations are that they would run
5 concurrent, and be a 30-year-sentence from today.
6 Is that correct, Solicitor?

7 MR. FINNEY: That's correct, Your Honor.

8 THE COURT: Is that your understanding as
9 well?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Are you satisfied with the
12 services of Mr. John Clark?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Are you satisfied with the
15 services of Ms. Clark?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Who has also helped you in
18 this matter. Have you had sufficient time to talk
19 to them about these plea negotiations and what
20 would happen if you went to trial?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you need anymore time to
23 speak with him? Do you want to ask him another
24 question at this point and time? Are you
25 satisfied that you feel like you're being properly

1 represented?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And do you think that
4 Mr. Clark, Mr. and Ms. Clark have done everything
5 they possibly can for you in this matter?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Now has anyone promised you
8 anything or held out any hope of reward to get you
9 to plead guilty?

10 THE DEFENDANT: No, sir.

11 THE COURT: Now has anybody suggested that
12 you receive any particular sentence other than the
13 recommendation by the State?

14 THE DEFENDANT: No, sir.

15 THE COURT: And has anyone threatened you
16 or used any force against you to get you to plead
17 guilty?

18 THE DEFENDANT: No, sir.

19 THE COURT: Is the only reason that you
20 are pleading guilty to the charge of murder,
21 assault and battery with intent to kill, assault
22 and battery with intent to kill, and assault with
23 intent to kill, is because you are in fact guilty?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now have you understood all of

1 my questions this morning?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And is there anything that --
4 do you have any questions that you need to ask
5 your attorney or the court about at this point and
6 time?

7 THE DEFENDANT: No, sir.

8 THE COURT: And has anyone suggested to
9 you how you should answer these questions? Are
10 these in fact your answers?

11 THE DEFENDANT: My answers, sir.

12 THE COURT: And you understand that you
13 have a right to appeal this guilty plea or the
14 sentence that I give you, but you must do so
15 within 10 days. Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And if cannot afford an
18 attorney for your appeal, one will be appointed
19 for you at no cost. Do understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now let me go over the charges
22 one more time. Under indictment 2009-GS-43-470
23 Count 1, charging you with murder, how do you
24 plea, guilty or not guilty?

25 THE DEFENDANT: Guilty, sir.

1 THE COURT: Under Count 2, charging you
2 with assault and battery with intent to kill, how
3 do you plead, guilty or not guilty?

4 THE DEFENDANT: Guilty, sir.

5 THE COURT: Under Count 3, assault and
6 battery with intent to kill, how do you plead,
7 guilty or not guilty?

8 THE DEFENDANT: Guilty, sir.

9 THE COURT: And under Count 4, assault
10 with intent to kill, how do you plead, guilty or
11 not guilty?

12 THE DEFENDANT: Guilty, sir.

13 THE COURT: I find that there is a
14 substantial factual basis for this plea. I find
15 that the defendant's decision to plead guilty is
16 freely, voluntarily, knowingly and intelligently
17 made. The defendant has had the advice of counsel
18 with whom he says he is well pleased. And I will
19 accept his plea. What is his criminal history,
20 Solicitor?

21 MR. FINNEY: If it please the court, Your
22 Honor, the first conviction is showing for
23 Mr. Patrick was in 2004. Convicted of failure to
24 stop for a blue light. Received a suspended
25 sentence on a youthful offender act. Two years

1 later in 2006, he was convicted of possession of
2 cocaine base. Three counts, apparently, Your
3 Honor. Three years on each count, concurrent.
4 And then there was a federal conviction arising
5 out of the these facts in December of 2009. He
6 received an 18-year sentence, I believe, Your
7 Honor, 200 months, sentenced in the bureau of
8 prison for possession of a weapon by a convicted
9 felon.

10 THE COURT: Mr. Patrick, do you agree that
11 those are the charges that you had prior to this
12 charge?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Clark.

15 MR. CLARK: Thank Your Honor. May it
16 please the court.

17 THE COURT: Yes, sir.

18 MR. CLARK: Your Honor, words cannot
19 express remorse that Mr. Patrick feels for what
20 happened on this evening. He is pleading guilty
21 today because he guilty. But he didn't intend for
22 any of this to happen. And on his behalf, I would
23 like to apologize to the victims in this case; to
24 Ms. Grannell's and the victims. It's a tragedy
25 what happened to him I am sure he was a fine

1 young fellow. It's a tragedy all around that he
2 lost his life.

3 And I can tell you from the having
4 worked with Mr. Patrick for the past 5 years, he
5 is sorry. And if there was anything he could do
6 at the point to change it, he would. I want to
7 apologize to the minor² Ms. Grannell,
8 as well as Mr. Oxendine, who is also a victim in
9 this case.

10 Your Honor, he is guilty. He's pleading
11 guilty. But I will tell you that part of the
12 motivation for his pleading guilty, is to spare
13 this family the pain of having to relive what
14 happened on this dark night 5 years ago. I've
15 known Quentin for a long time. And I can tell you
16 personally, he's not a bad person. You asked
17 about his prior history, and I don't anything was
18 stated that indicates that he had a violent
19 history. Because he wasn't a violent person.

20 He used some terrible judgment on this
21 occasion. And he is not been perfect before. But
22 he does have some good qualities. He's a good
23 son to his mother. He is father of three. And
24 from what I've seen, he was trying to be a good
25 father. On the occasion that this occurred, he

1 was at home like so many other fathers that night,
2 sitting down with his children watching
3 television. There was no malice in his heart
4 before this event started.

5 Your Honor, he has been in federal custody
6 for the good part of the 5 years since this
7 occurred. And from what I understand, he's been a
8 model inmate. I don't think he has caused any
9 problems that I am aware of.

10 Your Honor, he is going to pay a
11 significant price for this no matter what you
12 sentence him to. He's going to spend the prime of
13 his life in prison. He won't get to see his
14 children grow up. He won't get to see them
15 graduate from high school. Having said that, I
16 know that's nothing compared to what the victims
17 are going through. Because at least they will be
18 here and be able to make contact with him. But he
19 is going to pay a heavy price for that, Your
20 Honor.

21 We believe that a concurrent sentence
22 would be justice in this case. It won't erase
23 what happened. It won't bring ^{me} back. But it
24 will cause him to spend a substantial portion of
25 his life, as I said, the prime of his life, in

1 prison. And although he did a terrible act, we
2 think justice would be to grant him a concurrent
3 sentence. And we respectfully ask the court to
4 pronounce a concurrent sentence. In closing, Your
5 Honor, I want to thank Mr. Finney and his staff,
6 Mr. Meadors, Mr. Brown, and his entire staff in
7 the way they have handled this case. They have
8 zealously represented the State, but have done it
9 in a professional and an even handed manner. And
10 I thank them for that.

11 Your Honor, my client does not wish to
12 speak. I think he's a little emotional right now,
13 and that's all we have. Thank you.

14 THE COURT: Thank you, Mr. Clark.
15 Solicitor, would any of the victims like to speak?

16 MR. FINNEY: Yes, Your Honor. I would to
17 recognize them and have them come forward. First
18 of all, Your Honor, if you wouldn't mind, I would
19 like to commend law enforcement in this case, both
20 Chief Patterson who is here, who represents the
21 legal authority when this case at its inception in
22 2008. And also Chief Roark is here. Both of
23 them have been outstanding partners with my office
24 in making sure that the investigation was
25 complete. And that all the evidence was secured.

1 I want to thank them both for the fine
2 work they did in getting the case prepared. I
3 would like to ask Ms. Grannell to come forward
4 here and her two sons. And Mr. Freddie. This is
5 Daphne Grannell, Your Honor. And she now lives
6 in Tennessee. She has been to South Carolina a
7 lot over the last 5 years.

8 She was a the Federal Court hearing in
9 2009 in front of Judge Perry. She's been here
10 with us all week getting ready. It has been an
11 emotional rollercoaster and her two sons. This is
12 minor² Your Honor. He's the youngest, but he's
13 a little taller than his other brother. And this
14 is minor³ standing in the black sweater. Freddie
15 Grannell was in the car that night. He was the
16 copilot, so to speak. And Ms. Daphne was driving
17 the vehicle. And I'd like to, if the court
18 wouldn't mind, I'd like to give her an opportunity
19 to say a word to the court.

20 THE COURT: Yes, Ms. Grannell, what would
21 you like to tell the court?

22 MS. GRANNELL: I do want to thank
23 everybody that's worked so diligently on the case,
24 and has been a backbone in support for the case.
25 It's not my intent to for Mr. Patrick to never see

1 his kids again. It's just that a crime was done.
2 We'll never see mi again. And time has to be paid
3 for the crime being done. I do feel that he is --
4 that his feelings are very valid, you know, that
5 he is hurting for what happened, and that he has
6 to live with it every day. So does the rest of
7 us.

8 So we're looking at the 30 years or
9 whatever you decide to do, it will never bring mi
10 back. But, you know, we have to pay for what we
11 do.

12 THE COURT: Thank you. Anyone one else
13 like to speak?

14 MR. FINNEY: Your Honor, I believe the
15 family has spoken through the mom. I want to
16 thank my assistant, Mr. Meadors and and Mr. Brown.
17 As Mr. Clark said, it takes a lot to get a case
18 ready from the solicitor's standpoint. And we
19 appreciate all the work that has been done. And
20 we would ask the court to follow the
21 recommendation and impose the sentence that has
22 been put forth by the State.

23 THE COURT: Anything further from the
24 solicitor or the defense?

25 MR. CLARK: No, sir, Your Honor. Thank

1 you.

2 THE COURT: Anything further?

3 MR. FINNEY: Your Honor, please, I have
4 been reminded that the father of the victim ^{mi} is
5 here. He lives in Columbia. Stand up, sir. I'm
6 sorry, lives in Newburn, North Carolina. He's
7 been with us; has been very accommodating to come
8 and help us.

9 THE COURT: Would he like to say anything
10 to the court?

11 MR. DARRISAW: No, sir.

12 THE COURT: Thank you, sir.

13 MR. FINNEY: Thank you, Your Honor.

14 THE COURT: This is one of those days when
15 wearing this robe feels like an iron jacket.
16 Since I've been the judge, this is probably one of
17 the saddest cases I've ever seen. This is a
18 horrible, horrible situation that in a civilized
19 society we're just not used to this time of thing
20 happening. And again, no matter what I do, I
21 can't bring ^{mi} back, and I am sorry for that. I
22 can't imagine the horrible situation that you
23 would have when on the a day when kids are having
24 fun, something like this has to happen. And it
25 scars your life forever. And I understand that.

1 And basically from what we have heard, I
2 don't think Mr. Patrick was planning on shooting a
3 tricker treater that night. Things went out of
4 control, but I want to the tell the solicitor's
5 office and the defense, that I appreciate you all
6 working through this so that the family does not
7 have to relieve a tragedy like has already
8 happened. One time is enough, to have to go
9 through it again. And I will take that into
10 consideration with my sentencing.

11 Again, this is one of the saddest
12 situations I have ever seen. But a price must be
13 paid. The price will never bring back ^{min} but a
14 price must be paid. And the legislature has
15 determined that on a murder charge, the minimum
16 sentence is from 30 years to life. And again, I
17 think the solicitor's office and the defense have
18 done all they can to work out something that
19 society can live with, and the State can live
20 with.

21 So the sentence of the court under
22 indictment 2009-GS-43-470 Count 1, on the charge
23 of murder; that the defendant be sentenced to the
24 State Department of Corrections for a period of 30
25 years. The sentence to begin on October 8th 2013.

1 On Count 2, the charge of assault and battery with
2 intent to kill. The sentence is that he be
3 committed to the State Department of Corrections
4 for a period of 20 years. Under Count 3, assault
5 and battery with intent to kill, the sentence of
6 the court is that the defendant be committed to
7 the State Department of Corrections for a period
8 of 20 years. Under Count 4, on assault with
9 intent to kill; that the defendant be committed to
10 the State Department of Corrections for a period
11 of 10 years. Based upon the negotiation and the
12 recommendation, this will one event, although it
13 involved four people, I will run the sentences
14 concurrently. Thank you.

15 MR. FINNEY: Thank you, Your Honor.

16 --End of Requested Transcript of Record--

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced on October 8, 2013, in General Sessions Court for Sumter County, Sumter, South Carolina.

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

9/29/15
DATE

Margaret T. Sullivan
COURT REPORTER
My Commission expires: 9/7/2021

FORM 5

STATE OF SOUTH CAROLINA

County of Sumter

Quentin L. Patrick #17248-171
Full name and prison number (if any) of Applicant

)
) IN THE COURT OF COMMON PLEAS
) CERTIFIED TRUE COPY
) OF ORIGINAL FILE

Barbara Shaper
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

2015-CP-43-1821

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, SC

2015 AUG -3 PM 3:19

RECORDED

v.

State of South Carolina

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention USP - Pollock P.O. Box 2099
Pollock, LA 71467
2. Name and location of Court which imposed sentence Sumter County Courthouse
215 N. Harvin St. Sumter, SC 29150
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) State vs. Quentin L. Patrick
 - (b) Indictment No: 2009-GS-43-0470

(c) _____

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

(a) October 9, 2013

(b) 30yrs

(c) Ran concurrent with Federal Sentence.

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

Yes

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

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

i. Sumter County

ii. South Carolina Court of Appeals

iii. _____

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

i. NO necessary grounds as told by attorney who represented

ii. me in case.

iii. Appeal Dismiss

(c) the date of each such result:

i. March-April 2015

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) _____

(b) _____

(c) _____

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

(a) Ineffective Assistance of Counsel

(b) _____

(c) _____

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

(a) My attorney filed a motion to be removed from my case

(b) days before trial but was denied.

(c) More focus on funds than representing me.

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

(a) any petition in a State Court under South Carolina Law? The same verified in sec (8)

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(d) any other petitions, motions or applications in this or any other Court? _____

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

(a) the specific nature thereof:

i. Direct appeal

ii. _____

iii. _____

iv. _____

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

i. Same Verified in (8)

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

I have stated these grounds in a federal case but never before pertaining to this counsel/conviction

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

(a) which grounds have been presented:

- i. *ineffective: Assistance of counsel*
- ii. _____
- iii. _____

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

- i. *Federal Courts/ U.S. Court of Appeal*
- ii. *Do not pertain to state*
- iii. _____

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

- (a) This is my first time presenting the grounds of ineffective
- (b) assistance of counsel to S.C. Court of Appeals because my
- (c) attorney misguided me with a Direct Appeal

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
Yes

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

- (a) the name and address of each attorney who represented you:
 - i. John Clark
22 E. Liberty St
 - ii. P.O. Box 880
Sumter, SC 29151
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Plea
 - ii. Sentencing
 - iii. Appeal, preparation, presentation, motions

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

I look to have my 30 yr sentence overturned for Murder
after being presented to the courts that my case doesn't have
the merits for Murder

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

Yes, I'm currently serving a Federal Sentence that's concurrent
with my state sentence.

STATE OF ^{Louisiana} SOUTH CAROLINA)
County of Sumter Grant)

VERIFICATION

I, Quentin Patrick # 17248-171, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Quentin Patrick

SWORN to and subscribed before me this 27th
day of July, 2015.

Cynthia A. Anderson (L.S.)
Notary Public

My Commission Expires: life

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

I, Quentin Patrick, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Quentin Patrick
Applicant

SWORN or affirmed to and subscribed before me this
27th day of July, 2015.

Cynthia A. Anderson
Notary Public

My Commission Expires: Life

STATE OF SOUTH CAROLINA)
 COUNTY OF SUMTER)

IN THE COURT OF COMMON PLEAS)
 FOR THE THIRD JUDICIAL CIRCUIT)

Quentin L. Patrick, #17248-171,)

2015-CP-43-1821)

Applicant,)

v.)

RETURN)

State of South Carolina,)

Respondent.)

2015 OCT 19 PM 1:55
 JAMES C. CAMPBELL
 CLERK OF COURT
 SUMTER COUNTY, S.C.
 RECORDED

The Respondent, making its Return to the application for post conviction (PCR) filed August 3, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment by the Sumter County Clerk of Court. He was indicted at the April 2009 term of the Grand Jury for Sumter County (2009-GS-43-0470) for one count of Murder, one count of Assault and Battery With Intent to Kill, two counts of Assault With Intent to Kill, and one count of Possession With Intent to Distribute Cocaine Base. Applicant was represented by John Clark, Esquire. On October 8, 2013, Applicant pled guilty before the Honorable W. Jeffrey Young. He was sentenced to thirty (30) years imprisonment for Murder, twenty (20) years imprisonment for each count of Assault and Battery with Intent to Kill, and ten (10) years imprisonment for Assault With Intent to Kill. All sentences were to run concurrently.¹

¹ Applicant's sentences also run concurrently to the federal sentence he is currently serving. His current federal sentence results from the following procedural history:

On December 16, 2008, a federal grand jury returned a one-count indictment charging Applicant with being a felon in possession of firearms and ammunition, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2), and 924(e)(2). On January 6, 2009, the Government filed an information notifying Applicant that he was subject to increased penalties under 18 U.S.C. § 924(e), based upon his three prior drug convictions in South Carolina state court for distribution of cocaine. On August 18, 2009, Applicant pleaded guilty in the instant case pursuant to a written plea agreement. On December 14, 2009, a sentencing hearing was held before the Honorable Matthew J. Perry, Jr. Due

Applicant filed a Notice of Appeal on October 14, 2013. By Order filed March 6, 2015, the South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203(d)(B)(iv) for failing to provide a sufficient explanation. The Remittitur was issued on April 3, 2015.

Applicant filed his first post-conviction relief application on November 3, 2014. A return and motion to dismiss without prejudice was submitted on January 20, 2015, requesting the application be dismissed without prejudice due to Applicant's pending appeal. The Honorable R. Ferrell Cothran, Jr., dismissed the application without prejudice by order dated February 5, 2015 and filed on February 12, 2015.

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

II.

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

1. Ineffective assistance of counsel
 - a. My attorney filed a motion to be remove from my case days before trial but was denied.
 - b. "More focus on funds than representing me."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of

to Applicant's three prior drug convictions, Judge Perry sentenced Applicant as an "armed career criminal" under the Armed Career Criminal Act, 18 U.S.C. § 924(e) ("ACCA"), which subjected Applicant to a mandatory minimum sentence of 180 months imprisonment. Applicant's guideline range was 188-235 months imprisonment, based on a total offense level of 31 and a criminal history category of VI. Judge Perry sentenced Applicant to a 200-month term of imprisonment, to be followed by five years of supervised release. Judgment was entered on December 21, 2009.

vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

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

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

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

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the

proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

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

IV.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRPC 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRPC Rule 11. Filings by inmates will not be considered at the PCR hearing.

V.

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

VI.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

DANIEL GOURLEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

October 16, 2015.

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

Quentin Lamar Patrick,)	
)	
Applicant,)	
)	
vs.)	Transcript of Record
)	
State of South Carolina,)	
)	
Respondent.)	
)	
_____)	

March 18, 2016
Sumter, South Carolina

B E F O R E:

The Honorable Brooks P. Goldsmith, Judge

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

Timothy L. Griffith, Esquire
Attorney for Applicant

Daniel F. Gourley, II, Esquire
Attorney for Respondent

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

I N D E X

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
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No exhibits marked during proceeding.

TRANSCRIPT OF RECORD

1
2 (Whereupon, the proceeding was commenced at 10:28 a.m.)

3 (Whereupon, the witness came forward.)

4 MR. GOURLEY: Ready, Your Honor?

5 THE COURT: Ready.

6 MR. GOURLEY: This is going to be *Quentin Patrick v.*
7 *State of South Carolina*, Docket No. 2015-CP-43-1821. He's
8 presently confined in federal custody, Your Honor. On
9 December 16th, 2008, a federal -- federal grand jury
10 returned a one-count indictment, charging applicant with
11 being in -- being a felon in possession of a firearm and
12 ammunition.

13 The -- on January 6th, 2009, the government filed an
14 information, notifying applicant that he was subject to an
15 increased penalty under 18 U.S.C. Section 1924(e) based on
16 -- upon his three prior drug convictions in South Carolina
17 state court for distribution of cocaine. On August 18th,
18 2009, he pled guilty in the instant case pursuant to a
19 written plea agreement.

20 And on December 14, 2009, a sentencing hearing was
21 held before the Honorable Matthew J. Perry, Jr. And due to
22 the applicant's three prior drug -- drug convictions, Judge
23 Perry sentenced him to an -- as an armed career criminal
24 under the Armed Career Criminal Act, which subject
25 applicant to a mandatory minimum sentence of 180 months'

1 imprisonment. And, Your Honor, Judge Perry sentenced him
2 to a 200-month term of imprisonment, to be followed by a
3 five-year supervised release. And that judgment was
4 entered on December 21st, 2009.

5 Your Honor, he was also indicted at the April 2009
6 term of the grand jury for Sumter County for one count of
7 murder, one count of assault and battery with intent to
8 kill, two counts of assault with intent to kill, and one
9 count of possession with intent to distribute cocaine base.
10 He was represented by Mr. Clark. And on April 8, 2013, he
11 pled guilty before the Honorable W. Jeffrey Young. He was
12 sentenced to 30 years' imprisonment for murder, 20 years'
13 imprisonment for each count of assault and battery with
14 intent to kill, and a 10-year term of imprisonment for
15 assault with intent to kill. Those sentences will run
16 concurrently to -- and again, they will run concurrently to
17 his federal time as well.

18 Your Honor, the applicant filed a notice of appeal on
19 October 14th, 2013. And by order filed March 6th, 2015,
20 the South Carolina Court of Appeals dismissed the appeal
21 pursuant to Rule 203(d)(B)(4) for failing to provide a
22 sufficient explanation. The remittitur was issued on April
23 3rd, 2015.

24 During the time that his appeal was pending, Your
25 Honor, the applicant filed his first postconviction relief

1 application on November 3rd, 2014. A return and motion to
2 dismiss without prejudice was submitted on January 20th,
3 2015, requesting that application be dismissed without --
4 without prejudice due to applicant's pending appeal. The
5 Honorable R. Ferrell Cothran, Jr., dismissed the
6 application without prejudice by order dated February 5th,
7 2015. And that order was filed on February 12th, 2015.

8 He subsequently filed his second application for
9 postconviction relief on 2000 -- August 3rd, 2015. And
10 that's what we're here today on, Your Honor. He alleged
11 ineffective assistance of counsel for failing to file a
12 motion to remove his -- to be -- or -- I'm sorry, Your
13 Honor -- ineffective assistance of counsel in that his
14 attorney filed a motion to be removed from his case days
15 before trial, but that motion was subsequently denied, and
16 that he was more focused on his funds versus representing
17 him.

18 Your Honor, the state filed its return on October
19 16th, 2015. And he's represented here today by Mr.
20 Griffith.

21 JOHN D. CLARK, having been first duly sworn,
22 testified as follows:

23 MR. GRIFFITH: Your Honor, the attorney general has
24 stated the desires and the case of Mr. Perkins [sic] very
25 well. He does want -- he has sent me several letters. He

1 and I have communicated in -- in depth.

2 And his main concern is that he felt that his sentence
3 was too harsh in that he got 30 years for what he felt like
4 was not truly -- in his words, not really murder, per se,
5 but, in his words, was more like he didn't really mean to
6 hurt anybody but people did die. He does understand that
7 people did die. And he takes responsibility.

8 You would ask -- he's asking for a new trial so that
9 those things could be considered and that he may possibly
10 get less than the 30-year sentence. And that's what he's
11 seeking today.

12 THE COURT: All right.

13 MR. GOURLEY: You -- you want to call Mr. Clark?

14 MR. GRIFFITH: Oh. I thought you were going to call
15 him.

16 MR. GOURLEY: It's -- it's your burden. If ---

17 MR. GRIFFITH: Okay.

18 MR. GOURLEY: --- you don't have anybody to present,
19 then you need to ---

20 MR. GRIFFITH: I call Mr. Clark.

21 THE COURT: He's been sworn.

22 MR. GRIFFITH: Okay. Thank you.

23 DIRECT EXAMINATION

24 BY MR. GRIFFITH:

25 Q Mr. Clark, is it true you represented Mr. Patrick -- I

- 1 mean, Mr. -- yeah -- Patrick at his trial?
- 2 A Yes, sir.
- 3 Q And were you his first attorney?
- 4 A I believe so. Yes, sir.
- 5 Q Were you appointed or were you retained by ---
- 6 A Retained ---
- 7 Q --- Mr. Patrick?
- 8 A --- by his mother.
- 9 Q Okay. And did his mother contract with you for a
- 10 given amount?
- 11 A Yes.
- 12 Q And did she pay the whole amount up front or did she
- 13 agree to some terms?
- 14 A She agreed to terms.
- 15 Q And subsequent to her retaining you, at some point did
- 16 she fail to fulfill her obligations under your contract?
- 17 A Yes.
- 18 Q And is it at that time that you applied to be -- that
- 19 is, you made a motion to be removed?
- 20 A I -- I haven't reviewed the filed, but I believe
- 21 that's correct.
- 22 Q Okay. That motion was subsequently denied?
- 23 A Or withdrawn. I don't remember.
- 24 Q Or withdrawn?
- 25 A Yeah.

1 Q Okay. And when you -- when that motion was withdrawn
2 for lack of his paying you funds, did that cause you to
3 ineffectively represent him? That is, to lose heart and to
4 lose any kind of commitment to him?

5 A No, sir. Not at all.

6 Q Did you file a direct appeal immediately after his
7 conviction at -- or within the specified period of time?

8 A I did.

9 Q And was that appeal accepted by the Court?

10 A It was accepted. But it was dismissed because we
11 could not find any grounds to appeal on.

12 Q And did you represent him in that appeal as well?

13 A I think I'm obligated to file the appeal. And then I
14 -- I think I took the steps necessary to have him -- have
15 counsel appointed for him.

16 Q I'm sorry. I missed that last part.

17 A I -- I'm -- I'm obligated to file the appeal as trial
18 counsel. But I believe I took the necessary steps to have
19 appellate counsel appointed for him.

20 Q Okay. So basically, then, you filed it with the
21 Supreme Court and with the solicitor and you sent a copy to
22 the Office of Indigent Defense or ---

23 A Yes, sir.

24 Q --- something like that?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. GRIFFITH - JOHN D. CLARK 10

1 Q Okay. And so during this trial -- I -- he was -- he
2 didn't go to trial. I mean, he pled ---

3 A We picked ---

4 Q --- is that correct?

5 A --- a -- we picked a jury; we were ready to go to
6 trial. And he changed his mind at the last minute based on
7 his mother's advise.

8 Q Okay. So it was his choice to plea rather than go to
9 trial?

10 A It was completely his choice. It was not mine.

11 Q The solicitor made an offer. Did you attempt to ask
12 the solicitor for less than the 30 years concurrent with
13 the other terms that they were offering?

14 A Yes, sir, I did.

15 Q And what was their reply?

16 A No.

17 Q So did you feel like that was the best you could get
18 for him?

19 A Yes, sir. This was a case -- this was -- and, you
20 know, I looked at the transcript just briefly. And I -- I
21 think I -- I saw where Judge Young said it was one of the
22 worst cases he had ever seen.

23 You know, this was a -- this was a Halloween case
24 where a 13-year-old boy went trick-or-treating with his
25 dad, his brother; his mother's in a van at the road,

1 waiting. And this happens. He get -- the 13-year-old is
2 killed. His dad his shot; his brother is shot. There are
3 drugs in the house. There's a lot of money in the house.

4 Mr. Patrick, after the shooting, fled the scene, even
5 though he came back. So it was a tough case.

6 Q Did Mr. Patrick make a statement to the police,
7 confessing or anything?

8 A He did. I -- I remember that he did. Yes.

9 Q Okay. So the representation, if you were to have gone
10 to trial, do you feel like he would've been found guilty?

11 A That's a tough question. It's hard to say. What we
12 were trying to do in the end is to give Mr. Patrick some
13 sentence where he wouldn't spend the rest of his life in
14 prison.

15 And that's what his mother's focus was. She -- she
16 pled with him to accept the deal so that at least one day
17 he could come home.

18 You know, this was a tough case. There was an issue
19 with the -- with the gun. The -- the gun was tested. And
20 it was determined by the -- the federal ---

21 Q --- SLED ---

22 A --- examiner that the gun was defective in that when
23 you -- when you pull the trigger, it won't stop shooting.
24 And that was one of the strong issues that we were going to
25 defend the case on: that he didn't intend to shoot 30

DIRECT EXAMINATION BY MR. GRIFFITH - JOHN D. CLARK 12

1 times or how many times he shot. But the fact remained
2 that he did shoot.

3 And so, you know, going back to your question of
4 whether he was going to be found guilty or not, it was a
5 very heavily sympathetic case. I mean, you know, his
6 mother was there. He had a -- his -- his -- his other
7 siblings, his dad was there. It was a heartbreaking case.

8 I -- I don't know how to explain it to you. It was
9 just -- it was a horrible set of circumstances. And could
10 they have found him guilty? Yes. Could they have
11 concluded that he didn't intend to kill anyone and that he
12 was acting out of fear and self-defense? Perhaps.

13 But when you -- when you look at all the other issues,
14 the drug offenses that he -- that they were charging him
15 with, I didn't see him coming out of this case without at
16 least 20 years. And so I think, at the end of the day, the
17 reasoning was if you can get 30 years -- we know you're
18 going to get at least 20. If you can take 30 and avoid
19 life without parole, that was the compelling reason ---

20 Q So ---

21 A --- that he ---

22 Q --- did you ---

23 A --- accepted a deal.

24 Q Thank you. Did you have ample time to talk to Mr.
25 Patrick?

1 A Yes. I talked with him many times. He was in -- he
2 was serving a federal sentence. He called me from Florida
3 I -- where he was incarcerated. I spoke with his -- his
4 agent or representative at the federal facility. They
5 arranged for him to call me when he needed to call me.

6 We talked several times. We corresponded in writing.
7 I talked with him a lot before he was sentenced in federal
8 court. Mr. Finney -- he was kind enough to bring him back
9 a month before this case to allow us time to talk here.

10 So I had ample time to talk with him. I went to the
11 house where this occurred, photographed it, examined it.
12 And so I had ample time to talk with him.

13 MR. GRIFFITH: I have no further questions.

14 THE COURT: Cross-examination?

15 MR. GOURLEY: Very briefly.

16 CROSS-EXAMINATION

17 BY MR. GOURLEY:

18 Q Mr. Patrick, were you -- I'm sorry. Mr. Clark, were
19 you prepared to try this case?

20 A Yes.

21 Q Okay. And I think you stated your basis for filing a
22 motion for -- to withdraw your representation was due to a
23 funding issue?

24 A Yes.

25 Q Okay. And you don't specifically recollect whether

1 you withdraw that motion or whether it was denied?

2 A I don't remember.

3 Q Okay. But that -- regardless, that motion, either had
4 it been withdrawn or denied, did not affect your
5 representation of Mr. Patrick?

6 A It did not.

7 Q Okay. And you talked about the main concern or the
8 main driving factor in this case for y'all at that point in
9 time was to allow Mr. Patrick to have the opportunity to
10 get out of jail at some point in time in his life?

11 A Yes, sir.

12 Q And this sentence that he pled to, that was negotiated
13 sentence?

14 A It was.

15 Q Okay. I have no further questions. Thank you, Mr.
16 Clark.

17 A Thank you.

18 THE COURT: Anything else?

19 MR. GRIFFITH: I have no follow-up questions, Your
20 Honor.

21 THE COURT: Thank you, sir.

22 MR. GRIFFITH: I'm finished.

23 THE COURT: You may step down.

24 THE WITNESS: Thank you, Your Honor. Have a good day.

25 MR. GOURLEY: And we would just ask that Mr. Clark be

1 excused, Your Honor.

2 THE COURT: Without objection, yes. You may be
3 excused.

4 MR. GRIFFITH: Without objection ---

5 THE WITNESS: Thank you, sir.

6 MR. GRIFFITH: --- Your Honor.

7 THE WITNESS: Thank you.

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

9 (Off the record briefly.)

10 THE COURT: Anything further?

11 MR. GRIFFITH: Your Honor, Mr. Clark, having given his
12 testimony, Mr. Patrick would ask the Court to consider the
13 retrial, to consider the testimony of Mr. Clark to
14 determine whether or not the state was in a position where
15 they felt that he did have ineffective counsel, and that
16 would -- would accept the Court's ruling as the Court would
17 find proper.

18 THE COURT: All right. Thank you, Mr. Griffith.

19 MR. GOURLEY: Your Honor, just very briefly, I believe
20 Mr. Clark's testimony speaks for itself. Mr. Patrick's
21 allegation that Mr. Clark was ineffective for failing to
22 represent him to the fullest extent due to the fact that he
23 filed a motion to be relieved, Your Honor, I believe Mr.
24 Clark's testimony is certainly credible in the fact that
25 despite the fact he filed a motion to be relieved at some

1 point in time during his representation, that motion or --
2 or did not affect his representation of Mr. Patrick at all.
3 And for those reasons, Your Honor, we would just ask that
4 this application be denied. Thank you.

5 THE COURT: I mean, Mr. Griffith, as you might
6 suspect, the Court agrees with the position of the attorney
7 general on this case. I don't see that -- that -- it being
8 a harsh sentence. And even -- I know that's not my
9 prerogative. But, you know, 12-year-old kid, 30 rounds
10 being cranked off, and two other people being shot -- but
11 at any rate, that's an aside in the case. I might.-- I'm -
12 - I'm compelled to deny the -- the -- the motion for
13 postconviction relief and ask Mr. Gourley to please prepare
14 an order.

15 MR. GOURLEY: Thank you, Your Honor.

16 MR. GRIFFITH: Thank you, Your Honor.

17 (Whereupon, the proceeding was concluded at 10:45 a.m.)

18 --- END OF TRANSCRIPT OF RECORD ---

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CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND
COMPLETE TRANSCRIPT OF RECORD IN THE HEARING OF THE
CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT
COURT FOR SUMTER COUNTY, SOUTH CAROLINA, ON THE 18TH
DAY OF MARCH, 2016.

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



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

AUGUST 19, 2016

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Quentin L. Patrick, #17248-171,

2015-CP-43-1821

CERTIFIED TRUE COPY
OF ORIGINAL FILED

Applicant,

Shrew H. Hester
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

RECORDED
2016 APR 21 PM 1:14
CLERK OF COURT
SUMTER COUNTY, SC

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on August 3, 2015. An evidentiary hearing into the matter was convened on March 18, 2016, at the Sumter County Courthouse. Applicant was not present at the hearing and was represented by Timothy Griffith, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate Applicant is presently confined in a Federal Correctional Institution. He was indicted at the April 2009 term of the Grand Jury for Sumter County (2009-GS-43-0470) for one count of Murder, one count of Assault and Battery With Intent to Kill, two counts of Assault With Intent to Kill, and one count of Possession With Intent to Distribute Cocaine Base. Applicant was represented by John Clark, Esquire. On October 8, 2013, Applicant pled guilty before the Honorable W. Jeffrey Young. He was sentenced to thirty (30) years imprisonment for Murder, twenty (20) years imprisonment for each count of Assault

and Battery with Intent to Kill, and ten (10) years imprisonment for Assault With Intent to Kill. All sentences were to run concurrently.¹

Applicant filed a Notice of Appeal on October 14, 2013. By Order filed March 6, 2015, the South Carolina Court of Appeals dismissed the appeal pursuant to Rule 203(d)(B)(iv) for failing to provide a sufficient explanation. The Remittitur was issued on April 3, 2015.

Applicant filed his first post-conviction relief application on November 3, 2014. A return and motion to dismiss without prejudice was submitted on January 20, 2015, requesting the application be dismissed without prejudice due to Applicant's pending appeal. The Honorable R. Ferrell Cothran, Jr., dismissed the application without prejudice by order dated February 5, 2015 and filed on February 12, 2015.

ALLEGATIONS

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

1. Ineffective assistance of counsel
 - a. My attorney filed a motion to be remove from my case days before trial but was denied.
 - b. "More focus on funds than representing me."

¹ Applicant's sentences also run concurrently to the federal sentence he is currently serving. His current federal sentence results from the following procedural history:

On December 16, 2008, a federal grand jury returned a one-count indictment charging Applicant with being a felon in possession of firearms and ammunition, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2), and 924(e)(2). On January 6, 2009, the Government filed an information notifying Applicant that he was subject to increased penalties under 18 U.S.C. § 924(e), based upon his three prior drug convictions in South Carolina state court for distribution of cocaine. On August 18, 2009, Applicant pleaded guilty in the instant case pursuant to a written plea agreement. On December 14, 2009, a sentencing hearing was held before the Honorable Matthew J. Perry, Jr. Due to Applicant's three prior drug convictions, Judge Perry sentenced Applicant as an "armed career criminal" under the Armed Career Criminal Act, 18 U.S.C. § 924(e) ("ACCA"), which subjected Applicant to a mandatory minimum sentence of 180 months imprisonment. Applicant's guideline range was 188–235 months imprisonment, based on a total offense level of 31 and a criminal history category of VI. Judge Perry sentenced Applicant to a 200-month term of imprisonment, to be followed by five years of supervised release. Judgment was entered on December 21, 2009.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, the State presented testimony from John Clark, Esquire (hereinafter "Plea Counsel"). This Court also had before it a copy of the Sumter County Clerk of Court records, guilty plea transcript, and the PCR application.

Plea Counsel stated that he was retained to represent Applicant. Plea Counsel stated that Applicant's mother agreed to terms. Plea Counsel stated that Applicant failed to fulfill his obligations according to their agreement and he put in a motion to be relieved. Plea Counsel's stated that he could not recall whether that motion was denied and withdrawn. Plea Counsel stated that his filing to be relieved in no way affected his representation of Applicant. Plea Counsel stated that he filed a direct appeal on Applicant's behalf. Plea Counsel stated that the appeal was ultimately dismissed because there were no meritorious issues.

Plea Counsel stated that they had picked a jury and were preparing to go to trial. Plea Counsel stated Applicant changed his mind and decided to plead guilty after talking with his mother. Plea Counsel stated that they wanted Applicant to have the possibility of getting out of prison before he dies. Plea Counsel stated the State offered a thirty year negotiated plea that was going to run concurrently to Applicant's federal charges. Plea Counsel stated it was Applicant's choice to plead guilty. Plea Counsel stated that he tried to negotiate better offers for Applicant, but the State never presented a better offer. Plea Counsel stated the evidence against Applicant was overwhelming. Plea Counsel stated Applicant confessed to the shooting.

Plea Counsel stated that this was a very heartbreaking and sympathetic case. Plea Counsel stated that he had ample time to talk with Applicant prior to his plea. Plea Counsel stated the Solicitor brought Applicant back to South Carolina a month prior to trial so that they could prepare his case.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

INEFFECTIVE ASSISTANCE OF COUNSEL

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

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient

performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty Trial Counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

ALLEGATIONS

1. Ineffective assistance of counsel for filing a motion to be relieved and not representing Applicant to the fullest extent possible.

This Court finds Applicant's allegation that Plea Counsel was ineffective for filing a motion to be relieved and not representing himself to the fullest extent is meritless. This Court finds Plea Counsel's actions fell within the reasonable professional norms. Plea Counsel stated that Applicant failed to abide by their agreement for representation and he filed a motion to be relieved. Plea Counsel could not recall whether that motion was denied or withdrawn. However, Plea Counsel credibly testified that he represented Applicant to the best his abilities and that the filing of a motion to be relieved did not affect his representation. Based on the foregoing, this Court finds Applicant's allegation must be denied and dismissed with prejudice.

ALL OTHER ALLEGATIONS

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

CONCLUSION

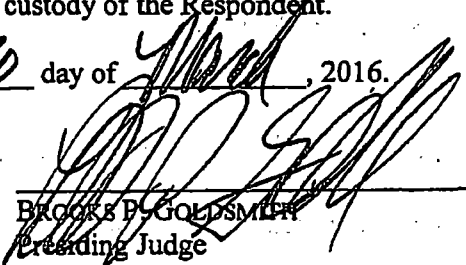
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 30 day of March, 2016.



 BROOKS P. GOLDSMITH
 Presiding Judge
 Third Judicial Circuit

7
 _____, South Carolina

WITNESSES

SPD

DOCKET NO. 2009-GS-43- 470

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

APRIL TERM 2009

THE STATE

vs.

QUENTIN LAMAR PATRICK

ARREST WARRANT NUMBER

J269190; J269191; J296192; J296193;
Direct Presentment

D/A:

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: *2 APR 2009*

VERDICT

Indictment for

**MURDER, ASSAULT AND BATTERY
WITH INTENT TO KILL (2 Counts),
ASSAULT WITH INTENT TO KILL,
MANUFACTURE/POSSESSION WITH
INTENT TO DISTRIBUTE COCAINE
BASE**

C. KELLY JACKSON, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR

MURDER, ASSAULT AND BATTERY WITH INTENT TO KILL (2 Counts), ASSAULT WITH INTENT TO KILL, MANUFACTURE/POSSESSION WITH INTENT TO DISTRIBUTE COCAINE BASE

At a Court of General Sessions, convened on April 2, 2009, the Grand Jurors of SUMTER County present upon their oath:

Shana
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

COUNT ONE – MURDER

That QUENTIN LAMAR PATRICK did in Sumter County on or about October 31, 2008, feloniously, wilfully and with malice aforethought, either expressed or implied, kill one minor 1 by means of shooting him multiple times with a (AK 47/Romanian Assault Rifle), and that the said minor did die as a proximate result thereof. 1

COUNT TWO – ASSAULT AND BATTERY WITH INTENT TO KILL

That QUENTIN LAMAR PATRICK did in Sumter County on or about October 31, 2008, violate Section 16-3-620 of the Code of Laws of South Carolina (1976), as amended, in that he with malice aforethought, committed an assault and battery upon one minor 2 by shooting him with an AK-47 assault rifle, with intent to kill the said minor 2 20

COUNT THREE – ASSAULT AND BATTERY WITH INTENT TO KILL

That QUENTIN LAMAR PATRICK did in Sumter County on or about October 31, 2008, violate Section 16-3-620 of the Code of Laws of South Carolina (1976), as amended, in that he with malice aforethought, committed an assault and battery upon one Freddie Grinnell by shooting him with an AK-47 assault rifle, with intent to kill the said Freddie Grinnell. 20

COUNT FOUR – ASSAULT WITH INTENT TO KILL

That QUENTIN LAMAR PATRICK did in Sumter County on or about October 31, 2008, with malice aforethought, commit an assault upon one minor 3 by shooting at him with an AK-47 assault rifle, with intent to kill the said minor 3 20

COUNT FIVE – MANUFACTURE/POSSESSION WITH INTENT TO DISTRIBUTE IN COCAINE BASE

That QUENTIN LAMAR PATRICK did in Sumter County on or about October 31, 2008, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense or deliver a quantity of cocaine base, a controlled substance under the provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended [Section 44-53-375 (B) et. seq., 1976 Code of Laws of South Carolina, as amended], such possession not having been authorized by law.

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

P. Kelly Jackson

SOLICITOR