

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Orangeburg County

Honorable Benjamin H. Culbertson, Circuit Court Judge

DEMETRICE DEONTRE QUATTLEBAUM,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-002408

APPENDIX

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South Carolina Commission on Indigent
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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF ORANGEBURG) FIRST JUDICIAL CIRCUIT

2014-GS-38-00297

STATE OF SOUTH CAROLINA,)
)
Plaintiff,)
)
v.) Transcript of Record
)
DEMETRICE QUATTLEBAUM,)
)
Defendant.)
)
)
)
)

MARCH 13, 2014
ORANGEBURG, SOUTH CAROLINA

B E F O R E:

THE HONORABLE EDGAR W. DICKSON, JUDGE

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

Don Sorenson, Esquire
Attorneys for the State

Michael Culler, Esquire
Attorneys for the Defendant

Hilda M. Jordan, CVR-M
Circuit Court Reporter

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I N D E XWITNESS/DESCRIPTIONPAGE NO.

Plea

EXHIBITS:

There were no exhibits marked to this proceeding.

Certificate of Court Reporter 17

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1 MR. SORENSON: Please the Court, Your Honor?

2 THE COURT: Yes, sir.

3 MR. SORENSON: This is Demetrice Quattlebaum, D-e-m-e-t-
4 r-I-c-e, as it is spelled on the indictment. He is waiving
5 presentment and pleading guilty to voluntary manslaughter on
6 a presentment. He was originally charged with accessory for
7 the fact of murder. We are allowing him to plead to
8 voluntary manslaughter for a negotiated 30 year sentence.

9 THE CLERK: Please raise your right hand

10 (WHEREUPON, Demetrice Quattlebaum
11 was sworn to tell the truth.)

12 THE COURT: Mr. Culler, you represent Mr. Quattlebaum?

13 MR. CULLER: I do, Your Honor.

14 THE COURT: Okay. And you have had an opportunity to
15 review the evidence that the State has against him regarding
16 this charge?

17 MR. CULLER: I have.

18 THE COURT: Okay. All right, sir. You've also had an
19 opportunity, I know, to explain to him the law that applies
20 in this situation?

21 MR. CULLER: I have. We've been through that quite a
22 bit, Your Honor, as you would expect with the nature of the
23 charge.

24 THE COURT: And you've also explained the maximum
25 sentence he could face?

1 MR. CULLER: I have discussed with him the sentence that
2 he is facing, I've discussed with him the no parole aspect
3 of it. I frankly didn't discuss the second strike because
4 we're looking at 25 and a half years, but I think he's been
5 sitting here and he's aware that if he's convicted of
6 something else that falls in the most serious category,
7 violent that he's looking at significantly more time.

8 THE COURT: Okay, and I know you went through and
9 explained his constitutional rights?

10 MR. CULLER: We have been through that quite a bit.

11 THE COURT: Okay. Now, after you've had all these
12 discussions with him about the negotiations with the
13 Solicitor's office he indicated that he wishes to plead
14 guilty to this charge?

15 MR. CULLER: Yes, Your Honor.

16 THE COURT: And you think it's in his best interest?

17 MR. CULLER: I think that's it's something he has to do
18 based on these facts, Your Honor, yes.

19 THE COURT: All right.

20 Mr. Quattlebaum, you are 19 years old?

21 MR. QUATTLEBAUM: Yes, sir.

22 THE COURT: Okay. How far did you go in school?

23 MR. QUATTLEBAUM: Eleventh grade.

24 THE COURT: Okay. Where were you going to school?

25 MR. QUATTLEBAUM: OW.

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1 THE COURT: Okay. Mr. Quattlebaum, why did you stop in
2 the eleventh grade?

3 MR. QUATTLEBAUM: Get a job.

4 THE COURT: Where did you go to work?

5 MR. QUATTLEBAUM: AYP.

6 THE COURT: Okay. How long did you work at AYP?

7 MR. QUATTLEBAUM: Eleven months.

8 THE COURT: Okay. All right, would that be and then you
9 were arrested?

10 MR. QUATTLEBAUM: I was still working when I got
11 arrested.

12 THE COURT: Okay. How were things going at AYP?

13 MR. QUATTLEBAUM: It was going good.

14 THE COURT: Okay. All right. Mr. Quattlebaum, have you
15 ever been treated for any mental health issues?

16 MR. QUATTLEBAUM: No, sir.

17 THE COURT: Are you taking any kind of medication?

18 MR. QUATTLEBAUM: No, sir.

19 THE COURT: Are you, today, are you under the influence
20 of any alcohol or illegal drugs?

21 MR. QUATTLEBAUM: No, sir.

22 THE COURT: So you're thinking clearly today?

23 MR. QUATTLEBAUM: Yes, sir.

24 THE COURT: You know exactly what you're doing?

25 MR. QUATTLEBAUM: Yes, sir.

1 THE COURT: Mr. Culler has told me that he has met with
2 you and reviewed the evidence the state has against you
3 regarding this charge that you're pleading to; is that
4 correct?

5 MR. QUATTLEBAUM: Yes, sir.

6 THE COURT: Okay. He has explained to you the law that
7 applies in this situation?

8 MR. QUATTLEBAUM: Yes, sir.

9 THE COURT: And he's explained to you the maximum
10 sentence that you are facing?

11 MR. QUATTLEBAUM: Yes, sir.

12 THE COURT: Okay. He also explained your constitutional
13 rights to you; is that correct?

14 MR. QUATTLEBAUM: Yes, sir.

15 THE COURT: You understand you have the right to remain
16 silent?

17 MR. QUATTLEBAUM: Yes, sir.

18 THE COURT: You have the right to have the State prove
19 their case against you and you don't have to do anything; do
20 you understand that?

21 MR. QUATTLEBAUM: Yes, sir.

22 THE COURT: Okay. You understand you give up that right
23 if you plead guilty?

24 MR. QUATTLEBAUM: Yes, sir.

25 THE COURT: Because you've got to admit you're guilty of

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1 this crime?

2 MR. QUATTLEBAUM: Yes, sir.

3 THE COURT: Are you, in fact, guilty of this crime?

4 MR. QUATTLEBAUM: Yes, sir.

5 THE COURT: All right, sir. Do you want a jury trial on
6 this charge?

7 MR. QUATTLEBAUM: No, sir.

8 THE COURT: You want to go forward with the guilty plea?

9 MR. QUATTLEBAUM: Yes, sir.

10 THE COURT: Okay. It's my understanding that your
11 attorney, on your behalf, has met with the Solicitor's
12 office and they've negotiated a 30 year sentence for you?

13 MR. QUATTLEBAUM: Yes, sir.

14 THE COURT: Okay. Other than that negotiated sentence,
15 has anybody promised you anything to get you to plead
16 guilty?

17 MR. QUATTLEBAUM: No, sir.

18 THE COURT: Has anybody threatened you to get you to
19 plead guilty?

20 MR. QUATTLEBAUM: No, sir.

21 THE COURT: You're doing this freely and voluntarily?

22 MR. QUATTLEBAUM: Yes, sir.

23 THE COURT: You understand with a negotiated sentence
24 the only thing I can do is either approve it or not approve
25 it?

1 MR. QUATTLEBAUM: Yes, sir.

2 THE COURT: All right, sir. Have you understood
3 everything your attorney has told you?

4 MR. QUATTLEBAUM: Yes, sir.

5 THE COURT: Are you satisfied with his services as your
6 attorney?

7 MR. QUATTLEBAUM: Yes, sir.

8 THE COURT: Did he answer all your questions?

9 MR. QUATTLEBAUM: Yes, sir.

10 THE COURT: Do you need any more time to talk with him?

11 MR. QUATTLEBAUM: No, sir.

12 THE COURT: Okay.

13 Mr. Sorenson.

14 MR. SORENSON: May it please the Court, Your Honor.

15 THE COURT: Yes, sir.

16 MR. SORENSON: This offense stems out of an incident
17 that occurred back on June 21, 2012, about 3:30 or 4:00
18 o'clock in the afternoon. The victim in this case was 31
19 year old Kathy Mack. Ms. Mack's family is seated on the
20 front row, including her mother, Ms. Violet Glover and her
21 father, Harry Davis, Sr. Ms. Mack was riding in a van with
22 an individual by the name of Travis Felder. They were
23 basically girlfriend and boyfriend. They were off running
24 some errands that afternoon, had gone by a store to cash a
25 check. I believe he had gone in. This defendant was along

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1 that afternoon with four other individuals, basically,
2 driving around looking for somebody to rob. They had had
3 some discussions, according to their statements about
4 needing money. They had gone by this store, gone in and
5 apparently seen Mr. Felder inside. Come back out and talked
6 about, basically, robbing him. They were in Mr.
7 Quattlebaum's mother's SUV. He was driving. They then took
8 off and proceeded to follow this van for a pretty
9 significant period of time. I think they actually got on
10 the interstate, kind of in the Vance, ultimately into the
11 Santee area of Orangeburg County. As they approached, they
12 were going over a bridge, Mr. Quattlebaum pulled around in
13 front of the van and, basically, just stopped in the middle
14 of the road in front of Mr. Felder. Mr. Felder came to a
15 stop. At that point in time, two individuals by the name of
16 Donte Stokes and Deshawn Fordham got out of the SUV with
17 bandanas over their faces. Both of them were armed,
18 approached the van. Both of them ended up firing shots into
19 the van with one of the rounds fired by Mr. Stokes going
20 through the passenger side of the vehicle and striking Ms.
21 Mack in the head, killing her.

22 Mr. Felder ultimately put his vehicle into gear, went
23 around the SUV, noticed that the vehicle was continuing to
24 follow him. He drove ultimately into Santee, found a police
25 officer, pulled up, jumped out, waved the police officer

1 down and actually was able to point at the SUV as it took a
2 turn and turned off. So they had a pretty good description
3 of the vehicle. A BOLO was put out for it. It was
4 ultimately stopped a short time later, kind of coming back
5 to Orangeburg on 301, near 301 and I-26. The defendant was
6 still driving. They -- ultimately a search of that vehicle
7 found the two hand guns involved, hidden up under, kind of
8 near the engine block, hidden up under the vehicle. Mr.
9 Quattlebaum ultimately did give a statement and basically
10 implicated himself as being the driver and most part of the
11 facts that I laid out. He also corroborated the two
12 individuals that got out and fired shots and they both have
13 pled guilty to murder as a result of their actions.

14 I've discussed this -- I've had an opportunity to meet
15 with Mr. Davis and Ms. Glover several months ago to go over
16 the last couple of defendants involved in this and they've
17 come to -- based on his involvement with this, he was just
18 the driver, but at the same time it was just a little
19 different than a get-a-way driver. I mean, it was his
20 actions that led, was the reason that Mr. Felder stopped.
21 So that would be the reason for the 30 year negotiated plea
22 on manslaughter. They were in agreement with that when we
23 went over it with them. The offer on him and the last, Mr.
24 Fordham, we pled before Your Honor last month, also.

25 THE COURT: All right. Mr. Quattlebaum, you've heard

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1 what the Solicitor has told me about the circumstances that
2 led to your arrest on this charge?

3 MR. QUATTLEBAUM: Yes, sir.

4 THE COURT: Do you agree with what I was told?

5 MR. QUATTLEBAUM: Yes, sir.

6 THE COURT: Okay. Mr. Quattlebaum, the indictment that
7 I have, 2014-GS-38-358, has not -- was originally was
8 prepared as voluntary manslaughter. It has not gone to the
9 Grand Jury, but I see you waived presentment to the Grand
10 Jury; is that correct?

11 MR. QUATTLEBAUM: Yes, sir

12 THE COURT: You want to go forward with the plea today?

13 MR. QUATTLEBAUM: Yes, sir.

14 THE COURT: Okay. This voluntary manslaughter arises
15 out of this event that occurred on June 21, 2012, here in
16 Orangeburg County where Ms. Mack was killed?

17 MR. QUATTLEBAUM: Yes, sir.

18 THE COURT: Okay. How do you plead to this charge of
19 voluntary manslaughter?

20 MR. QUATTLEBAUM: Guilty.

21 THE COURT: Okay. All right, Mr Quattlebaum, you
22 understand if I accept your guilty plea it will be a
23 conviction on your record?

24 MR. QUATTLEBAUM: Yes, sir.

25 THE COURT: You understand it's violent and most

1 serious?.

2 MR. QUATTLEBAUM: Yes, sir.

3 THE COURT: You already understand what your sentence
4 is?

5 MR. QUATTLEBAUM: Yes, sir.

6 THE COURT: Do you want me to accept your guilty plea?

7 MR. QUATTLEBAUM: Yes, sir.

8 THE COURT: All right, Mr. Quattlebaum, I find your
9 decision to plead guilty is freely, voluntarily,
10 intelligently made. I find you've had the advice and
11 counsel of a competent lawyer. I find you're satisfied with
12 the services of your lawyer. I find there's a factual basis
13 for you to plead guilty to this charge. I am going to
14 accept your guilty plea.

15 MR. SORENSON: Ms. Glover, I think, would just like to
16 briefly address the Court.

17 THE COURT: Yes, ma'am.

18 MS. GLOVER: Good morning, Your Honor.

19 THE COURT: Good morning.

20 MS. GLOVER. I'm Kathy Glover.

21 THE COURT: I'm sorry --

22 MS. GLOVER: I'm Kathy Mack mother.

23 THE COURT: Yes, ma'am.

24 MS. GLOVER: Kathy -- I didn't know -- I was on the
25 phone when I got word. Then these guys here planned to kill

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1 my child. I talked to her for the last time. Me and her
2 was talking,, she said Mommy this is my last session for
3 going to the doctor. She said -- I said, Kathy, I said
4 okay, then this your last -- whatever you do think about
5 you, the kids and do the right thing. She said, yes, mommy,
6 mommy thank you for giving me -- I said, Kathy, all right,
7 now. Take it easy. I said, call me back later. Ain't know
8 these guys here took my child life. What -- I mean the last
9 time I talked to my child -- every day, every day, I talk to
10 my kids. My oldest, my oldest child, baby I know you had a
11 mind of your own. You could have followed your mind. The
12 devil is busy we all know that. Nobody can't tell you what
13 to do when they don't do. Nobody can do that, but y'all had
14 a plan. Y'all did. Y'all took an innocent child from three
15 lovely kids. Three lovely kids. One -- the nine-year-old
16 just had a birthday. He just had a birthday. On half his
17 cake was Mama with angels and him. Didn't eat the cake.
18 Did not touch Mama cake, because they know Mama going in
19 Heaven. But see -- the 10-year-old, the 11-year-old, cry
20 every day. Where Mama. She act out in school. Everybody
21 wonder what's going on. Then we had to talk to her. Now,
22 she's doing a lot better. The 14-year-old, he trying to
23 think about what the good thing they and they Mama had. One
24 day this incident in the bus, the Mama walked the little
25 girl to the bus. The Mama talked, I'll be waiting on you

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1 when you get off the bus. The Mama say, where would I be --
2 where would I be. Where would I be when my son get home off
3 the bus, and knowing she ain't going to be here to watch her
4 son get off that bus.

5 THE COURT: All right. Thank you, Ms. Glover. I'm
6 sorry.

7 All right, Mr. Culler.

8 MR. CULLER: Your Honor, this is a unusual case for me.
9 I was standing I the hallway two weeks ago when one of the
10 other defendants was pleading guilty and Ms. Glover came up
11 and gave me a hug. I've known her for a while, defendant
12 someone in the family and have known them. So I know both
13 sides.

14 This is really quite a nightmare for everybody. I
15 can't really dispute anything that's been said by the
16 Solicitor. I will tell the Court that Mr. Quattlebaum had
17 just turned 17, I think within three weeks of his birthday,
18 and was working, as he told the Court. His mother is here
19 with him. I've met with her. We had an opportunity to meet
20 yesterday. They both have tremendous, genuine regret.
21 These are good people. Ms. Glover is a good person. There
22 is not any animosity between them at all, it's just, as the
23 Court knows, what can occur with guns and young people.
24 I think Mr. Quattlebaum might like to address the Court and
25 his mother might like to briefly speak.

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1 THE COURT: Okay. Mr. Quattlebaum, I'll be glad to hear
2 from you.

3 MR. QUATTLEBAUM: First of all, I'd like to apologize
4 for what happened. My heart go out to the kids and the
5 family. I never meant this to happen. I promise I didn't.

6 THE COURT: Yes, sir.

7 MR. QUATTLEBAUM: If I could give it back, I'd give it
8 back. If I could turn around the truck, the car, I would
9 turn it around. If I could put them out, I would put them
10 out. I really didn't mean that. That's it.

11 THE COURT: Thank you, sir.

12 MR. CULLER: I think his mother is not able to speak
13 right now, Your Honor.

14 THE COURT: Oh, I understand.

15 MR. CULLER: I understand.

16 THE COURT: All right. Mr. Quattlebaum --

17 MR. QUATTLEBAUM: Yes, sir.

18 THE COURT: -- you know, I know you wish you hadn't
19 done that. You were on the right track doing what you're
20 supposed to do, working and like that. Unfortunately, you
21 know, you did what you did.

22 I'm going to accept the negotiated sentence and you are
23 sentenced to the State Department of Corrections for a
24 period of 30 years. I'm giving you credit for the time that
25 you've served so far.

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1 Good luck to you.

2 MR. QUATTLEBAUM: All right. Thank you.

3 MR. CULLER: Thank you, Your Honor.

4 (This proceeding was concluded.)

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

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST 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 PLEA IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE 13 DAY OF MARCH, 2014.

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

Hilda M. Jordan, CVR-M

November 28, 2015

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG) THE 1ST JUDICIAL CIRCUIT
Case No.: 2015-CP-38 - 60297
Demetrice Quattlebaum, #359242,) APPLICATION FOR POST-CONVICTION
Applicant,) RELIEF
vs.)
THE STATE OF SOUTH CAROLINA,)
Respondent.)

2015-11-5 P 12:37

1. Place of detention: Lee Correctional Institution, 990 Wisacky Highway, Bishopville, South Carolina, 29010.
2. Name and location of Court which imposed sentence: Orangeburg County Court of General Sessions, The Honorable Edgar W. Dickson presiding.
3. Name(s) of co-defendant(s) (if any): Jerry McKnight, Donte J. Stokes, Deshawn Fordham, Rekeem Brown.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: 2014GS3800358; Voluntary Manslaughter.
5. The date upon which sentence was imposed and the terms of the sentence: March 13, 2014; 30 years incarceration.
6. Check whether a finding of guilty was made: Applicant pled guilty.
7. Did you appeal from the judgment of conviction or the imposition of sentence? No.
8. If you answered "yes" to (7), list: Not applicable
 - (a) the name of each Court to which you appealed:
 - (b) the result in each such Court to which you appealed:

TEST: TRUE COPY
George S. Lee
CLERK OF COURT
ORANGEBURG COUNTY, SC

(c) the date of each such result:

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

9. If you answered "no" to (7), state your reasons for not so appealing: Applicant was not properly advised of his ability to appeal his sentence or guilty plea. Upon receiving information of his right to appeal, the time period for an appeal had lapsed.
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 - (a) Ineffective Assistance of Trial Counsel.
 - (b) Such additional grounds for relief as may be discovered during the pendency of this trial.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
 - (a) Ineffective Assistance of Trial Counsel:
 - (i) Trial Counsel failed to disclose to Applicant until the day before Applicant's guilty plea that he had previously represented a member of the family of the victim and that he was close with the family. Trial Counsel failed to disclose any other details as to the conflict to Applicant although Applicant had concerns as to this conflict as well as failed to have Applicant waive any conflict in writing or on the record.
 - (ii) Trial Counsel refused to allow Applicant's family, friends, and supporters to speak at the Applicant's guilty plea and instructed them that they would have no effect on the presiding judge.
 - (iii) Trial Counsel failed to explain Applicant's pending charges to him and instead advised him that he was previously charged and indicted for Murder instead of Accessory Before the Fact.

- (iv) Trial Counsel failed to properly investigate the defenses provided to him by Applicant in regards to Applicant's charges to include but is not limited to investigating the inconsistencies of the potential witnesses and co-defendants, investigating the State's inability to carry their burden of proof on a charge of Accessory Before the Fact, investigating the potential witnesses against Applicant and their willingness to testify, failing to investigate and speak with the multiple persons Applicant requested he speak with to discredit the witnesses against him, failing to investigate the mitigating circumstances of Applicant's involvement, if any, in any crime, instead advising him that a guilty plea was his only option.
- (v) Trial Counsel failed to advise Applicant as to his options at trial or at a guilty plea, instead advising Applicant that his only option was a guilty plea.
- (vi) Trial Counsel provided Applicant with paperwork to waive indictment as to the charge of Voluntary Manslaughter on the day of the plea wherein he failed to explain what Applicant was signing.
- (vii) Trial Counsel mischaracterized the evidence against Applicant when reviewing the case with him, continuing to assure Applicant that he could not go to trial.
- (viii) Trial counsel failed to inform Applicant of his right to appeal and the time limits for such an appeal.
- (x) Trial counsel may have been ineffective in other such manners as may be discovered through discovery in this matter.

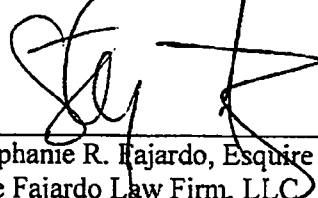
12. Prior to this application have you filed with respect to this conviction:

- (a) Any petition in a State Court under South Carolina Law? No

- (b) Any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 - (c) Any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 - (d) Any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or Application: Not Applicable.
14. Has any ground set forth in (10) been previously presented to this or any other State or Federal, in any petition, motion or application which you have filed? No.
15. If you answered "yes" to (14) identify: Not Applicable.
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) Due to the omissions of trial counsel, Applicant lost his right to present any of these potential issues on appeals.
 - (b) All other issues were only appropriate for post-conviction relief review.
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? Not Applicable, however Applicant was represented at his guilty plea.
 - (c) Your sentencing? Yes.
 - (d) Your appeal, if any, from the judgment of conviction or the imposition of sentence? Not Applicable.
 - (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. Michael Culler: 1540 Russell Street SE Suite 103, Orangeburg, South Carolina 29115.
 - (b) The proceedings at which each such attorney represented you:
 - i. Through the pendency of the charges and through the Applicant's guilty plea.
19. State clearly the relief you seek in filing this application: New trial and sentencing.
20. Are you now under sentence from any other court that you have not challenged? No

RESPECTFULLY SUBMITTED,



Stephanie R. Fajardo, Esquire
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Post Office Box 2177
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Attorney for Applicant

Irmo, South Carolina
March 2, 2015

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Demetrice Quattlebaum, #359242

Plaintiff(s)

vs.

The State of South Carolina,

Defendant(s)

Submitted By: Stephanie R. Fajardo, Esquire

Address: Post Office Box 2177

Irmo, SC 29063

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2015-CP-38-00297

SC Bar #: 80159

Telephone #: (803)391-8980

Fax #: (877)365-5340

E-mail: Stephanie@fajardolawfirm.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|---|---|
| ☐ Contracts | ☐ Torts - Professional Malpractice | ☐ Torts - Personal Injury | ☐ Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | Previous Notice of Intent Case # | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Breach of Contract (140) | 20__-CP-__-__ | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | ☐ Notice/ File Med Mal (230) | ☐ Personal Injury (350) | ☐ Possession (450) |
| | ☐ Other (299) | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |
| ☐ Inmate Petitions | ☐ Administrative Law/Relief | ☐ Judgments/Settlements | ☐ Appeals |
| ☒ PCR (500) | ☐ Reinstate Drv. License (800) | ☐ Death Settlement (700) | ☐ Arbitration (900) |
| ☐ Mandamus (520) | ☐ Judicial Review (810) | ☐ Foreign Judgment (710) | ☐ Magistrate-Civil (910) |
| ☐ Habeas Corpus (530) | ☐ Relief (820) | ☐ Magistrate's Judgment (720) | ☐ Magistrate-Criminal (920) |
| ☐ Other (599) | ☐ Permanent Injunction (830) | ☐ Minor Settlement (730) | ☐ Municipal (930) |
| | ☐ Forfeiture-Petition (840) | ☐ Transcript Judgment (740) | ☐ Probate Court (940) |
| | ☐ Forfeiture-Consent Order (850) | ☐ Lis Pendens (750) | ☐ SCDOT (950) |
| | ☐ Other (899) | ☐ Transfer of Structured Settlement Payment Rights Application (760) | ☐ Worker's Comp (960) |
| ☐ Special/Complex/Other | ☐ Pharmaceuticals (630) | ☐ Confession of Judgment (770) | ☐ Zoning Board (970) |
| ☐ Environmental (600) | ☐ Unfair Trade Practices (640) | ☐ Petition for Workers Compensation Settlement Approval (780) | ☐ Public Service Comm. (990) |
| ☐ Automobile Arb. (610) | ☐ Out-of-State Depositions (650) | ☐ Other (799) | ☐ Employment Security Comm (991) |
| ☐ Medical (620) | ☐ Motion to Quash Subpoena in an Out-of-County Action (660) | | ☐ Other (999) |
| ☐ Other (699) | ☐ Sexual Predator (510) | | |

Submitting Party Signature: _____

ATTEST: TRUE COPY

Wingy B. Clark

Date: March 2, 2015

ORANGEBURG COUNTY

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Demetrice Quattlebaum, #359242,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No. 2015-CP-38-0297

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief filed March 5, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. In February 2014, the Orangeburg County Grand Jury indicted Applicant for voluntary manslaughter (2014-GS-38-0358). Michael Culler, Esquire, represented Applicant. On March 13, 2014, Applicant pled guilty to a negotiated sentence. The Honorable Edgar W. Dickson accepted the negotiation and sentenced Applicant to thirty (30) years' imprisonment. Applicant did not appeal his plea or sentence.

II.

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

1. "Ineffective Assistance of Trial Counsel"
 - a. "Counsel failed to disclose to Applicant ... he had previously represented a member of the family of the victim"
 - b. "Counsel refused to allow Applicant's family, friends, and supporters to speak at the Applicant's guilty plea"

- c. "Counsel failed to explain Applicant's pending charges"
- d. "Counsel failed to properly investigate the defenses"
- e. "Counsel failed to advise Applicant as to his options at trial"
- f. "Counsel ... failed to explain what Applicant was signing [in regards to indictment]"
- g. "Counsel mischaracterized the evidence against Applicant when reviewing the case with him"
- h. "Counsel failed to inform Applicant of his right to appeal"

Attached to this return and incorporated herein are the records of the Orangeburg County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegation of ineffective assistance of plea counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of plea counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process" that the plea proceedings "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes plea counsel rendered adequate assistance and made all

significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. Id. at 117, 386 S.E.2d at 625. First, the Applicant must prove plea counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, plea 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." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of plea counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

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

not be considered at the PCR hearing.

V.

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

VI.

WHEREFORE, having made its return, Respondent requests an evidentiary hearing be held.

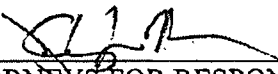
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

12 / 1, 2015

STATE OF SOUTH CAROLINA
COUNT OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

DEMETRICE QUATTLEBAUM, #359242

2015-CP-38-00297

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

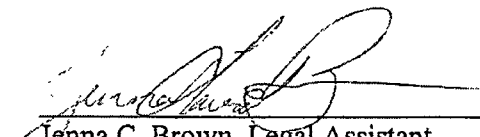
STATE OF SOUTH CAROLINA,

Respondent.

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

Stephanie R. Fajardo, Esquire
The Fajardo Law Firm, LLC
PO Box 2177
Irmo, SC 29063

DATED this 1st of December, 2015.


Jenna C. Brown, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA

2 COURT OF COMMON PLEAS

3 COUNTY OF ORANGEBURG

4 2015-CP-38-00297

5 Demetrice Quattlebaum

6 vs.

7 State of South Carolina

8

9 Orangeburg, South Carolina

10 May 16, 2016

11 Before the Honorable Benjamin H. Culbertson

12

13 APPEARANCES

14 For the Applicant: Stephanie R. Fajardo

15 For the State: J. Clayton Mitchell, III

16

17 Reported by: Elizabeth Harris

18 Official Court Reporter

19 (Edited by Michael C. Watkins)

20

21

22

23

24

25

1	Demetrice Quattlebaum:	8
2	Sandra Quattlebaum:	31
3	Michael Culler:	36
4	Certificate:	57

5

6

NO EXHIBITS

7

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1 THE COURT: This is case number 2015-CP-38-297,
2 Demetrice Quattlebaum versus State of South Carolina, the
3 matter is before the Court on an application for post
4 conviction relief. If the attorneys would please give the
5 Court reporter your names and who you represent.

6 MR. MITCHELL: Clay Mitchell from the AG on behalf of
7 the State.

8 MS. FAJARDO: Stephanie Fajardo for Mr. Quattlebaum.

9 THE COURT: All right. Mr. Quattlebaum, if I could
10 please get you to stand and raise your right hand.

11 (The applicant was sworn.)

12 THE COURT: All right. Mr. Quattlebaum, you have
13 filed an application seeking post conviction relief and I
14 need to go over some things with you as far as what would
15 happen if I grant or if I deny the relief in this case.
16 First of all, is this a case where you are -- or is he
17 seeking post conviction relief from both his conviction and
18 sentence?

19 MS. FAJARDO: Yes, Your Honor.

20 THE COURT: Okay. All right. All right. Mr.
21 Quattlebaum, first if I deny your application then you will
22 simply return to the department of corrections and finish
23 out whatever sentence you have remaining on your sentence,
24 do you understand that?

25 THE APPLICANT: Yes, sir.

1 THE COURT: All right. Now, if I grant your request
2 for post conviction relief I will vacate your conviction
3 and/or your sentence and your case will be sent back for
4 further proceedings. The case will start all over, it will
5 begin from the very beginning of the proceedings against
6 you if there were any charges against you that were
7 reduced, dropped, dismissed or nolle prossed they could be
8 brought back against you and you could be facing the
9 original charges again, do you understand that?

10 THE APPLICANT: Yes, sir.

11 THE COURT: All right. Now, did this conviction arise
12 out of a trial or guilty plea?

13 MS. FAJARDO: A guilty plea, Your Honor.

14 THE COURT: All right. And were there any charges
15 that were dismissed or nolle prossed or reduced against
16 him?

17 MS. FAJARDO: The original charge was changed to a
18 different charge, he pled guilty to voluntary manslaughter.

19 THE COURT: And what?

20 MS. FAJARDO: He was originally charged with accessory
21 before the fact to murder.

22 THE COURT: Okay. So in other words if I grant your
23 request for post conviction relief, then the original
24 charge of accessory before the fact?

25 MS. FAJARDO: Yes, sir.

1 THE COURT: -- of attempted murder could be brought
2 back against you, do you understand that?

3 THE APPLICANT: Yes, sir.

4 THE COURT: All right. Now, have you had an ample
5 opportunity to discuss the consequences of your post
6 convict relief application with your lawyer?

7 THE APPLICANT: Yes, sir.

8 THE COURT: All right. Do you wish to proceed with
9 your claim for post conviction relief?

10 THE APPLICANT: Yes, sir.

11 THE COURT: All right. Anything further the State
12 wants to put on the record in that regard?

13 MR. MITCHELL: No, sir.

14 THE COURT: All right. Anything further the applicant
15 wants to put on the record in that regard?

16 MS. FAJARDO: No Your Honor.

17 THE COURT: All right. Ms. Fajardo, and I apologize,
18 how do you pronounce your name?

19 MS. FAJARDO: Fajardo.

20 THE COURT: All right. Ms. Fajardo, anything
21 preliminary before we get started?

22 MS. FAJARDO: No, Your Honor. I would like to make a
23 brief opening statement before calling a witness.

24 THE COURT: All right. Anything from the State before
25 we get started?

1 MR. MITCHELL: Nothing, Judge.

2 THE COURT: All right. Ms. Fajardo, I will take your
3 opening statement.

4 MS. FAJARDO: Thank you, Your Honor. May it please
5 the Court? We are here today on Mr. Quattlebaum's
6 application for post conviction relief, our grounds for
7 such relief is ineffective assistance of counsel. It is
8 our position that Attorney Culler, who was trial counsel in
9 this matter, his representation of Mr. Quattlebaum was
10 lacking, and the information that he provided to Mr.
11 Quattlebaum such that Mr. Quattlebaum was unable to make a
12 knowing and voluntary decision on whether to plead guilty
13 or to go to trial. In addition to this fact, it's our
14 position that Attorney Culler represented a member of the
15 victim's family involved in Mr. Quattlebaum's case. This
16 conflict and appearance of bias and the advice he was
17 giving to Mr. Quattlebaum has further complicated this
18 matter, and we do feel that based on that Mr. Quattlebaum
19 and his family were not able to make a decision and
20 potentially were not given the type of advice that would
21 rise to the level that is required by representation in a
22 criminal case. Additionally Mr. Quattlebaum and his family
23 were unaware of this conflict until right before his guilty
24 plea. We do feel that Attorney Culler's performance when
25 measured by its reasonableness under professional norms is

1 not only deficient, but also led to Mr. Quattlebaum
2 pleading guilty to a negotiated 30 year sentence. There
3 does exist reasonable probability that but for Attorney
4 Culler's deficient performance Mr. Culler would not have
5 agreed to and would likely have not been found guilty at
6 trial, or would have been found guilty of a much lesser
7 crime for which there would have been a significantly lower
8 sentence. Finally we do feel that Attorney Culler's
9 representation of Mr. Quattlebaum coupled with his prior
10 relationship with a member of the victim's family, when
11 that is examined, a presumption of prejudice exists such
12 that there was a constructive denial of counsel as detailed
13 in Bryant (phonetically) versus United States, and that
14 Attorney Culler's performance failed to subject the
15 prosecution's case to a meaningful adversarial testing,
16 thus making the adversarial process itself presumptively
17 unreliable. We are calling attorney -- we're calling Mr.
18 Quattlebaum to the stand today in addition to his mother,
19 and then obviously Attorney Culler as well, and we do feel
20 at the end there will be grounds to reverse not only Mr.
21 Quattlebaum's sentence but also the guilty plea. Thank
22 you, Your Honor.

23 THE COURT: All right. So this was a negotiated
24 sentence for 30 years?

25 MS. FAJARDO: Yes, Your Honor.

DEMETRICE QUATTLEBAUM - DIRECT

1 THE COURT: Okay. And so the maximum for accessory
2 before the fact of attempted murder, that's also 30 years;
3 is that correct?

4 MR. MITCHELL: I believe so, Your Honor.

5 THE COURT: Okay. All right. Ms. Fajardo, you can
6 call your first witness.

7 MS. FAJARDO: Thank you. We could call Demetrice
8 Quattlebaum to the stand.

9 THE COURT: All right.

10 The witness, DEMETRICE QUATTLEBAUM, was first duly
11 sworn and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. FAJARDO:

14 Q And Mr. Quattlebaum, we are here today for your PCR
15 hearing and I want to go through a little bit of background
16 of how we got here.

17 A Okay.

18 Q You were charged on June 21, 2012 with accessory
19 before the fact to a felony, that felony being murder,
20 correct?

21 A Correct.

22 Q Did you ever think that you were charged with
23 something else?

24 A Well, Michael Culler told me that I was charged with
25 murder, right? So I don't --

DEMETRICE QUATTLEBAUM - DIRECT

1 Q And when did you find out you were charged with
2 accessory before the fact?

3 A June 21st.

4 Q When you were pleading guilty?

5 A Yes, ma'am.

6 Q Okay. Can you tell the Court a little bit about how
7 did your charge come about? I understand you thought you
8 were charged with murder, you were charged with accessory
9 before the fact, how did that happen?

10 A All right. On June 21st I got a call from Rakeem
11 saying that he needed a ride, so I was like, "All right.
12 I'll be around to come get you right at about ten
13 minutes." So I went around the living room and asked my
14 mom for her keys to her car, so I got the car. I went
15 over on Camper Drive, that's where Rakeem stays at, Camper
16 Drive, pull up in his back yard, so Donta Stokes and
17 DeShawn Fordham came around the front yard. As Rakeem
18 Brown was getting in the front seat DeShawn and Donta
19 jumped in the back seat. So I got a call from Jarell
20 McKnight saying, "You mind if we take me to my girl's
21 job?" I was like, "All right." She's staying on -- she
22 was working at the EZ Shop on West 78, that was on the way
23 so I was like, "All right, I'll take you, I ain't got no
24 problem with that." So I went around and picked Jarell up
25 and we went through and turned on AYP and turned on

DEMETRICE QUATTLEBAUM - DIRECT

1 Brentwood. On Brentwood that's when we eased into the AYP
2 gas station, so we went to the AYP gas station. I got out
3 at the gas station, went in and got a soda. So when I got
4 the soda I pulled up -- I was pulling out of the
5 driveway -- I was pulling out of the gas station and
6 that's when Donta Stokes pulled out the gun and said,
7 "That's him right there, that's him right there." So it
8 kind of shocked me, and I turned around in the media
9 (sic.) So I immediately turned around in the media (sic)
10 and we followed the victim all of the way to Santee and
11 Vance area and that's how we got here today, you know what
12 I mean?

13 Q Now, what you just told Court, has that been your
14 position as to your involvement since you were arrested?

15 A Yes, ma'am.

16 Q Did you ever change your story?

17 A No, ma'am.

18 Q And your story was that you were just the driver?

19 A Just the driver.

20 Q Didn't know what was going to go on.

21 A Nothing.

22 Q Weren't involved in planning anything.

23 A No, ma'am.

24 Q Did the other men, your co-defendants in the car, did
25 they support what you told the police?

DEMETRICE QUATTLEBAUM - DIRECT

1 A I mean, it wasn't too much for me to tell. Like I
2 had no idea that what those guys had going on, right? So
3 they can't really just pinpoint like me doing anything but
4 drive, you know what I mean?

5 Q After you were charged, did you get an attorney?

6 A Yes, I got Attorney Culler.

7 Q And was he retained or appointed?

8 A We paid for him.

9 Q Did you tell Attorney Culler what you just told the
10 Court?

11 A Yes, ma'am.

12 Q Did you tell him anything different?

13 A No, ma'am.

14 Q When you met with Attorney Culler, did you discuss
15 whether you wanted to go to trial or you wanted to plead
16 guilty?

17 A I mean, me and Attorney Culler discussed like -- he
18 was like "We can beat this trial, we can beat this," you
19 know what I mean? "Everything look good, you're in a good
20 position. You ain't got out, you ain't shot nobody, you
21 ain't know what was going on," you know what I mean? You
22 know, I wanted to go to trial like, all right, they're
23 going to come at me like this I prefer a trial, you know
24 what I mean? But me and Culler had a meeting that kind of
25 like just some of everything, like he wasn't going to

DEMETRICE QUATTLEBAUM - DIRECT

1 represent me, you know what I mean, kind of give it away
2 like, "You'll get life without parole." So that's what
3 led me to pleading out, you know what I mean? So --

4 Q Did you continue to tell Attorney Culler you wanted to
5 fight the charge?

6 A Yes, ma'am.

7 Q Were you ever out on bond --

8 A Never made it.

9 Q -- for this charge?

10 A No, ma'am.

11 Q So you stayed in jail until your sentencing?

12 A Yes, ma'am.

13 Q Did Attorney Culler come and meet with you in jail?

14 A Yes, ma'am.

15 Q And when he came to meet with you, would you discuss
16 your case?

17 A I mean -- I tell -- like I told my attorneys, like I
18 told you, I learn different. I mean, I learned -- you
19 don't just put something in front of me and just expect me
20 to notice, all right, this is what it is right here, you
21 know what I mean, and just leave it at that. Explain to
22 me what is that, you know what I mean? Explain to me, all
23 right, go from here to here to here. He ain't never did
24 that, he don't do that. I done told him that about ten or
25 20 times, you know what I mean?

DEMETRICE QUATTLEBAUM - DIRECT

1 Q And when you would explain that to Attorney Culler,
2 what would his response be?

3 A The way he would just give it out to me, he was just
4 like he don't want to do it or -- you know what I mean,
5 "All right, all right, here, all right," like that. It
6 was going to be like that, you know what I mean?

7 Q Did Attorney Culler bring the evidence against you to
8 jail?

9 A I mean, he ain't brought me all of my motions. I
10 didn't have near as much motions I got now, you know what
11 I mean? He just -- I ain't had my GSR, the truck -- the
12 picture of my truck. I mean, I ain't really had too much
13 in my motion, you know what I mean?

14 Q When you say motion, are you talking about the
15 discovery, the evidence against you?

16 A Yes, ma'am.

17 Q Okay. Did you and Attorney Culler go through that
18 evidence together?

19 A Yeah, we went through it together.

20 Q Did you tell Attorney Culler you were having a hard
21 time understanding the evidence?

22 A Yes, ma'am.

23 Q And what was his response?

24 A I mean, he would try to do a little something. But
25 the way he does it -- and he don't break it down to where

DEMETRICE QUATTLEBAUM - DIRECT

1 I want him to break it down, he'll just throw it in front
2 of me and he was like, "Okay. This is this, this is how
3 this is going to go," you know what I mean? You're going
4 to have to show me, tell me what this means, you know what
5 I mean? There's more words in there that I don't even
6 know how to pronounce that I asked him, you know what I
7 mean? He don't try to really just give me that type of
8 conversation right there when I'm trying to learn this or
9 I'm trying to learn that, you feel me?

10 Q So there were things in your evidence you didn't
11 understand.

12 A Yes, ma'am.

13 Q And are you saying Attorney Culler didn't explain
14 those to you?

15 A Yes, ma'am.

16 Q Did you in going over the evidence with Attorney
17 Culler, did you tell Attorney Culler you felt you had some
18 defenses to this charge?

19 A Yes. I had about three kites, I gave Culler three of
20 them. I asked Culler one time, I was like, "Culler,
21 what's up with the kites?" He was like, "He don't care
22 nothing about that, solicitor don't care nothing about
23 that." Why wouldn't he, you know what I'm mean? That's
24 proving my innocence. It is stating in there that I have
25 no idea what those guys had planning on doing.

DEMETRICE QUATTLEBAUM - DIRECT

1 Q What is a kite?

2 A A kite is a -- well, okay, my bad. A kite is a
3 letter or a written statement that someone like write from
4 me to you, you know what I mean, like a letter, now that's
5 what we call kites.

6 Q And who were those kites from?

7 A One was from DeShawn Fordham and one was from Donta
8 Stokes.

9 Q Those are two of your co-defendants?

10 A Yeah, two of my co-defendants.

11 Q Okay. Do you know what happened to those kites, or
12 those letters?

13 A I don't know to this day.

14 Q Were they sent to you and you sent them to Attorney
15 Culler? How did they get to Attorney Culler?

16 A They were sent to me in the jail, I give them to him
17 when he came to meet with me, so it came from their hand
18 to my hand to his hand.

19 Q When you were going over -- did people give statements
20 in the evidence against you?

21 A Yes, ma'am.

22 Q Did you go over those statements?

23 A Yeah, we read over them.

24 Q Did you discuss with Attorney Culler any conflicting
25 information in those statements?

DEMETRICE QUATTLEBAUM - DIRECT

1 A Yeah. I asked Culler -- like when we were reading
2 over it I asked and he would just pinpoint the murderers
3 to me, you know what I mean? Like, "Okay. Just because
4 they did that that's going to link to you, just because it
5 looked bad on them it's going to look bad on you," you
6 know what I mean? It's kind of like he's scaring me up on
7 things, you know what I mean? Because there's things that
8 I'm saying that it's not really just adding up to me.

9 Q Did you give Attorney Culler potential witnesses for
10 trial?

11 A I told him he could have talked to Jarell McKnight,
12 that was one of my co-defendants. I told him he could
13 have hollered at -- well, talked to Rakeem Brown, that was
14 another one of my co-defendants. I don't know if he
15 talked to those guys.

16 Q Would you bring up to Attorney Culler whether he was
17 following up on these people?

18 A No. I don't have no idea if he did or not.

19 Q Now, you didn't go to trial on your charge, you pled
20 guilty.

21 A Yes, ma'am.

22 Q What did you plead guilty to?

23 A Voluntary manslaughter.

24 Q Why voluntary manslaughter?

25 A I have no idea.

DEMETRICE QUATTLEBAUM - DIRECT

1 Q Was Attorney Culler discussing with you the plea
2 offers the State were making?

3 A Like I said before, Michael Culler told that me I was
4 indicted with murder. I didn't know I was indicted with
5 murder, I haven't got no indictment paper, none of that.

6 Q When did you find out you were pleading guilty to
7 voluntary manslaughter?

8 A The day I pled guilty, on March the 13th I plead
9 guilty.

10 Q What did you think you were pleading guilty to?

11 A Accessory before the fact, that fact being murder.

12 Q Did you fill out plea paperwork prior to your guilty
13 plea?

14 A Yes, ma'am.

15 Q When did you fill that out?

16 A The same day I pled out.

17 Q How was it presented to you? Did Attorney Culler come
18 to the jail?

19 A No. Just before I walked in court, before I walked
20 in the courtroom at Orangeburg County.

21 Q If you were maintaining that you wanted to go to trial
22 this whole time, why are you pleading guilty in March?

23 A Because when he came to my court -- he came to the
24 county on a Sunday and told me I was pleading out to 25
25 years. Okay. So I was like, "No, that can't be. No,

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1 that can't be." So he was like, "All right. Take this 25
2 or you're going to go to trial and lose and you can catch
3 life without parole." So I mean he already talking
4 guilty, you know what I mean, like life without parole or
5 30 years? No, come on, man. So he was really, "All
6 right, kid. You go to trial and lose you ain't coming
7 home, it's as simple as that, you ain't coming home." So
8 I took the 30 years.

9 Q When you pled guilty did you have a trial date?

10 A My trial date was set for Monday, that Monday, I
11 plead out that Thursday.

12 Q So a few days before you pled guilty?

13 A Yes.

14 Q Were you and Attorney Culler preparing for trial?

15 A No way ever prepared.

16 Q Was it in your mind you were supposed to be preparing
17 for trial or did you think you were pleading guilty?

18 A I mean, in mind I was prepared for trial, I mean
19 whichever one was ready to pick my 12 in the box, so he
20 didn't care.

21 Q Did you have any discussions with Attorney Culler
22 after your guilty plea?

23 A Well, after I pled out he came and talked to me and
24 sat down, my mama brought me a plate of food for my last
25 meal and was like, "You should try this on a PCR, you

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1 should try this on appeal." But me, I just plead out to
2 30 years, I don't really have no conversation so and so.
3 I just waived him off and said, "All right, okay."

4 Q In the transcript of your guilty plea there's some
5 discussions about Attorney Culler representing a member of
6 Ms. Cathy Mack's family prior to representing you. Were
7 you aware of this fact?

8 A I was aware of it the day that I pled out.

9 Q Did you know about it before that?

10 A I mean, he speaked on it, right, but I ain't really
11 just paid attention, then when he said it at the beginning
12 that's when I caught it and I was like, "Okay."

13 Q Did you ever sign anything saying that you waived a
14 potential conflict?

15 A No.

16 Q It's your guilty plea, did you put anything on the
17 record saying, you waived any potential conflict of that
18 representation?

19 A I mean, he pretty much -- before we went in for the
20 guilty plea he said, "If you don't want to talk to me" --
21 because he could tell my attitude was a little bit -- "If
22 you don't want to talk to me, all you've got to do is say,
23 'Yes, Your Honor.' The judge is going to lead you to say
24 yes, Your Honor, yes, Your Honor," you know what I mean?
25 Stuff like that.

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1 Q When he's telling you just to say yes, what is he
2 talking about, Attorney Culler?

3 A He's talking like, "Have Culler represented you to
4 the max? Yes, Your Honor, yes, Your Honor, yes, Your
5 Honor," you know what I mean? So really I'm to the last
6 of the straw where if I just say he ain't did this and we
7 got trial Monday, you know what I mean, I will go to trial
8 and catch a life sentence. I was really just trying to
9 get this over with, get another lawyer and try to fight
10 this, you know what I mean?

11 Q This is what Attorney Culler is telling you before you
12 go into your guilty plea?

13 A Yes, ma'am.

14 Q About just saying yes to everything? He was just
15 telling you to say yes to everything?

16 A Yes, ma'am.

17 Q Do you believe that Attorney Culler's representation
18 of a member of Ms. Mack's family, did that affect his
19 representation of you?

20 A I think it did, I think it did.

21 Q Why do you say that?

22 A I mean, he's playing both sides. I mean, we paid
23 him, he know them, I mean, ain't too much he can just --
24 you know what I mean?

25 Q You looked through your guilty plea transcript and

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1 you've had a chance to look through your guilty plea
2 transcript.

3 A Yes, ma'am.

4 Q The Court goes through your constitutional rights,
5 giving up your right to a trial for instance.

6 A Yes, ma'am.

7 Q Why didn't you tell the Court you wanted a trial?

8 A Because see, I was new to this. Like I say we didn't
9 study, we wasn't nearly prepared for trial, so if I would
10 have just said I wasn't ready for trial or I'm ready to go
11 to trial and we was scheduled for Monday and I have to go
12 with him to catch a life sentence I would be fighting
13 trial by myself. I don't know what they know.

14 Q Why didn't you tell the Court you weren't satisfied
15 with Attorney Culler and that you wanted a new attorney?

16 A I mean, I didn't really know that I could have really
17 done that, right, to say, "I don't want him," then they'll
18 let me go back to jail and find another lawyer or
19 something like that. I just thought that, "All right, you
20 don't want Attorney Culler, so who you want?" You know
21 what I mean? Trial is Monday, so who I'm going to go to
22 trial with?

23 Q Now, Mr. Quattlebaum, what has changed between your
24 pleading guilty and your filing this petition for post
25 conviction relief?

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1 A I see a lot of loopholes in my case as far as like
2 the hands of one is the hands of all charge he tried to
3 say I was charged with.. And the 30 years and the
4 different sentences, and what he's trying to put on me as
5 far as with the murderers, like I murdered, you know what
6 I mean? So I'm just really trying to -- the things he did
7 wrong, I'm just trying to sum that up, you know what I
8 mean, and get things back.

9 MS. FAJARDO: No further questions, Your Honor.

10 THE COURT: All right. Cross examination.

11 CROSS EXAMINATION

12 BY MR. MITCHELL:

13 Q All right. Good morning, Mr. Quattlebaum.

14 A Good morning.

15 Q Let's see now, this was a negotiated sentence, right?

16 A (Inaudible.)

17 Q You've got to answer.

18 A Oh, yes, sir.

19 Q So you understood that the judge was going to give you
20 the 30 years if you accepted the plea, correct?

21 A Yes, sir.

22 Q And you went over that with Mr. Culler beforehand?

23 A Yes.

24 Q Is that a yes?

25 A Yes, sir.

DEMETRICE QUATTLEBAUM - CROSS

- 1 Q Now, this was your second strike; is that correct?
- 2 A Second? What you mean second strike?
- 3 Q As far considerations of life without parole.
- 4 A What do you mean by that?
- 5 Q Like one strike, two strike, three strikes, you've
- 6 heard that before?
- 7 A I mean, I heard it before but I ain't understand
- 8 about me having a second strike.
- 9 Q Okay. That was mentioned at your plea hearing though,
- 10 wasn't it?
- 11 A No, nothing about a second strike. This is my first
- 12 charge.
- 13 Q You don't recall that? Okay. Now, Mr. Culler, he
- 14 went over these charges with you, right?
- 15 A Yeah.
- 16 Q He went over the evidence, right?
- 17 A Some of them. I mean, like he didn't break down all
- 18 of the evidence, I didn't have all of my motions.
- 19 Q So you wanted -- like you mentioned the gunshot
- 20 residue testing, right?
- 21 A Okay, yeah.
- 22 Q Now, what about your co-defendants statements?
- 23 A I mean, I don't -- what about them?
- 24 Q Did he ever talk to you about that?
- 25 A I mean, we read over the statements, I had the

DEMETRICE QUATTLEBAUM - CROSS

1 statements.

2 Q Did you read over your own statement?

3 A Yeah.

4 Q And that amounted to what the State considered a
5 confession, right?

6 A What you mean confession?

7 Q That your statement was a confession.

8 A It's a confession, yeah, right.

9 Q And you went over that with Mr. Culler, right?

10 A Yeah, I had mine's.

11 Q Your co-defendants were Donta Stokes, DeShawn Fordham,
12 they were the two in the car with you, right?

13 A Yes, sir.

14 Q Okay. There wasn't anyone else in the car with you,
15 was there?

16 A Jarell McKnight was in the car.

17 Q Oh, that's right. Now, you were the driver of the
18 car, correct?

19 A Correct.

20 Q And you talked about the facts a little bit earlier
21 and you denied knowing what was going on?

22 A Correct.

23 Q You denied knowing that there was a plan to rob the
24 victim?

25 A I didn't know that they was going to rob the victim.

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- 1 Q You didn't know that they were going to rob the
2 victim. Now, you're driving the car and you pulled in
3 front of this car, hit the brakes so the car was forced to
4 stop, correct?
- 5 A Correct.
- 6 Q And what was that to do?
- 7 A No. The tire was in the road.
- 8 Q I'm sorry?
- 9 A It was an 18 wheeler tire in the road due to that.
10 It was three cars still coming my way so I couldn't go,
11 cars were in the other lane.
- 12 Q Okay. Now, this isn't quite what you talked about at
13 the plea hearing though, is it?
- 14 A I mean, we didn't really talk much at the plea
15 hearing.
- 16 Q No. But what you did -- well, how about your
17 statement? That's not what you said in your statement.
- 18 A Tell me about my statement.
- 19 Q That you stopped in front of this car.
- 20 A I didn't deny me stopping in the middle of the road.
- 21 Q Okay. So you did admit to stopping in the middle of
22 the road allowing your co-defendants to approach the car,
23 right?
- 24 A No, that's not what I said.
- 25 Q Okay. So you're arguing that you're innocent; is that

DEMETRICE QUATTLEBAUM - CROSS

1 right?

2 A Correct.

3 Q You apologized to the victim in the case.

4 A Correct.

5 Q You were asked whether you agreed with the facts as
6 the solicitor stated them and you said you did agree at the
7 plea hearing, correct?

8 A Say it one more time, repeat that.

9 Q That was a little confusing, sorry. When the State
10 went through their version of the facts and you were asked
11 if you agreed with that version and you said yes, correct?

12 A I don't mean -- what you mean by that though?

13 Q At the plea hearing you were asked if you agreed with
14 what the State was saying happened.

15 A No, I don't recall that.

16 Q Okay. Now, you understood you were waiving
17 presentment to voluntary manslaughter; is that right?

18 A Correct.

19 Q Now, the trial -- you talked about plea or trial, the
20 trial was going to be the murder charge, correct?

21 A Correct.

22 Q And that was going to be under the hand of one, hand
23 of all theory, right?

24 A But your client told me I was already charged with
25 the hands of all, hands of all.

DEMETRICE QUATTLEBAUM - CROSS

1 Q Okay. So you talked about this with Mr.Culler then,
2 you were going to go to trial on murder or you could plead
3 guilty to this voluntary manslaughter.

4 A No, voluntary manslaughter wasn't in the question. I
5 was going to plead guilty to accessory.

6 Q Accessory.

7 A I never got indicted on murder.

8 Q Okay. And that's why you waived presentment, right?

9 A Right.

10 Q Now, you were asked if you wanted a jury trial and you
11 said no, right?

12 A Yeah. I was already talked into pleading out.

13 Q Okay. So at that point you pled guilty knowing what
14 was going on, right? You knew the sentence you were going
15 to get, you knew the evidence that was against you and you
16 chose to plead guilty, correct?

17 A No, I didn't know. I know I was going to catch 30
18 years but I didn't know that I was pleading to voluntary
19 manslaughter.

20 Q So you didn't even know the charge you were pleading
21 to?

22 A Exactly.

23 Q Okay. Why didn't you speak up at the plea hearing and
24 say, "Hold on, I don't understand what's going on, hold
25 on?"

DEMETRICE QUATTLEBAUM - CROSS

1 A I didn't know I could do that.

2 Q You mean you were lying to the judge?

3 A I didn't say I was lying to the judge because I
4 really didn't say too much, I just said "Yes, Your Honor."

5 Q Your co-defendants plead guilty too, right?

6 A Correct.

7 Q Both to murder?

8 A I think voluntary -- one plead to voluntary -- I
9 don't know.

10 Q Well, let's see. Mr. Stokes and Mr. Fordham?

11 A Plead to voluntary manslaughter, I think.

12 Q And they -- I withdraw that.

13 MR. MITCHELL: No further questions, thank you.

14 THE COURT: All right. Redirect?

15 MS. FAJARDO: Just very briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. FAJARDO:

18 Q Mr. Quattlebaum, did you believe that you had options
19 other than pleading to the negotiated sentence?

20 A I think I could have got a lesser plea, a lesser
21 charge.

22 Q Why didn't you exercise those options?

23 A I mean, I asked Culler is there any way I can get, I
24 mean, a lower plea? He said no. I asked him so, "What is
25 it, negotiated 30?" He was like, "Either you take this or

DEMETRICE QUATTLEBAUM - REDIRECT

1 go to trial, 'simple as a trial." Trial? Thirty years?

2 Life sentence? All right.

3 Q Assistant Attorney General Mitchell discussed with you
4 the indictment for voluntary manslaughter, that you waived
5 the presentment of the indictment for voluntary
6 manslaughter. Were you aware that you waived your
7 indictment?

8 A No, ma'am.

9 Q When did you find that out?

10 A I found that out the day I pled.

11 Q And did you have to sign any paperwork to waive that
12 indictment?

13 A I signed -- he gave me a -- I think that was the
14 indictment paper, that he gave me.

15 Q Did he explain the indictment paperwork to you?

16 A No, ma'am.

17 MS. FAJARDO: No further questions, Your Honor.

18 THE COURT: All right. This was a most serious crime.
19 Did he have a prior conviction or a serious or most serious
20 crime?

21 MS. FAJARDO: No, Your Honor. I think on the
22 transcript he says they didn't go into detail on what his
23 second strike would be.

24 THE COURT: Yeah. But I just wanted to make sure that
25 if he went back to trial that he doesn't have a prior

DEMETRICE QUATTLEBAUM - REDIRECT

1 conviction that could give him life in prison without
2 parole. Has he got any prior record?

3 MS. FAJARDO: No, he does not. He has a juvenile
4 record and that's it, and I believe that's been expunged.

5 THE COURT: Okay. So there's no --

6 MR. MITCHELL: Judge, they mention a second strike,
7 let me look that up one second.

8 THE COURT: Well, I see where the judge asked him,
9 "You understand this is classified as a most serious crime
10 and the consequences of that." My question is is there a
11 prior conviction where this could have carried life in
12 prison without parole? Because he needs to know that if he
13 gets post conviction relief and he goes back to trial, if
14 he has a most serious prior conviction he would be facing
15 life in prison without parole.

16 MR. MITCHELL: I don't think he does have a prior
17 strike.

18 THE COURT: Okay.

19 MR. MITCHELL: I think the reference to the strike
20 there was saying if he gets something down the road.

21 THE COURT: All right. Any questions in response to
22 the Court's questions?

23 MS. FAJARDO: No, Your Honor.

24 THE COURT: Any questions from the State with regards
25 to the Court's questions?

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1 MR. MITCHELL: Nothing, Your Honor.

2 THE COURT: All right. You may step down. Ms.

3 Fajardo, you can call your next witness.

4 MS. FAJARDO: We call Sandra Quattlebaum to the stand.

5 The witness, SANDRA QUATTLEBAUM, was first duly sworn

6 and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. FAJARDO:

9 Q Ms. Quattlebaum, what is your relationship to Mr.
10 Demetrice Quattlebaum?

11 A I'm his mother.

12 Q Ms. Quattlebaum, how were you involved in Attorney
13 Culler becoming Demetrice's attorney?

14 A He represented my brother prior to that, and my
15 brother advised me to seek Attorney Culler.

16 Q Did you actually go to Attorney Culler's office and
17 retain him on behalf of Demetrice?

18 A Yes.

19 Q And why was that? Was Demetrice in jail?

20 A Yes.

21 Q But you had a conversation with Demetrice about hiring
22 Attorney Culler for him.

23 A No, really my brother. My brother advised me to get
24 Attorney Culler.

25 Q And when you went and hired Attorney Culler, were you

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1 aware that he knew and previously represented a member of
2 the victim's family?

3 A No.

4 Q Did he ever mention that to you?

5 A Yes.

6 Q When did he mention that to you?

7 A Well, I really became aware, really aware the day of
8 court because he greeted them, he greeted the victim's
9 family, and then he came over and spoke with me and my
10 sister.

11 Q When you say day of court, are you talking about the
12 day of the guilty plea?

13 A Yes.

14 Q Let me kind of back up a little bit. When you went
15 into Attorney Culler's office to hire him, he didn't
16 mention anything then.

17 A No. I don't remember him saying nothing.

18 Q Did you sign anything regarding any potential conflict
19 waving anything on behalf of Demetrice?

20 A Not that I recall, no.

21 Q Did you explain to Attorney Culler what y'all were
22 retaining him for?

23 A Yes. And he knew about it because of the article in
24 the paper, he knew about it.

25 Q So Attorney Culler was aware of who the victim was in

SANDRA QUATTLEBAUM - DIRECT

1 this case.

2 A Yes.

3 Q Would Attorney Culler's relationship with the victim's
4 family, would that have affected your willingness to hire
5 him?

6 A I would think so.

7 Q And why do you say that?

8 A Because, I mean, if you already represented the
9 victim's family then -- and then my son going up for a
10 serious charge like that, I don't think he would have got
11 good representation.

12 Q Did you discuss with Attorney Culler Demetrice's case
13 throughout Attorney Culler's representation of him?

14 A Yes.

15 Q And what was Attorney Culler's response as you're
16 discussing Demetrice's case with him?

17 A It was -- basically he was saying it was an open and
18 shut case.

19 Q Did you talk to your son about his case?

20 A Yes.

21 Q Did you talk to your son about Attorney Culler's
22 representation of him?

23 A Yes. And he told me, too, about Attorney Culler,
24 their conversations when he visited him at the jail.

25 Q What was your impression about how Demetrice felt

SANDRA QUATTLEBAUM - DIRECT

1 about the representation he was getting from Attorney
2 Culler?

3 A Well, he wanted another lawyer, but like I told him,
4 I mean, I couldn't afford another lawyer at that time.

5 Q Did you feel that Demetrice was being forced into a
6 guilty plea?

7 MR. MITCHELL: Objection. She doesn't have a basis --

8 THE COURT: Sustained.

9 Q Let me back up a little. When you would speak to your
10 son about his case, did you feel that he had any concerns
11 about what was going on?

12 A Yes, he did.

13 Q And what were those concerns based on your impression?

14 A He said he just kept telling him about, you know, the
15 30 years, and 30 years to life, which I was like, "Why
16 would you get 30 years to life and you know you didn't
17 kill nobody? I understand you had a part in that by
18 giving them a ride but you didn't actually shot anybody."
19 And when he did the fingerprints they didn't find no
20 residue or nothing on his hands and he cooperated with
21 them from day one.

22 Q Does Demetrice have any issue learning?

23 A I would say yes. Because even during school I always
24 talked to his teachers and I always let them know, "My son
25 learns different, don't give him something and think he

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1 can just read it and understand." You have to actually --
2 he's a hands-on learner, he's always been like that, so
3 don't give him something and think he's going to read it
4 and understand, he's not going to do that.

5 Q Was Attorney Culler aware of those issues with
6 Demetrice?

7 A I'm not sure, I can't recall. But I think I did tell
8 him that, because I'm always telling people that when I
9 talk about my son, my son learn different.

10 Q And in your opinion why do you believe that Demetrice
11 pled guilty?

12 A He really didn't understand what he was doing, and
13 when you tell somebody at that age either this is what you
14 get, either you're going to stay in prison the rest of
15 your life you'll sign just what they tell you.

16 MS. FAJARDO: No further questions, Your Honor.

17 THE COURT: All right. Cross examination.

18 CROSS EXAMINATION

19 BY MR. MITCHELL:

20 Q Your son was in jail leading up to the plea; is that
21 right?

22 A Yes.

23 Q He didn't bond out, right?

24 A No.

25 Q So Mr. Culler had to go to the jail to meet him; is

SANDRA QUATTLEBAUM - CROSS

1 that correct?

2 A Yes.

3 Q You weren't involved in any of those conversations.

4 A No.

5 MR. MITCHELL: Okay. Thank you.

6 THE COURT: Redirect?

7 MS. FAJARDO: Nothing, Your Honor.

8 THE COURT: All right. You may step down. All right.

9 Call your next witness.

10 MS. FAJARDO: We'll call Michael Culler to the stand.

11 The witness, MICHAEL CULLER, was first duly sworn and
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MS. FAJARDO:

15 Q Attorney Culler, you represented Mr. Quattlebaum on
16 the charge of accessory before the fact, correct?

17 A I did.

18 Q And you were hired by Mr. Quattlebaum's family; is
19 that right?

20 A I was, his mother.

21 Q And you didn't tell Mr. Quattlebaum's mother that you
22 knew the victim's family, did you?

23 A I didn't, because I didn't know that I knew the
24 victim's family.

25 Q You were aware of who the victim was in Mr.

MICHAEL CULLER - DIRECT

1 Quattlebaum's case, were you not?

2 A Well, before we go through the checklist, let me tell
3 you what happened, and you read it in the transcript. But
4 I was the public defender in Orangeburg County for 18
5 years, I represented thousands of people I'm sure. I had
6 no idea that I knew the victim's family until the day of
7 the plea when this woman came and hugged me, and I'm like,
8 "Who are you?" And she introduced herself and I realized
9 the connection. So it wasn't -- before we go forward, I
10 know you've got to go through the questions, but there
11 wasn't a choreographed plot to sink Mr. Quattlebaum
12 because I was so close to this victim's family, knew it
13 and never disclosed it, that never came into it at all,
14 ever. And I would never do that, that's just not kosher
15 at all.

16 Q In the transcript it says that you saw the victim's
17 family on a prior guilty plea in the case of another
18 codefendant a few weeks before Mr. Quattlebaum's case; is
19 that correct?

20 A I don't remember that. I remember the day that I
21 realized what was up was the day of the plea.

22 Q And you didn't have Mr. Quattlebaum sign any paperwork
23 waiving any potential conflict, did you?

24 A I didn't because I didn't see a conflict.

25 Q And you didn't put anything on the record at Mr.

MICHAEL CULLER - DIRECT

1 Quattlebaum's guilty plea for any waiver of a potential
2 conflict, did you?

3 A No. But I explained the connection and what was
4 going on, which if I were trying to hide this and hurt him
5 I would suggest to you I would never have made the
6 statement and so no one would ever know.

7 Q And Mr. Quattlebaum wanted to go to trial and fight
8 this charge; is that correct?

9 A In his mind today, but not during our discussions.

10 Q And when Mr. Quattlebaum would point out
11 inconsistencies to you in the evidence you would ignore
12 him, would you not?

13 A He never pointed out any inconsistencies. The main
14 problem that he had is that in his statement he talked
15 about going to look for money with these guys, that was
16 very problematic. And he had then driven his van --
17 strike that, his mother's van from Orangeburg. They were
18 going to go rob Cricket, that's in his statement.
19 Cricket, I think, had children that were there so they
20 were going to get -- rob Dekee (phonetically), that didn't
21 go out, Dekee wasn't home. And they are riding around and
22 some of the co-defendants say, "Let's follow him" -- they
23 say, "Let's go to AYP," American Yard Products, "because
24 today is payday." So they go and they see this guy and
25 they're like, "We're going to follow him." And they did

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1 go into the same store that this guy went into to watch
2 him get the money, and Demetrice went in the store too.
3 After that they came out and they followed this guy from
4 Orangeburg to Eutawville, which is probably an hour drive.
5 So it wasn't an unknowing, you know, just a victim himself
6 driving three blocks to this murder scene, they drove an
7 hour south of Orangeburg. There was never a discussion of
8 another tire in the road, that again is a product of, I
9 guess, being in prison and thinking of things that didn't
10 exist, that was never discussed. His statement was, "They
11 told me to pull in front of the car, I did, they got out
12 with guns," the two co-defendants, "fired into the car."
13 And of course my question -- and we went around and
14 around, I said, "Well, why didn't you pull off? If you
15 didn't know what was going on why didn't you leave then?"
16 Not only did he not leave, they got back in the car and
17 the intended drug dealer who they were trying to kill, of
18 course they didn't kill, they killed the girl that was in
19 the car with him, the drug dealer that they had been
20 following pulled off going back into Santee, and that's
21 probably a 15 or 20 minute drive. He followed -- Mr.
22 Quattlebaum followed the guy back into Santee after the
23 shooting. And the only thing that resolved it was there
24 was a highway patrolman in the area and the intended
25 victim pulled up to the highway patrolman, and during that

MICHAEL CULLER - DIRECT

1 period of time Mr. Quattlebaum said, "We had to stop and
2 buy gas." They were gassing the car up in Santee and the
3 highway patrolman didn't have too much trouble finding
4 them. When they pulled them I think they all gave
5 statements, found evidence, there may not have been a GSR
6 even done on him, I don't remember. But the other thing
7 that was of interest to me was that -- I'm not sure what
8 inconsistencies he was referring to because he didn't
9 articulate any, but we certainly would have gone through
10 all of the discovery in a charge against him, and that
11 would have been something that was very important to do,
12 and to go through his options. His options were not good.
13 Go ahead, I'm sorry.

14 Q Isn't it true, Mr. Quattlebaum points out that there
15 was a piece of a tire in the road and that's why he
16 stopped, that's in his statement.

17 A I don't remember that. I remember him talking and
18 remember him giving a statement that he pulled in front of
19 the car. And it would be interesting that if the tire
20 were in the road they would have to pull in front of
21 another car and it just happened to be that the car that
22 he pulled in front of was the same car he'd followed all
23 of the way from Orangeburg, that would be a remarkable
24 event.

25 Q And isn't it true that Mr. Quattlebaum never denied

MICHAEL CULLER - DIRECT

1 that he was following that car, but that he put in his
2 statement he didn't know what was going on.

3 A I think he may have told me he didn't know what was
4 going on, but when he was talking in his statement I
5 believe he gave the statement talking about going to look
6 for money. That didn't really help. So if he didn't know
7 what was going on, why were they following this car for
8 the hour and 15 minutes, or hour down there where none of
9 them lived, they had no other reason to go down there. It
10 wasn't like they were going fishing or going to see a
11 relative. And they all gave statements saying, "We needed
12 some money."

13 Q And isn't it true Mr. Quattlebaum never mentions in
14 his statement that he was looking for anybody with money?

15 A I don't remember specifically what he said. I
16 remember him saying they were going to go look for money,
17 boys wanted money.

18 Q Isn't it true that Mr. Quattlebaum had no idea that
19 anyone was shot?

20 A I don't know that I would say that. I think he
21 talked about seeing the guy put his hands up in the car,
22 but I don't think that it would be fair to conclude with
23 multiple shots fired into the car that he would think no
24 one had been shot.

25 Q And isn't it true that after the two co-defendants

MICHAEL CULLER - DIRECT

1 jumped out of the car and fired their weapons that Mr.
2 Quattlebaum actually was driving home?
3 A No. He was driving back to Orangeburg, that was
4 his -- that was initially what he was -- he said, "Well, I
5 was just going home." And I said, "Really?" I said,
6 "Well, it was interesting that you chose to follow this
7 car all of the way from Eutawville to Santee," just again,
8 a coincidence, a remarkable event, "You just happened to
9 be right behind him, right? Okay. I don't think that's
10 going to work."

11 Q Jarell McKnight was a co-defendant of Mr.
12 Quattlebaum's, wasn't he?

13 A I remember him being one of the people in the van.

14 Q Okay. And he was originally charged with murder,
15 possession of a weapon during a violent crime and attempted
16 murder.

17 A I don't know.

18 Q Does that sound --

19 A Could be.

20 Q That sounds about correct.

21 A Sure. I think they probably charged them all.

22 Q And are you aware that Mr. McKnight was sentenced to
23 11 years on a plea of accessory after the fact?

24 A I knew that he got a totally different situation,
25 yes.

MICHAEL CULLER - DIRECT

1 Q And Mr. McKnight had a significant and violent
2 criminal history, correct?

3 A I don't remember what his history was.

4 Q Mr. Quattlebaum had no criminal -- no adult criminal
5 history at the time of his plea?

6 A He didn't, which was one of our problems. Because he
7 was led like the lamb to the slaughter with regard to
8 cooperating and giving evidence and making very
9 straight-up statements about his participation. I
10 suggested if he would have been involved in the court
11 system before he would know, "No, no, no, I'm not going to
12 tell you everything because I know you're not going to
13 help me." But he did, he told them everything.

14 Q And isn't it true you were in possession of several
15 letters from Mr. Quattlebaum's co-defendants supporting
16 that he didn't know anything about anything about what was
17 going on on June 21st.

18 A I don't remember that.

19 Q And is it true you didn't follow-up with those letters
20 given to you either through them individually or through
21 their attorneys?

22 A I don't remember any letters in the case.

23 Q Isn't it true Mr. Quattlebaum's case was on the trial
24 roster when he pled guilty?

25 A I don't remember, wouldn't surprise me.

MICHAEL CULLER - DIRECT

1 Q You were not preparing for trial in Mr. Quattlebaum's
2 case, were you?

3 A No.

4 Q You didn't subpoena witnesses.

5 A No.

6 Q Didn't prepare any defenses.

7 A No. There were none.

8 Q And that was because you had already made the decision
9 that Mr. Quattlebaum was going to plead guilty?

10 A No. We had discussed it and we had gone through it
11 ad nauseam. And I believe he said that I went to the jail
12 on Sunday, which I suggest not many people do, to talk to
13 him about it, and we went through it over and over and
14 over. He had several problematic things. One was a very
15 unfortunate posting he had on Facebook, a copy of which is
16 standing here in my file, with him holding up these guns.
17 And I said, you know, "Why did you put that on Facebook?
18 If you're going to claim that you're innocent, you really
19 have no idea what's going on, why did you do that, man?"
20 And his statement to me was, "Well those aren't even real
21 guns." And I was like, "Do you think it matters?"

22 Q But you admit that Mr. Quattlebaum wanted to go to
23 trial, he wanted to fight this charge.

24 A No. Never, never articulated that.

25 MS. FAJARDO: No further questions, Your Honor.

MICHAEL CULLER - CROSS

1 THE COURT: All right. Cross examination?

2 CROSS EXAMINATION

3 BY MR. MITCHELL:

4 Q Good morning, Mr. Culler.

5 A Good morning.

6 Q Thank for being with us here today.

7 A You're welcome, glad to be here.

8 Q So you were with the public defender's office before
9 you went into private practice?

10 A Yes.

11 Q How long were you there?

12 A I think about 18 years.

13 Q What was your title there?

14 A I ran the office of the chief public defender for
15 Orangeburg.

16 Q Okay. I guess we'll start with the conflict
17 allegation. Now you didn't represent the victim himself?

18 A I don't have any idea, I don't remember. The only
19 thing that rang a bell for me is this lady came over to me
20 to hug me in the hallway, which happens not infrequently,
21 and then had sort of told me the context and I just didn't
22 remember that at all, and I still don't remember that
23 family. So in terms of there being a conflict I was not
24 aware of it, it never entered my mind, I just was trying
25 to be nice to that lady. And again, had I not raised the

MICHAEL CULLER - CROSS

1 issue and said something during the plea no one would ever
2 know. If I had some obfuscation I was trying to
3 accomplish, that wasn't really the way to do it.

4 Q So you didn't handle Mr. Quattlebaum's case any
5 differently because of who the victim may have been.

6 A No.

7 Q , Or who you may have represented in the victim's
8 family.

9 A No.

10 Q So when you went to the jail to talk to him and you
11 advised him of the evidence, was this always in your mind
12 was your advice that he should plead guilty?

13 A Yes. But let me say this, his mother spoke earlier
14 about his learning ability, and one of the things that I
15 always do is go through education, "Are you special
16 classes, what's going on?" And it was clear that he had
17 maybe not diagnosed issues but he had not finished high
18 school, I think he had completed the 11th grade and was
19 now at Orangeburg Calhoun Tech. So I approached it very
20 carefully with him and we went through it, but he
21 understood it, it wasn't, you know, molecular science.
22 But we went over it over and over, so I was comfortable
23 that he understood his options, the evidence and what
24 needed to be done.

25 Q So you believe he understood what was going on.

MICHAEL CULLER - CROSS

1 A Absolutely. There would have been no way that I
2 would have pled somebody guilty that didn't understand
3 what was going on.

4 Q And in the discussions, did he ask questions that were
5 relevant to your advice and things like that?

6 A Yeah, he was oriented to what was going on. He
7 didn't appreciate maybe as much as he should have the
8 gravity of some of it, by which I mean the Facebook
9 posting, things of that nature, but he knew what was going
10 on.

11 Q How did the plea negotiations in this case come about?

12 A The solicitor, I believe, was Don Sorenson, and I had
13 been asking Mr. Sorenson over and over and over for some
14 sort of offer, that my client, Mr. Quattlebaum, had no
15 prior record, that his mother was a very decent person.
16 He really, I think, was used by these people and but for
17 his interception with them that day I don't know that he
18 would have ever gotten in trouble, but the solicitor felt
19 like they had a good case. And it was pretty sort of a
20 made for TV movie type scenario where the guys follow
21 someone all of the way down there and shoot into the car,
22 there was a lot of drama there, and he was not willing --
23 by which I mean the solicitor, was not willing to make any
24 sort of great offer. So it came down, well, he can just
25 go to trial, you know, with these other guys, and that was

MICHAEL CULLER - CROSS

1 not going to work. So as much of a distasteful sentence
2 as it may be given his age, he at least has an
3 opportunity, or will get out.

4 Q And they were going to try him on the murder charge?

5 A I am sure they would have tried him on the accessory
6 before the fact or the murder, I don't remember. I just
7 remember that I wanted to get away from that.

8 Q So you thought the voluntary offer was as low as Mr.
9 Sorensen was willing to go?

10 A It's not I thought, it was absolutely -- there was no
11 way he was going to go anything -- and we had very frank
12 discussions, I've known him for a long time and he said,
13 "I'm not going to give you anything else, Michael, that's
14 it."

15 Q So he testified that he kind of gave up and just pled
16 guilty because --

17 A No.

18 Q -- because he was overrun by your advice to him.

19 A Right. And again, it was, as many PCR hearings are,
20 not based in reality. He may believe that that's what
21 happened but that's not what happened. I don't know that
22 anybody would be overborn to the extent they would simply
23 say yes, yes, yes in a case like that and I wasn't going
24 to do that. He knew what was going on, he knew what his
25 options were and made his choice, which I think was the

MICHAEL CULLER - REDIRECT

1 correct one.

2 Q And you thought it was in his best interest to plead
3 guilty to take this plea deal?

4 A No question, yes. We didn't have a lot of good
5 options.

6 MR. MITCHELL: All right. No further questions, thank
7 you.

8 THE COURT: Redirect?

9 MS. FAJARDO: Just very briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. FAJARDO:

12 Q Attorney Culler, Mr. Quattlebaum was never charged
13 with murder, correct?

14 A I don't think that he was, I think it was accessory
15 before the fact.

16 Q But you told Mr. Quattlebaum that he was charged with
17 murder; isn't that true?

18 A I would think that I would not have done that since
19 he wasn't charged with murder.

20 Q And you were aware that Mr. Quattlebaum did not have a
21 gun at any point in this situation in June?

22 A No, he did not.

23 Q And you were aware, though, that his co-defendants did
24 have a gun and that they pulled the gun out after telling
25 Mr. Quattlebaum to follow the van.

MICHAEL CULLER - REDIRECT

1 A No, I don't think they told him to follow the van. I
2 think it was sort of a mutual decision that we're going to
3 get some money and he followed the van.

4 Q Although that's not what Mr. Quattlebaum told you; is
5 that correct?

6 A No, Mr. Quattlebaum told me that.

7 Q And that is not what the co-defendants said in their
8 statements.

9 A No. I think they did say that in their statements.

10 Q And isn't it true that DeShawn Fordham, who was one of
11 Mr. Quattlebaum's co-defendants, he sent you a letter after
12 he pled guilty saying that Demetrice was innocent?

13 A I don't remember that. I remember in his statement
14 to the police, I think he's the one that talked about
15 robbing Cricket and Dekee, and that they had this
16 discussion as they're driving around about who can we go
17 get -- who can we rob. So if he would have sent me a
18 letter after that saying that Mr. Quattlebaum was
19 innocent, it would have been in conflict with the
20 statement that he'd given that we had in our little file
21 so it probably wouldn't have impressed me a tremendous
22 amount.

23 Q Isn't it true there was no evidence that Mr.
24 Quattlebaum participated in that discussion about following
25 anybody or rob them or anything of that sort?

MICHAEL CULLER - REDIRECT

1 A Well, there wasn't an audio or video recording. But
2 again, I think that they all made statements where they
3 had had these discussions so I think the inference to be
4 drawn was that he participated. He certainly did in terms
5 of his physical actions, moving his hands on the steering
6 wheel.

7 Q And do you run a conflict check at your office prior
8 to starting representation of your clients?

9 A No, I don't. Because generally Orangeburg is small
10 enough that if there's a family or somebody that I
11 represented that's going to be -- it's going to be a
12 problem I'm going to remember that, and in this case
13 clearly all of this had been in the media, I knew who the
14 victim was. But in terms of the connection, you know,
15 frequently people have different last names or degrees of
16 kinship that are not as strong as others. So again, while
17 it's interesting to talk about now because I made the
18 statement during the plea, which again I suggest to you if
19 it were my goal to hide all of this and to somehow destroy
20 poor Mr. Quattlebaum because I really had a strong
21 relationship with the victim's family, that I wouldn't
22 have raised the point. So no, I didn't remember them
23 until the day of plea when the lady comes over to hug me,
24 that's it. Did it influence me? No.

25 Q Mr. Quattlebaum was 17 --

MICHAEL CULLER - REDIRECT

1 A I think he was.

2 Q -- when he was charged with this, correct?

3 A Right.

4 Q And Mr. Quattlebaum's family was highly against him
5 pleading guilty; is that correct?

6 A I don't remember that.

7 Q Isn't it true that after Mr. Quattlebaum's uncle told
8 you that you weren't doing a good job, you kicked him out
9 of your office and said he couldn't come back?

10 A I don't remember that either.

11 MS. FAJARDO: No further questions, Your Honor.

12 THE COURT: And I've had a chance now to look over the
13 transcript as well. The original charge was accessory
14 before the fact of murder or accessory before the fact of
15 attempted murder?

16 THE WITNESS: I don't remember, Judge. I think --

17 THE COURT: The transcript says accessory before the
18 fact of murder.

19 THE WITNESS: I think that was correct.

20 THE COURT: Okay. That's what Mr. Sorenson told the
21 Court, so he was looking at life without parole.

22 THE WITNESS: Yes, Your Honor.

23 THE COURT: Okay. All right. Any questions in
24 response to the Court's question?

25 MS. FAJARDO: No, Your Honor.

1 THE COURT: Any response from the State?

2 MR. MITCHELL: Nothing, Your Honor.

3 THE COURT: All right. You may step down. All right.
4 You can call your next witness?

5 MS. FAJARDO: Nothing further from the applicant.

6 THE COURT: All right. Does the State wish to present
7 anything?

8 MR. MITCHELL: Judge, no, I don't have any witnesses.

9 THE COURT: All right. Anything in closing from the
10 applicant?

11 MS. FAJARDO: Just very briefly, Your Honor. We feel
12 today based on Mr. Quattlebaum's testimony, in addition to
13 his mother's testimony, and even through Attorney Culler's
14 testimony, that we have presented a pretty significant
15 issue with the effectiveness of counsel, and that Attorney
16 Culler's representation did fall below the standard. We
17 take great issue with the fact that there was this
18 potential conflict, that he had some sort of relationship
19 with the victim's family that we do think should have
20 either been discussed in detail with Mr. Quattlebaum and
21 were Mr. Quattlebaum to make a waiver. Obviously from Mr.
22 Quattlebaum's testimony had he known that Attorney Culler
23 was involved with the victim's family that would have
24 affected whether or not he hired him. As a result we're
25 standing here today because he doesn't feel that Attorney

1 Culler worked for him and was advocating for him. I
2 mentioned in my opening statement the constructive denial
3 of counsel. We do feel that even with Attorney Culler's
4 testimony it's very obvious that he didn't want to listen
5 to what Mr. Quattlebaum said. Obviously you have an
6 attorney to get counseled and you should listen to your
7 attorney, but when the client is demanding that he wants to
8 go to trial, that he wants to beat this charge, I don't
9 think that an attorney is in the position to deny that
10 constitutional right to his or her client. We are asking
11 for our PCR to be granted, we think we have presented
12 enough evidence to reverse the guilty plea. I do not
13 believe that Mr. Quattlebaum knowingly and voluntarily gave
14 up his constitutional rights at the guilty plea. I think
15 he was a victim of Attorney Culler pushing him to plead
16 guilty, mischaracterizing the evidence. Obviously Mr.
17 Quattlebaum being incarcerated is thinking that his
18 attorney is working for him, and with Attorney Culler not
19 following up on these letters that he's getting up from
20 co-defendants, the inconsistencies in their statements and
21 the general continuing theme that Mr. Quattlebaum was
22 driving and perhaps should have been charged with something
23 much less, but was not involved in the conspiracy and would
24 have had defenses if they would have gone to trial on that
25 accessory before the fact, that he wasn't able to plead

1 guilty. He was beaten down by his attorney and therefore
2 we do believe that guilty plea should be overturned in
3 addition to that sentence of 30 years. Thank you.

4 THE COURT: All right. Mr. Mitchell, anything you
5 want to say?

6 MR. MITCHELL: Judge, I would start by saying that we
7 believe the applicant has failed to meet his burden to show
8 that the plea was not voluntarily or intelligently made. I
9 think it kind of comes down to credibility here. I don't
10 think Mr. Quattlebaum's testimony was very credible. I
11 think he's denying he committed any of these crimes after
12 he pled guilty, I think that's enough there to find him not
13 credible. I think most of what he said was not credible.
14 It does seem that Mr. Culler's testimony was kind of at
15 odds with what Mr. Quattlebaum testified to. I would
16 submit that Mr. Culler's testimony is credible on all of
17 these issues in his preparedness for the case and his
18 advice concerning whether he should accept the deal or
19 plead guilty. I think there's a thorough colloquy done to
20 show that he knew exactly what was going on and knew
21 exactly what he was pleading to and he understood the
22 rights that he was waiving by pleading guilty. It seems
23 that the facts in this case were tough and there was not a
24 lot of options as far as defenses. We talked a little bit
25 about the co-defendant's letters. I have no doubt that if

1 this case went to trial those co-defendants would have
2 testified for the State, or at least the State would have
3 put them up and attempted to get them to testify. And I
4 think looking at the record, Mr. Quattlebaum did receive a
5 bit of a break in that he was allowed to plead guilty to
6 voluntary, the two co-defendants were both pled guilty to
7 murder, I believe Mr. Stokes got a 38 year sentence, so
8 there was some reprieve on that and the solicitor and the
9 judge did take into account his accountability and that he
10 was just the driver and not the one firing the shots at the
11 car. We would just ask that you deny on those grounds.

12 THE COURT: All right. I am going to deny the request
13 for post conviction relief. I think his guilty plea was
14 made voluntarily. I do not see any ineffective assistance
15 of counsel, and I don't see where, even if there was
16 ineffective assistance of counsel, that that would have led
17 to a different result or that it was prejudicial to the
18 defendant. All right. Mr. Mitchell, are you going to
19 prepare an order to that affect?

20 MR. MITCHELL: Yes, sir.

21 THE COURT: All right. Thank you very much.

22 MS. FAJARDO: Thank you, Your Honor.

23 (End of the hearing.)

24

25

1 I, the undersigned, Michael C. Watkins,
2 Official Court Reporter for the Sixth Judicial
3 Circuit of the State of South Carolina, do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings had and
6 evidence introduced in the trial of the captioned
7 case (as reported by Elizabeth Harris and edited by
8 Michael C. Watkins) relative to appeal in the Court
9 of Common Pleas for Orangeburg County, South
10 Carolina, on the 2nd day of June, 2015.
11 I do further certify that am neither of kin, counsel,
12 nor interest to any party hereto.

13

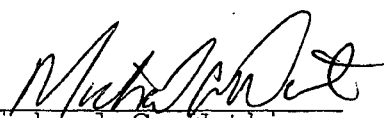
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February 13, 2017

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Michael C. Watkins

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Court Reporter

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(Reported by Elizabeth Harris)

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STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Demetrice Quattlebaum, #359242,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

2015-CP-38-0297

ORDER OF DISMISSAL

FILED FOR RECORD
WINNIE B. CLARK
2016 NOV - 1 PM 2:55
CLERK OF COURT
ORANGEBURG SC

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed March 5, 2015. Respondent made its Return on December 4, 2015, requesting an evidentiary hearing be convened. Stephanie R. Fajardo, Esquire, represented Applicant. An evidentiary hearing was held on May 16, 2016, at the Dorchester County Courthouse. Applicant was present. J. Clayton Mitchell of the South Carolina Attorney General's Office represented Respondent.

At the PCR hearing, Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Michael R. Culler, Jr., Esquire, and Applicant's mother, Sandra Quattlebaum. This Court had before it the Orangeburg County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, and the guilty plea transcript.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. In February 2014, the Orangeburg County Grand Jury indicted Applicant for voluntary manslaughter (2014-GS-38-0358). Michael Culler, Esquire, represented Applicant. On March 13, 2014, Applicant pled

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ORANGEBURG COUNTY, SC

guilty to a negotiated sentence. The Honorable Edgar W. Dickson accepted the negotiation and sentenced Applicant to thirty (30) years' imprisonment. Applicant did not appeal his plea or sentence.

In this action, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Involuntary and unintelligent guilty plea; and
2. Ineffective assistance of counsel in failing to recognize a conflict of interest.

III. APPLICABLE LAW

In a post-conviction relief action, Applicant bears the burden of proving the allegations in the 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, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any

deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the guilty plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds Counsel's testimony to be credible and persuasive. These credibility findings have been applied to the Court's findings and conclusions set forth below.

Involuntary and Unintelligent Guilty Plea

Applicant alleges he did not plead guilty knowingly and voluntarily. Applicant argues he believed he was charged with murder or accessory before the fact to murder. He also argues Counsel coerced him to plead guilty by advising him he could be subjected to a mandatory life without the possibility of parole sentence. This Court finds Applicant's guilty plea was entered

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

Applicant claims he was coerced into pleading guilty because Counsel advised him that he could be subjected to a life without parole sentence. He testified he wanted to go to trial and did not wish to plead guilty. Applicant explained that he believed he was pleading to murder and agreeing to a sentence of twenty-five (25) years. This Court finds these contentions meritless. This Court finds the record reflects Applicant was fully advised that he was pleading guilty to voluntary manslaughter. The plea court's thorough colloquy with Applicant demonstrates that he understood the consequences of pleading guilty. This Court finds Applicant's testimony not credible. Applicant presented no credible evidence as to why he should be able to depart from his statements at the plea hearing. This Court finds Counsel's testimony very credible regarding his

preparation and advice concerning the case. Counsel explained that contrary to his testimony at the PCR hearing, Applicant wanted to plead guilty. Counsel explained that he believed Applicant knew understood the proceedings and proceeded voluntarily. The record further reflects Applicant fully admitted his guilt to the plea court. Applicant also told Judge Dickson that he understood the charges and the consequences of pleading guilty. (Plea Tr. p. 6). Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made.

Ineffective Assistance of Counsel - Conflict of Interest

Applicant also alleges Counsel was ineffective in failing to recognize a conflict of interest. Specifically, Applicant alleges Counsel represented a family member of the victim. Applicant testified that before the plea, the victim's family greeted Counsel and spoke to him as if they knew him. Applicant testified Counsel mentioned something to him regarding his relationship with the victim's family, but he did not specifically remember what was said. Applicant's mother testified similarly in that Counsel was greeted by the victim's family at the courthouse the day Applicant pleaded guilty. Counsel explained that he was a public defender in Orangeburg County for eighteen (18) years, serving as the supervising attorney the majority of that time. He testified he had no idea that the victim's family knew him. Counsel was adamant that his representation of Applicant was not affected by any relationship he may have previously had with the victim's family.

"An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendant's." Staggs v. State, 372 S.C. 549, 551, 643 S.E.2d 690, 692 (2007). This Court has further stated that a conflict of interest occurs when "a defense attorney

places himself in a situation inherently conducive to divided loyalties.” Lomax v. State, 379 S.C. 93, 101, 665 S.E.2d 164, 168 (2008).

Until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for a claim of ineffective assistance of counsel arising from multiple representations. Langford v. State, 310 S.C. 357, 359, 426 S.E.2d 793, 795 (1993) (citing Cuyler v. Sullivan, 446 U.S. 335, 350 (1980); see also Burger v. Kemp, 483 U.S. 776, 783 (1987)). A defendant need not demonstrate prejudice if there is an actual conflict of interest.” Id., 364 S.C. at 153, 612 S.E.2d at 450. The Supreme Court also recognized in both Strickland and Cronic that in certain circumstances “prejudice is presumed” because prejudice “is so likely that case-by-case inquiry . . . is not worth the cost.” Nance v. Ozmint, 367 S.C. 547, 551-52, 626 S.E.2d 878, 880 (2006) (citing Strickland v. Washington, 466 U.S. 668, 692 and U.S. v. Cronic, 466 U.S. 648, 658 (1984)). In Cronic, the Court identified three distinct situations in which a presumption of prejudice is appropriate: 1) when the defendant is completely denied counsel “at a critical stage of his trial,” 2) if there has been a constructive denial of counsel, and 3) “when although counsel is available to assist the accused during trial, the likelihood that any lawyer, even a fully competent one, could provide effective assistance is so small that a presumption of prejudice is appropriate without inquiry into the actual conduct of the trial.” Absent these narrow circumstances of presumed prejudice, defendants must show actual prejudice under Strickland. Id.

Here, the Court finds Counsel was not ineffective for failing to recognize a conflict of interest in representing Applicant. Counsel’s testimony is credible and persuasive on the issue. Applicant has presented no credible evidence to support his claim that there was a conflict of interest in the representation. In Counsel’s capacity as the public defender of Orangeburg

County, he represented hundreds of clients over eighteen years. Counsel had no recollection of his representation of any client related to the victim. Notably, Counsel's representation of Applicant was not affected by any relationship he had with the victim's family. This Court finds Counsel did not have an actual conflict of interest, and, thus, finds no deficiency in his representation. Applicant has also failed to show any resulting prejudice from the alleged conflict. This allegation must be denied and dismissed.

All Other Allegations

As to any and all allegations that were raised in the application and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

V. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate counsels' performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief 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), SCRCR, 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 THAT:

1. The application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 27 day of October, 2016.


BENJAMIN H. CULBERTSON
Presiding Judge

Conway, South Carolina

WITNESSES

Riley Godwin

Orangeburg County Sheriff

ARREST WARRANT NUMBER
2014ORB8

Arrested: June 22, 2012

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: February 5, 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS38-0358

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

February 10, 2014 TERM

THE STATE
vs.

Demetrice Deontre Quattlebaum

Indictment for
VOLUNTARY MANSLAUGHTER

SC Code: 16-3-50

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Demetrice Quattlebaum
Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

ATTEST: TRUE COPY
Winnifred B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

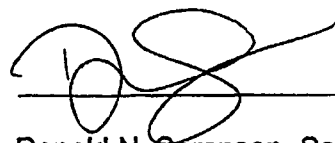
INDICTMENT
2014GS38-0358

At a Court of General Sessions, convened on February 10, 2014 the Grand Jurors of Orangeburg County present upon their oath:

VOLUNTARY MANSLAUGHTER

That in Orangeburg County, South Carolina, on or about June 21, 2012, the Defendant, Demetrice Deontre Quattlebaum, unlawfully, without malice, express or implied, kill one Kathy Mack, by means of shooting the victim and as a result violated Section 16-3-50, Code of Laws of South Carolina, 1976, as amended.

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


Donald N. Sorenson, Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF OrangeburgSTATE VS.Demetrice Deontre Quattlebaum

AKA:

Race: BLACK Sex: M Age: 19DOB: 94 SS# [REDACTED]

Address:

City, State, Zip:

DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Voluntary Manslaughter

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS38-0358A/W#: 2014ORB8Date of Offense: 6/21/2012S.C. Code § : 16-3-50CDR Code #: 0217

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. DD (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Sorenson, Donald N.9512 SC Bar#Demetrice Quattlebaum DefendantA R Miller Attorney for Defendant013012 SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or paymentof \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee ATTEST: TRUE COPY

Payment Terms:

☐ Set by SCDPPPS Winnifred R. ClarkRecipient: CLERK OF COURT

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$	100.00
\$	100
\$	12
\$	25
\$	500
\$	25
\$	150
\$	50
\$	40/ea
\$	5
\$	5.00
\$	3.90
\$	133.90

PTUP

— days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. —May serve W/E beginning —Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ — beginning —\$ — paid to Public Defender FundOther: —☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.Clerk of Court/ Deputy Clerk V. GlennCourt Reporter: Hilda Jordan

SCCA/217 (03/2011)

Presiding Judge [Signature]Judge Code: 2153Sentence Date: 3/13/14