

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from Orangeburg County

Edgar W. Dickson, Circuit Court Judge

DESHAUN JAMEL FORDHAM,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001443

APPENDIX

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

RUSTON NEELY
Assistant Attorney General
Office of the Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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State of South Carolina
County of Orangeburg

Court of General Sessions

State

v.

DESHAWN FORDHAM

Defendant.

)
)
) Transcript of Record
) 2012-GS-38-1413; 1415
)
)
)

February 27, 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, Assist. Solicitor
Attorney for the State

R. Douglas Mellard, Assist. Public Defender
Attorney for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

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1 (The following proceedings were held February
2 27, 2014.)

3 MR. SORENSON: State calls Deshawn Fordham
4 here, Your honor, on two indictments;
5 2012-GS-38-1413 and 1415 charging Mr. Fordham with
6 one count of murder and one count of attempted
7 murder. He is represented by Doug Mellard. He's
8 entering a guilty plea on those indictments for a
9 negotiated 30-year sentence, Your Honor, on the two
10 charges.

11 DESHAWN FORDHAM
12 being first duly sworn, testified as follows:

13 THE DEFENDANT: Yes, ma'am.

14 THE CLERK: Thank you.

15 THE COURT: All right. Mr. Mellard, you
16 represent Mr. Fordham?

17 MR. MELLARD: Yes, sir.

18 THE COURT: Okay. And my understanding, he's
19 pleading guilty to a murder charge and an attempted
20 murder charge. Is that correct?

21 MR. MELLARD: Yes, sir.

22 THE COURT: Okay. And you have met with him
23 and reviewed the evidence that the State has
24 regarding both of these charges?

25 MR. MELLARD: Yes, sir, I have.

1 THE COURT: Okay. And you have also explained
2 to him his Constitutional rights with regard to
3 these charges?

4 MR. MELLARD: I've explained that and also
5 explained the implications, the most serious and all
6 other implications. Yes, sir.

7 THE COURT: That was the next thing. Both are
8 violent and most-serious offenses.

9 MR. MELLARD: Yes, sir.

10 THE COURT: Okay. Now, do you -- in your
11 talking with him, did you have any concerns about
12 whether or not he understood what you were telling
13 him?

14 MR. MELLARD: No, sir.

15 THE COURT: All right.

16 MR. MELLARD: And I'll tell the Court, I also
17 met with his family and we've discussed this also.
18 His family is here, I believe his pastor is here.
19 He has a large group of people supporting him, Your
20 Honor.

21 THE COURT; All right. Now, after talking with
22 him and making sure he's aware of the situation both
23 factually and legally, he indicated to you he wishes
24 to plead guilty to both of these charges?

25 MR. MELLARD: Yes, sir.

1 THE COURT: And you believe it's in his best
2 interest to do so?

3 MR. MELLARD: Yes, sir.

4 THE COURT: All right, sir.

5 Mr. Fordham, according to my sentencing sheet,
6 it appears that you are 20 years old. Is that
7 correct?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. And, Mr. Fordham, how far
10 did you go in school?

11 THE DEFENDANT: 9th grade.

12 THE COURT: What grade?

13 THE DEFENDANT: 9th grade.

14 THE COURT: And where were you going to school?

15 THE DEFENDANT: Orangeburg Wilkinson.

16 THE COURT: Okay. And, Mr. Fordham, why did
17 you stop in the 9th grade?

18 THE DEFENDANT: I was locked up for
19 second-degree burglary.

20 THE COURT: I'm sorry. What?

21 THE DEFENDANT: I got locked up for a
22 second-degree burglary.

23 THE COURT: Oh, you got a --

24 MR. MELLARD: He was locked up, yes, sir. I
25 believe he had a YOA.

1 THE COURT: Okay. Did you ever get your GED?

2 THE DEFENDANT: No, sir.

3 THE COURT: Okay. All right, sir.

4 Mr. Fordham, did you ever work anywhere?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Where did you work?

7 THE DEFENDANT: M&M Upholstery and Liberty Tax.

8 THE COURT: Okay. And what did you do at

9 Liberty Tax?

10 THE DEFENDANT: Waver.

11 THE COURT: You waved? All right. So you're
12 the guy out there I used to wave to coming back and
13 forth?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: How long did you do that?

16 THE DEFENDANT: About three months.

17 THE COURT: And the other job, how long did you
18 do that?

19 THE DEFENDANT: About a month.

20 THE COURT: Okay. So those are the only two
21 jobs you've ever had?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: So you've worked about four months
24 in your life?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. Mr. Fordham, do you have any
2 reading disability?

3 THE DEFENDANT: No, sir.

4 THE COURT: Okay. I mean, you seem
5 well-spoken, you know.

6 All right. Have you ever been treated for any
7 mental health issues?

8 THE DEFENDANT: ADHD.

9 THE COURT: Okay. Did they put you on Ritalin
10 to try to help you?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Other than the ADHD,
13 anything else?

14 THE DEFENDANT: No, sir.

15 THE COURT: Sir?

16 THE DEFENDANT: No, sir.

17 MR. MELLARD: Speak up.

18 THE DEFENDANT: No, sir.

19 THE COURT: All right. Are you taking Ritalin
20 now?

21 THE DEFENDANT: No. County doesn't provide
22 medicine. I take medicine for sleeping.

23 THE COURT: Okay. All right, sir. Are you
24 thinking clearly today?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you know exactly what you're
2 doing here today?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Tell me what you're doing.

5 THE DEFENDANT: Pleading to 30 years.

6 THE COURT: Sir?

7 THE DEFENDANT: Pleading to 30 years.

8 THE COURT: For what charges?

9 THE DEFENDANT: Murder and attempted murder.

10 THE COURT: Okay. All right, sir.

11 Now, Mr. Fordham, your attorney has indicated
12 that he's advised you of the fact that both of these
13 charges are both violent and most-serious offenses.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And he explain the strikes to you;
16 is that correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Now, he also went over the evidence
19 that the State has against you regarding these two
20 charges; is that also correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And he tells me that he explained
23 your Constitutional rights to you.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Is that true?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. You understand you have the
3 right to remain silent?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You give up that right if you plead
6 guilty.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you understand you have the
9 right to have a jury trial?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And you don't have to testify at a
12 jury trial. You can make the State prove their case
13 without you ever testifying; do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And I'd tell the jury they can't
16 consider the fact that you didn't testify. You
17 understand that as well?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And your attorney explained that
20 all to you; is that correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Sir?

23 THE DEFENDANT: Yes, sir.

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

1 THE DEFENDANT: Yes, sir.

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

4 THE DEFENDANT: No, sir.

5 THE COURT: Do you want a jury trial on either
6 one of these charges?

7 THE DEFENDANT: No, sir.

8 THE COURT: Okay. You want to go forward with
9 these guilty pleas?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You want to do that because you're
12 guilty of these charges?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay. All right, sir. It's my
15 understanding this is a negotiated 30-year sentence.
16 Is that your understanding?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You understand that when I take a
19 plea to a negotiated sentence, my only decision is
20 to accept it or not accept it?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You understand I can't modify it?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Sir?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right, sir.

2 Now, other than the recommendation that I've
3 been told, has anybody promised you anything to get
4 you to plead guilty here today?

5 THE DEFENDANT: No, sir.

6 THE COURT: Has anybody threatened you or
7 forced you to plead guilty here today?

8 THE DEFENDANT: No, sir.

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

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. All right.

13 MR. SORENSON: May it please the Court.

14 THE COURT: Yes, sir.

15 MR. SORENSON: I'll start off, Your Honor, the
16 victim of the homicide in this case was 31-year-old
17 Cathy Mack. And Ms. Mack's family is seated in the
18 front row and briefly in the second row also. Her
19 two parents, mother and father, along with her two
20 sisters are present in the front row.

21 Your Honor, this incident happened back June
22 21st of 2012. It kind of all started that afternoon
23 with this defendant along with several other
24 co-defendants who got together and basically talked
25 about trying to go rob a drug dealer to get some

1 money. They apparently had gone and checked out one
2 or two other places and couldn't find the person
3 they were looking for and ultimately ended up over
4 near AYP, I guess, a convenience store that a bunch
5 of employees there use to cash their checks. At
6 some point in time they spotted a young man that
7 they knew by the name of Travis Felder, and one of
8 them at least had indicated they thought that he may
9 have some money related to having sold drugs. They
10 ultimately ended up -- Mr. Felder was driving in a
11 work van of his and had his girlfriend, Ms. Mack, in
12 the vehicle with him.

13 The defendant and his co-defendants were in a
14 co-defendant's mom's SUV. They ended up following
15 them, basically, from them kind of heading towards
16 Santee on -- I believe Old Number 6 is the road they
17 were on. As it got to that point in time, they
18 ultimately ended up -- one of them instructed the
19 driver, Demetrius Quattlebaum, of their vehicle, to
20 pull around in front of Mr. Felder's van when there
21 were no other cars coming and ended up basically
22 just stopping in front of them causing Mr. Felder to
23 come to a stop behind their SUV.

24 At that point in time, this defendant, along
25 with a co-defendant, Dante Stokes, got out off the

1 rear of the SUV. They both had bandanas over
2 their -- covering their faces and multiple -- armed
3 with handguns and approached the van.

4 Between the statements from the co-defendants,
5 this defendant's statement and also Mr. Felder's
6 statement, it appears that Mr. Fordham went towards
7 the driver's side of the vehicle. At some point in
8 time Mr. Felder and Ms. Mack ended up ducking, which
9 ultimately caused Mr. Stokes and Mr. Fordham to
10 start shooting into the vehicle. Mr. Fordham shot a
11 couple times into the driver's side of the vehicle.
12 From looking at the ballistics, it does not appear
13 that either of his shots hit anybody. Mr. Stokes
14 fired multiple shots into the passenger's side of
15 the vehicle and, unfortunately, two of them did
16 strike Ms. Mack, one of them hitting her in the head
17 and ultimately killing her.

18 At that point in time, Mr. Felder put the van
19 back in drive and managed to get around the vehicle
20 and take off into -- towards Santee. The defendants
21 got back in their vehicle and proceeded to follow
22 them still. They then observed Mr. Felder basically
23 come pulling to a stop when he found a police car in
24 Santee, jumped out hysterical, you know, saying that
25 his girlfriend had been shot, said at that point in

1 time she was deceased already. But he was also able
2 at that point to point out the vehicle as it turned
3 off onto another road and headed back ultimately
4 towards Orangeburg.

5 A BOLO was put out for the vehicle and was
6 ultimately stopped by a deputy with the Orangeburg
7 County Sheriff's Office kind of coming back on 301
8 into Orangeburg right near 301 and I-26. This is
9 probably, I'm guessing, 20 to 30 minutes after the
10 incident that it was stopped at that point in time.
11 There were five individuals in the car.

12 At that point in time, they were all kind of
13 questioned, giving different -- kind of various
14 different vague answers as to where they were coming
15 from, what they had been doing. The vehicle was
16 subsequently impounded. A search ultimately was
17 done of that vehicle and there were two handguns
18 found up -- hidden, basically, up in the engine
19 block, wrapped up in a T-shirt, in the hood of the
20 vehicle that ultimately came back matching
21 ballistically with shell casings and projectiles
22 that were recovered from not only the scene, but
23 also the autopsy of Ms. Mack.

24 As I indicated earlier, Mr. Fordham ultimately
25 did give a statement admitting to, basically, the

1 involvement that I just laid out for the Court as
2 being one of the individuals shooting. But the
3 individual -- you know, he puts himself having the
4 .380. There was a .380 and a 9-millimeter. It's
5 the 9-millimeter that killed Ms. Mack. Mr. Fordham
6 indicates that he had the .380, which is also borne
7 out by the co-defendants' statements also.

8 So that would basically be the facts, Your
9 Honor. Mr. Fordham, as he indicated earlier, does
10 have a prior record for a burglary second, which he
11 received a youthful offender sentence -- an active,
12 I believe, youthful offender sentence back in 2010.
13 That would be his only adult record.

14 Additionally, Your Honor, at the appropriate
15 time, one of Ms. Mack's sisters, Amy Benjamin, would
16 like to address the Court also.

17 THE COURT: If you don't mind, I'd like to go
18 ahead and hear from -- you said Amy Benjamin?

19 THE WITNESS: Yes, sir.

20 THE COURT: And you are -- that was your
21 sister?

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay. And, Ms. Benjamin, I just
24 want to tell you I'm very sorry about that.

25 THE WITNESS: Thank you.

1 THE COURT: Was she an older sister or younger
2 sister?

3 THE WITNESS: Older sister.

4 THE COURT: How much older?

5 THE WITNESS: She's older.

6 THE COURT: Oh, okay.

7 THE WITNESS: I'm the baby sister.

8 THE COURT: Oh, you're the baby sister. Okay.

9 MR. SORENSON: She was, I believe, 31 when she
10 passed away.

11 THE COURT: Okay.

12 All right. Ms. Benjamin, what would you like
13 to tell me, please, ma'am?

14 THE WITNESS: I know what I might say today may
15 not change anything, but on behalf of our family, I
16 would like to tell him we do forgive him. But we
17 have little kids that you took their mother away.
18 It's three of them. And every day they ask for
19 their mom or whatever they do, I wish Mommy was
20 here, you know, to do this with us. We just
21 celebrated the baby's birthday and he didn't have
22 his mom there. It really hurts every single day
23 that she's gone.

24 This was premeditated. As he said, they rode
25 around trying to find something to do, a crime to

1 commit. This was premeditated. They rode all the
2 way to Orangeburg, a 30-minute ride, to Santee. And
3 even after they did the shooting and my sister was
4 already deceased, they continued to follow them. I
5 wish it was something, you know, that I could say to
6 make you increase the time. But it's nothing I can
7 say because this is premeditated and sorry is not
8 going to bring her back. And that's all I would
9 like to say.

10 THE COURT: Okay. Ms. Benjamin, I appreciate
11 you coming up and speaking on your behalf and on
12 behalf of the family. I'm really sorry. This is
13 absolutely senseless what happened, and I agree with
14 you. Okay? Thank you, ma'am.

15 Anything else, Mr. Sorenson?

16 MR. SORENSON: I think that's it. I'd just
17 like to say that as far as Mr. Stokes, who I
18 indicated was the shooter in the case that actually
19 fired the shots that hit Ms. Mack, he pled guilty in
20 front of Judge Buckner, I guess it's been, about
21 seven or eight months ago, and received a 38-year
22 sentence. I think that was just a straight-up plea.

23 I did discuss this negotiated 30-year sentence
24 with both Mr. Davis, who's Cathy's father, and
25 Ms. Viola Davis, who is her mother, and they were in

1 agreement when the offer was made to Mr. Mellard.

2 THE COURT: Okay. And, Mr. Mellard, going back
3 to you for just a second, two things I need to do.
4 Since I've heard the situation, you explained to
5 Mr. Fordham the theory of hand of one is the hand of
6 all?

7 MR. MELLARD: That's why we're here. Yes, sir.

8 THE COURT: I just want to make sure. And you
9 believe he understood that?

10 MR. MELLARD: Yes, sir.

11 THE COURT: Okay. He also understands that if
12 I go along with the sentence, that he can expect a
13 day-for-day service?

14 MR. MELLARD: He knows that too. Yes, sir.

15 THE COURT: All right. Mr. Fordham,
16 Mr. Mellard indicated he explained the legal theory
17 of the hand of one is the hand of all.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Did you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. And did you also understand
22 that your sentence is essentially a day-for-day
23 sentence?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You will serve 30 years in jail as

1 the basis of this; you are aware of that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Now, you heard what the
4 solicitor has told me about the circumstances that
5 led to your arrest.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: He indicated that you had a .380.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you fired that gun.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. You agree generally
12 with what I was told?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right, sir. Mr. Fordham,
15 Docket No. 2012-GS-38-1413 is an indictment for
16 murder that was true-billed by the Grand Jury on
17 November the 7th, 2012. The indictment alleges that
18 you did in Orangeburg County on or about June 21st,
19 2012, with malice aforethought, kill one Cathy Mack
20 by shooting the victim with a gun and that she did
21 die as a result of that. This is a violation of the
22 laws of this state.

23 How do you plead to this charge of murder?

24 THE DEFENDANT: Guilty.

25 THE COURT: Thank you, sir.

1 Next indictment I have is 2012-GS-38-1415. It
2 is an indictment for attempted murder, true-billed
3 by our county Grand Jury on November 7th, 2012. The
4 allegations are that you did in Orangeburg County on
5 or about June 21st, 2012, with the intent to kill,
6 did attempt to kill Travis Felder with malice
7 aforethought, either expressed or implied, by means
8 of shooting a gun at the victim in violation of the
9 laws of this state.

10 Do you understand the allegations contained in
11 this indictment?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: How do you plead to this charge of
14 attempted murder?

15 THE DEFENDANT: Guilty.

16 THE COURT: All right.

17 Mr. Fordham, you understand if I accept your
18 guilty pleas to these two charges, they will be two
19 convictions on your record?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You understand that both of these
22 are violent and most-serious offenses?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You understand that those are
25 strikes against you?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You understand that you have --
3 your attorney has negotiated a 30-year sentence for
4 you?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You understand that it will be
7 day-to-day service, if I accept this negotiated
8 sentence?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You know you got ten days to appeal
11 my decision?

12 THE DEFENDANT: Yes, sir.

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

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Mr. Fordham, I find your decision
17 to plead guilty to the charge of attempted murder
18 and murder is freely, voluntarily and intelligently
19 made. I find you've had the advice and counsel of a
20 competent lawyer. I find that you're satisfied with
21 the services of your lawyer. I find that there is a
22 factual basis and a legal basis for you to plead
23 guilty to both of these charges, and I am going to
24 accept your guilty plea both to the murder charge
25 and the attempted murder charge.

1 Mr. Mellard?

2 MR. MELLARD: Yes, sir. I'd just like to point
3 out to the Court that he does have people here
4 supporting him. Your Honor, we'd ask the Court just
5 to accept the negotiations, give him credit for the
6 time he's served. I believe he's been in jail
7 continuously since he was arrested on this
8 particular day.

9 THE COURT: All right, sir.

10 Mr. Fordham, I'm going to go along with the
11 negotiated plea. The sentence of this Court in both
12 the murder charge and the attempted murder charge is
13 that you are committed to the state department of
14 corrections for a period of 30 years. These
15 sentences are concurrent and I'll give you credit
16 for the time you've served. Good luck to you.

17 MR. MELLARD: Thank you, Your Honor.

18 THE COURT: Thank you.

19 -- END OF TRANSCRIPT OF RECORD --

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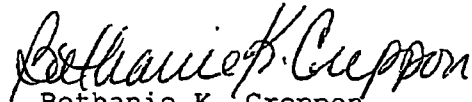
C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the captioned cause, relative to appeal in the General Sessions Court for Orangeburg County, South Carolina, on the 27th of February, 2014.

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

September 4, 2014


Bethanie K. Creppon
Circuit Court Reporter

RECEIVED

JUL 25 2014

FORM 5

Referred to PCR/dm

Answered _____

STATE OF SOUTH CAROLINA)

COUNTY OF Orangeburg)

Deshaun Fordham)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2014 CP 38-00810

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lee CI 990 Wiscacky Hwy Bishopville S.C. 29010
2. Name and location of Court which imposed sentence first circuit Orangeburg courthouse
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012 GS 38-1415 Attempted Murder 30 years
 - (b) 2012 GS 38-1413 Murder 30 years
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) ~~2-27-14~~ 2-27-14 30 years
 - (b) 2-27-14 30 years

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓ _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) was Not aware that I could after I plead guilty
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Constitutional violation 6th Amendment ineffective Assist of Counsel
- (b) Constitutional violation Due process + Equal protection
- (c) _____

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

- (a) Counsel performance was deficient
- (b) Was denied my right to a fair trial
- (c) _____

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

- (a) any petition in a State Court under South Carolina Law? _____
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

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

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. _____
 - ii. _____
 - iii. _____

- iv. _____
- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

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

No

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

- (a) which grounds have been presented:
 - i. _____
 - ii. _____
 - iii. _____
- (b) the proceedings in which each ground was raised:
 - i. _____
 - ii. _____
 - iii. _____

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

- (a) Counsel failed to present said issues and said issues are
- (b) _____ for PCR
- (c) _____

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. R. Douglas Mellard po Box 1112 Orangeburg, SC 29116
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. R. Douglas Mellard plea sentencing
- ii. _____
- iii. _____
19. State clearly the relief you seek in filing this application:
Sentence correction, set aside, or resentencing without prejudice
20. Are you now under sentence from any other court that you have not challenged?
No

STATE OF SOUTH CAROLINA)

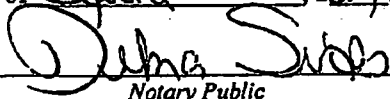
County of)

VERIFICATION

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



SWORN to and subscribed before me this 26
day of June, 2014.



Notary Public (L.S.)

My Commission Expires: 11-4-2015

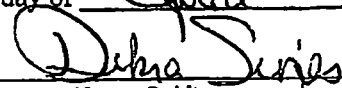
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

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

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


Applicant

SWORN or affirmed to and subscribed before me this
26 day of June, 2014.


Notary Public

My Commission Expires: 11-4-2015

Question 2 on page 1

Name and location of Court which imposed sentence? First Circuit Orangeburg Courthouse
Amelia Street, Orangeburg S.C. 29116

Question 3 on page 1

Name(s) of co-defendant(s) (if any)? Demetrice
Quattlebaum, Donte Stokes, Jerry McKnight

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2014-CP-38-00810
COUNTY OF ORANGEBURG	)	
	)	
Deshaun Jamel Fordham,	)	
S.C.D.C. No. 342917,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the post-conviction relief application filed July 3, 2014, the Respondent would show this Court:

I.

Applicant is presently incarcerated with the South Carolina Department of Corrections pursuant to the Orangeburg County Clerk of Court's orders of commitment. The Orangeburg County Grand Jury indicted Applicant at the November 2012 term of General Sessions for Murder (2012-GS-38-1413), Attempted Murder (2012-GS-38-1415), and Possession of a Weapon During the Commission of a Violent Crime (2012-GS-38-01414). R. Douglas Mellard, Esquire represented the Applicant.

On February 27, 2014, Applicant pleaded guilty pursuant to a negotiated plea deal. The Honorable Edgar W. Dickson accepted the parties' negotiations and sentenced Applicant to thirty (30) years imprisonment for both the Murder and Attempted Murder charges. The Possession of a Weapon During the Commission of a Violent Crimes charge was nolle prossed. Applicant did not appeal his plea or sentences.

Attached herewith and incorporated herein by reference are the records of the

Orangeburg County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript.

II.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of counsel.
 - a. "Counsel performance was deficient"
 - b. Denied applicant of a fair trial
2. Due Process violation
3. Equal Protection Violation

III.

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

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable

professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

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

IV.

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

V.

WHEREFORE, having made its Return, Respondent requests that a hearing be held on the issue of ineffective assistance of counsel.

Respectfully submitted,

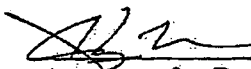
ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

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

By:



Attorneys for Respondent

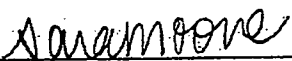
February 20th, 2015

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS.
COUNTY OF ORANGEBURG	)	
	)	2014-CP-38-00810
	)	
DESHAWN FORDHAM, #342917	)	
	)	
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:

Jonathan Waller, Esquire
 Law Office of Johnathan Waller, LLC
 1720 Main Street, Suite 104
 Columbia, South Carolina 29201

DATED this 20th day of February, 2015.


 Sara Moore, Legal Assistant
 For Respondent

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STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG FIRST JUDICIAL CIRCUIT
2014-CP-38-00810

DESHAWN FORDHAM,	)	TRANSCRIPT OF
	)	RECORD
APPLICANT,	)	
	)	
vs.	)	
	)	FEBRUARY 23, 2016
	)	ST. GEORGE, SC
	)	
THE STATE OF SOUTH	)	
CAROLINA,	)	
	)	
RESPONDENT.	)	

B E F O R E:

HONORABLE MAITE MURPHY

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

CLAY MITCHELL, ESQUIRE
Attorney for the Respondent

JONATHAN WALLER, ESQUIRE
Attorney for the Applicant

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

I N D E X

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Page

POST-CONVICTION RELIEF HEARING 3

WITNESS

Deshawn Fordham DIRECT BY MR. WALLER 5

CROSS BY MR. MITCHELL 17

Robert Mellard DIRECT BY MR. MITCHELL 19

CROSS BY MR. WALLER 24

CERTIFICATE OF REPORTER 28

NO EXHIBITS INTRODUCED

1 (The following proceedings were held
2 February 23, 2016, Dorchester County, South
3 Carolina.)

4 MR. MITCHELL: May it please the Court,
5 Judge, this is Deshawn Fordham versus the State of
6 South Carolina, Case No. 2014-CP-38-0810. He was
7 indicted November of 2012 for murder and attempted
8 murder and also for possession of a weapon during
9 the commission of a violent crime. He was
10 represented on the charges by Mr. Douglas Mellard.
11 Pled guilty pursuant to negotiations on
12 February 27th of 2014 before Judge Dixon.
13 Negotiation was 30 years on both charges to be
14 served concurrently. The possession -- the weapons
15 charge was nolle prossed.

16 This application was timely filed July
17 3rd of 2014 where Mr. Fordham has made allegations
18 of ineffective assistance of counsel and that he
19 did not plead guilty voluntarily. I note for the
20 record he is present and represented by Mr.
21 Jonathan Waller and I will turn it over to him now.

22 MR. WALLER: Thank you, Your Honor. I
23 will call Deshawn Fordham.

24 THE COURT: Before we proceed with his
25 testimony have you discussed with Mr. Fordham the

1 potential consequences of the PCR and what happens
2 if it is essentially granted?

3 MR. WALLER: I have, Your Honor. If
4 Your Honor wishes me to discuss it further with him
5 I will be happy to do so. We actually completed
6 about half of a hearing back in October in front of
7 Judge Addy. Mr. Fordham had had some medication
8 changes while at SCDC so that affected his ability
9 to testify and comprehend things. So we have
10 gotten pretty far along the process, but I have
11 discussed that with him. And I will be happy to do
12 so again if Your Honor would like.

13 THE COURT: All right, sir. If you
14 would.

15 (Attorney confers with client.)

16 MR. WALLER: Your Honor, I have
17 reviewed that with him. He understands and wishes
18 to go forward.

19 THE COURT: All right. Mr. Fordham,
20 let me ask you this. Please place him under oath.

21 THE CLERK: State your full name for
22 the record.

23 THE APPLICANT: Deshawn Fordham.

24 DESHAWN FORDHAM

25 who, after being first duly sworn, testified as

1 follows:

2 THE COURT: Mr. Fordham, you understand
3 the consequences of the PCR process. If your
4 application is actually granted you understand that
5 if your conviction is vacated you would start over
6 and you could potentially be looking at a potential
7 life sentence; do you understand that?

8 THE APPLICANT: Yes, ma'am.

9 THE COURT: So do you wish to proceed
10 and go forward?

11 THE APPLICANT: Yes, ma'am.

12 THE COURT: Have you talked about the
13 consequences about that with your attorney?

14 THE APPLICANT: Yes, ma'am.

15 THE COURT: And you don't have any
16 questions about that?

17 THE APPLICANT: No, ma'am.

18 THE COURT: All right. You may come on
19 up to the witness stand, Mr. Fordham. Your
20 witness.

21 DIRECT EXAMINATION

22 BY MR. WALLER:

23 Q. May it please the Court, good morning,
24 Mr. Fordham. How are you today?

25 A. I'm all right.

1 Q. Mr. Fordham, you pled guilty in your
2 case to murder and attempted murder for a
3 negotiated 30-year sentence; is that right?

4 A. Yes, sir.

5 Q. And you were represented by Doug
6 Mellard on those charges?

7 A. Yes, sir.

8 Q. You had some co-defendants, right, four
9 co-defendants, five total?

10 A. Yes.

11 Q. Okay. I want to go back to the
12 beginning when you were first arrested. Were you
13 already serving a probationary sentence or YOA
14 sentence?

15 A. Yeah, I was currently on YOA sentence.
16 I was released back in April 2012.

17 Q. And then when were you subsequently --
18 were you on YOA parole?

19 A. Yes.

20 Q. Were you subsequently -- they found
21 that you violated your parole?

22 A. That's what they violated me on the
23 parole for, the possession of the weapon in the
24 commission of the violent crime.

25 Q. Okay. How did Doug Mellard come to be

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1 your attorney?

2 A. My total having the murder, attempted
3 murder, possession of weapon, commission of the
4 violent crime, he became -- when I came to the
5 county he was representing me on the murder,
6 attempted murder.

7 Q. Was he appointed to represent you?

8 A. Yes.

9 Q. Had he represented you before?

10 A. Yes.

11 Q. So you were familiar with him?

12 A. Yes.

13 Q. Okay. How long after you were arrested
14 on the murder and attempted murder and weapons
15 charge were you able to meet with him?

16 A. First was arrested on June 21st, 2012.
17 I came to the county and I was violated less than
18 four months to go back to serve my YOA time of ten
19 months. So I didn't see him until I did that time
20 and came back to the county to face the murder and
21 attempted murder.

22 Q. Were you able to meet with him -- where
23 were you sent? Were you sent to Turbeville?

24 A. Yes.

25 Q. Were you able to meet with him at

1 Turbeville?

2 A. Yes, I did. As a matter of fact, he
3 send me in the mail my motion and I received a
4 motion. He came to see me the next day.

5 Q. Did y'all have a chance to go over the
6 discovery in your case?

7 A. I mean not fully in detail, but I mean
8 he asked me if I got it and showed me some
9 pictures.

10 Q. What else did y'all talk about?

11 A. Nothing really in detail.

12 Q. Okay. How long did y'all meet that
13 day?

14 A. That day? Roughly 30 minutes.

15 Q. Okay. During that 30 minutes what do
16 y'all think you talked about?

17 A. Seen pictures of the victim, and we
18 never really got deep into my full case me to
19 understand what was going on.

20 Q. Okay. When you finished up your -- the
21 ten-month time period on your YOA you came back to
22 the county; is that right?

23 A. County.

24 Q. How many times did you meet with him
25 when you came back?

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1 A. I will say about two to three times.

2 Q. During those meetings what did y'all
3 talk about?

4 A. About my co-defendants, statements and
5 everything and possible court date, then I received
6 a letter from -- I received a letter from him
7 saying 30-year plea offer and that's when I first
8 acknowledged that I wanted to go to trial.

9 Q. Okay. Do you recall when this was when
10 you told him you wanted to go to trial?

11 A. Had to be on -- I finished my time on
12 my Y back in October of 2013. So it had to be
13 probably say around November, December.

14 Q. Okay. Then you end up pleading guilty
15 in February of 2014; is that right?

16 A. Yes.

17 Q. What did you and Mr. Mellard talk about
18 as far as going to trial, what y'all were going to
19 prepare for?

20 A. Never prepared. I brought up the
21 subject about a trial. He told me that I had to be
22 insane wanting to go to trial, how do I think I'm
23 going to win at trial? Let him how know I'm going
24 to win.

25 Q. There was some testing done, some

1 forensic testing done in your case; is that right?

2 A. Yes.

3 Q. And that testing showed that according
4 to the statements you had one gun and a
5 co-defendant had another gun; that's what the State
6 said? The State also said that the bullets fired
7 from the gun that they said you had were not the
8 ones that actually struck anybody. Did you and Mr.
9 Mellard discuss that?

10 A. Yes, we discussed that.

11 Q. What did y'all talk about?

12 A. I mean that was it, was clearly pointed
13 out that was true because my co-defendant, my
14 co-defendant said with the type of gun I had and
15 what type of gun he had and admitted to firing,
16 having possession of the gun. So they know
17 everything that was going on, but we talked about
18 it. That's one of the reasons why I wanted to go
19 to trial.

20 Q. Okay. That's the reason you wanted to
21 go to trial or one of the reasons?

22 A. That's one of the reasons.

23 Q. Okay. What changed?

24 A. I mean I had no knowledge of the law or
25 what was really going on. And from what he was

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1 telling me, discouraged me from going to trial,
2 basically thinking that the 30 was better, you
3 know. He told me that how do I think I'm going to
4 win at trial, let him know how I think I'm going to
5 win at trial. I got to be insane. Basically like
6 I was in a lose/lose situation.

7 Q. Let me ask you this: Did y'all discuss
8 the procedures that would take place if you went to
9 trial?

10 A. All he pointed out was that 30 sounds
11 way better. If I go to trial I wouldn't get no
12 less than 50.

13 Q. Did y'all discuss what would happen
14 like a situation like today? What would happen if
15 you actually went to trial, who would stand where,
16 what things would take place?

17 A. Basically he was saying that I would
18 basically be found guilty. There's no way I could
19 get around it.

20 Q. Did you and he talk about your
21 constitutional rights?

22 A. We discussed -- we discuss as far as
23 like the plea I took was negotiated, but I really
24 didn't understand what it was. And like I said, I
25 was scared under the pressure that I was not to

1 pursue the trial, that's what we talked about.

2 Q. Did you talk to your family about
3 deciding to plead guilty?

4 A. Actually he had a meeting with my
5 family once when I wanted to go to trial and
6 persuaded them to also persuade me not to go to
7 trial and so they thinking just as I was thinking
8 like he know best because this is his profession,
9 this is what he do. So you know what I'm saying?
10 My people was begging me not to go to trial, too.

11 Q. But the whole time you are still saying
12 you wanted to go to trial?

13 A. At that time, yeah.

14 Q. Then what changed where you decided you
15 didn't want to go to trial and why did it change?

16 A. Like I told you, he made a statement to
17 me and I seen that I don't know the law. I don't
18 know nothing about it. I ain't got nobody to
19 really going to fight for me and he tell me how do
20 I think I'm going to win at trial.

21 Q. Were you -- did you not feel that he
22 had your best interests at heart?

23 A. Yeah, that's how I felt.

24 Q. Okay. Were you scared to go to trial
25 with someone that is not on your side?

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1 A. Yeah.

2 Q. Did that influence your decision to
3 plead guilty?

4 A. Yes.

5 Q. If that hadn't been the case would you
6 have still plead guilty or would you have gone to
7 trial?

8 A. If I had somebody that was on my side
9 then I would have knew, I would have been informed
10 about the law and potentially what's really going
11 on. I would have encouraged to go with my wishes
12 to go to trial.

13 Q. Did y'all discuss what's known as the
14 hand of one hand of all?

15 A. Yes.

16 Q. Did you understand those discussions?

17 A. I didn't know -- I didn't know nothing
18 about it at all.

19 Q. Did you ask Mr. Mellard how it wasn't
20 the shots that you fired how would you be
21 convicted?

22 A. Yes, I was pointing things out to him
23 like how my co-defendant say that he had possession
24 of the .9 mm, possession of it and fired it and
25 only time the .9 mm was fired was to kill my

1 victim. So I'm -- I was there, I was pointing, I
2 was there, but I didn't do nothing to harm or try
3 to harm.

4 Q. Did you ask Mr. Mellard about that?

5 A. Yeah, that's one of the reasons why I
6 wanted to go to trial.

7 Q. What did he say when you asked him?

8 A. He was like -- I brought that up and
9 the fact that I was on -- that I wasn't on
10 medication and that I was a mental health patient
11 since earlier. He was like that wouldn't matter.

12 Q. Okay. Did y'all talk about your mental
13 health?

14 A. Never got into detail, he just said
15 that wouldn't matter.

16 Q. How long have you had mental health
17 treatment?

18 A. Since I was like three or four.

19 Q. Do you know what your diagnosis is?

20 A. On the streets -- it was on the streets
21 -- I took my negotiated plea they asked me about
22 it, I told them ADHD. They said that the only one?
23 It really wasn't the only one, but on the street I
24 was ADHD, anxiety, depression, but since I have
25 been incarcerated they diagnose me with paranoia,

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1 bipolar, schizophrenia, anxiety, depression and
2 ADHD.

3 Q. Does that ever any -- affect your
4 ability to understand conversations with people?

5 A. I suppose.

6 Q. Does that ever affect your ability to
7 understand what someone is saying to you?

8 A. I mean, yeah, not -- yeah, not being
9 like truly focused on.

10 Q. Sure. Did you -- did that affect any
11 of your conversations with Mr. Mellard?

12 A. I mean at that time of me being
13 released and catching my charge and me being -- I
14 wasn't on any medication during any of those times.

15 Q. So you weren't on your medication then?
16 Are you better when you are on your medication or
17 better when you are off your medication?

18 A. On medication.

19 Q. Did you and Mr. Mellard discuss yours
20 and every American's right to challenge the
21 evidence presented against you?

22 A. Like a preliminary hearing?

23 Q. At a trial. If you had gone to trial
24 and the State would have to present evidence, you
25 would have an opportunity to challenge that

1 evidence, did y'all discuss that was a right you
2 have, that you would have to waive that right to
3 plead guilty?

4 A. Yes.

5 Q. Did you understand that?

6 A. No, because it was just like only thing
7 that was going through my head was like his
8 statements of I wouldn't get no trial, wouldn't
9 even last that long, probably last two days. They
10 was going to find me guilty. I wouldn't get no
11 less than the 50.

12 Q. Is that one of the things that led
13 you --

14 A. My case -- I mean had a co-defendant.
15 I had a gun. They had guns. In my case I had
16 co-defendants saying I had this gun. He had his
17 gun, things like that.

18 Q. Are those the things that led you to
19 ultimately plead guilty?

20 A. Yeah.

21 Q. If you had understood your
22 conversations better would you have still pled
23 guilty or would you have gone to trial?

24 A. Trial.

25 MR. WALLER: No further questions.

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1 Please answer any questions Mr. Mitchell has.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. MITCHELL:

5 Q. Good morning, Mr. Fordham.

6 A. Good morning.

7 Q. So you knew that it was a negotiated
8 plea that you were pleading guilty to; is that
9 right?

10 A. Yes.

11 Q. And you understood that the judge was
12 set by those parameters, right, you were going to
13 get 30 years?

14 A. As far as negotiated plea? Yeah.

15 Q. Okay. So you gave a statement to
16 investigators; is that right?

17 A. Yeah.

18 Q. And you know -- you still admit that
19 you were there when this all happened, but you take
20 the position that you didn't fire the shot that
21 killed the victim, right?

22 A. Yes.

23 Q. So you had a .380?

24 A. Yes.

25 Q. So did you discuss the hand of one hand

1 of all with Mr. Mellard?

2 A. Yes.

3 Q. So he explained how you could be
4 convicted even if you had not fired the shot that
5 killed the victim?

6 A. (Indicating.)

7 Q. You pled guilty because that was your
8 best thing for you to do; that's what you were
9 thinking at the time?

10 A. Yes.

11 Q. That's after talking with Mr. Mellard
12 and all that, right?

13 A. Yes.

14 Q. Okay. If you were going to trial you
15 were going to risk getting a lot more time than
16 30 years, right?

17 A. Yes.

18 MR. MITCHELL: No further questions.

19 Thank you.

20 THE COURT: Any redirect?

21 MR. WALLER: Nothing further, Your
22 Honor.

23 THE COURT: You may step down, sir.
24 You may call your next witness.

25 MR. WALLER: No further witnesses from

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1 the Applicant.

2 THE COURT: Mr. Mitchell?

3 MR. MITCHELL: Your Honor, the State
4 calls Mr. Douglas Mellard.

5 THE CLERK: State your full name for
6 the record.

7 THE WITNESS: Douglas Robert Simmons
8 Mellard.

9 DOUGLAS MELLARD

10 who, after being first duly sworn, testified as
11 follows:

12 THE COURT: Your witness.

13 DIRECT EXAMINATION

14 BY MR. MITCHELL:

15 Q. Good morning, Mr. Mellard.

16 A. Good morning.

17 Q. How long have you been practicing law?

18 A. Since 1997.

19 Q. How much of that has been devoted to
20 criminal defense?

21 A. I started in 2005 with the public
22 defender's office.

23 Q. Okay. How did you become involved in
24 Mr. Fordham's case?

25 A. I was appointed as a public defender to

1 his case.

2 Q. And you had represented him before; is
3 that right?

4 A. If he says I did I did. I can't
5 remember off the top of my head.

6 Q. Okay. Were you familiar that he had a
7 YOA conviction for some kind of burglary?

8 A. Yes, I was.

9 Q. Okay. In your initial meeting with him
10 what did you review with him?

11 A. Well, I originally had scheduled a
12 meeting with him while he was in the county. That
13 was in September. When I went for the meeting I
14 was informed he was up in SCDC. So I originally
15 met with him, I travelled to Turbeville on January
16 31st, 2013. I met with him. I went over discovery
17 and charges and plea versus trial option. My notes
18 say that we talked about his written statement.
19 And this is what my notes say. "Defendant version
20 is his written statement. He says it's a hundred
21 percent true."

22 Q. So he had no qualms about the statement
23 he gave before you were involved in the case?

24 A. That's correct.

25 Q. What was the substance of that

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1 statement, if you recall?

2 A. Let's see. I think the basic gist of
3 it him and a group of people -- I think the
4 statement is I need some money, I'm about to get on
5 some ruthless stuff is what one of the persons
6 said. So they go and they are trying to rob
7 somebody is basically what they -- they decide they
8 are going to rob a few people. That doesn't work
9 out and I think they see a van. And at some point
10 they pull the van over. It's true that he was not
11 the person that actually fired the shot that killed
12 the woman in the car. I believe his statement said
13 he fired some shots at the tires of the vehicle.

14 Q. That's essentially the same what the
15 State was alleging; is that --

16 A. That's correct.

17 Q. -- correct. Okay. So you mentioned
18 the plea versus trial. What was your advice at
19 that point on what would be his in his best
20 interests?

21 A. Well, when I first meet with him I
22 don't tell him one way or the other. We just talk
23 about you can go to trial, you can have a plea,
24 that kind of stuff.

25 Q. So there was some -- were there

1 ballistics done on the case?

2 A. I believe so.

3 Q. That just confirmed his statement that
4 he had fired a certain gun, but not the one that
5 killed the victim?

6 A. I believe so.

7 Q. How did the plea offer come about?

8 A. Well, he originally wanted a trial. So
9 we always -- when we try cases we always double up.
10 So I got Breen Stevens on board. He was going to
11 help me try the case and we started getting ready
12 for trial. We met with his -- with him first of
13 all, talked about what the trial would be like.
14 Breen kind of let him know what the -- how a trial
15 goes, some of the problems we would have at the
16 trial, what he was looking at if he was found
17 guilty. He had no alibi. He had no witnesses. So
18 we started talking to him about that. We did meet
19 with him and his mother and I believe his father
20 and there's a preacher. I believe he was with the
21 NAACP. So we all sat down. We met with them. We
22 talked about it.

23 And then him and his mom, his dad and
24 the preacher, I think they discussed it and at some
25 point they decided -- he decided to plea guilty.

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1 Q. How did it work out that it would be
2 negotiated like that?

3 A. That was on the solicitor. I couldn't
4 get him to get it any lower. I couldn't get him to
5 drop it to voluntary or anything like that so we
6 went -- according to the solicitor it was a
7 negotiated plea. That's the lowest I could get him
8 so that is what we went with.

9 Q. So he made his decision to plead maybe
10 before you had met with Mr. Sorenson and knew
11 exactly the offer what he would be pleading to?

12 A. Right. We met, me and Mr. Stevens met
13 with him and his mom and dad and preacher, and then
14 I also met with him I think the next day. He still
15 wanted to plead to the negotiated 30. And so then
16 we did it.

17 Q. Did you have any questions about his
18 competency?

19 A. No. When we opened up the file we sent
20 off for his mental health records. It did show
21 that he was ADHA, but in speaking with him, I spoke
22 to him numerous times, in speaking with him I had
23 no concerns about his mental status.

24 Q. So he was able to engage in the
25 conversation?

1 A. He was.

2 Q. You thought he was able to understand
3 the advice and everything you were talking about?

4 A. He didn't necessarily like what we were
5 saying, but he understood what we were saying.

6 Q. Did you discuss hand of one hand of all
7 with him?

8 A. I discussed it. I also sent him a
9 letter. When I got the case I sent a letter to
10 him. He was up there in Turbeville, basically sets
11 out the elements of murder, sets out the elements
12 of attempted murder, he was charged with that, too.
13 And it sets out the elements of the hand of one and
14 the hand of all and it also talks about most
15 serious, serious offenses.

16 MR. MITCHELL: All right. I think
17 that's all the questions I have. Please answer
18 anything Mr. Waller has.

19 THE COURT: Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. WALLER:

22 Q. Mr. Mellard, when you met with Mr.
23 Fordham about how long did y'all meet each time?

24 A. Well, the first time I drove up to
25 Turbeville, and I don't have the exact amount of

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1 time that we met, but I do have that we went over
2 his discovery, we went over the charges, we went
3 over the plea versus trial options and we discussed
4 his written statement in detail. So I can't -- I
5 don't put times on these things.

6 I will tell you when me and Mr. Stevens
7 met with him I can tell you that was a long
8 meeting. Mr. Stevens did a lot of the talking.
9 Mr. Stevens goes into very much detail with things.

10 Q. And I believe you just testified that
11 you were aware that Mr. Fordham had ADHD, but you
12 didn't know about some of the other stuff. Were
13 you ever concerned about his attention span during
14 those meetings?

15 A. I never was. When we talked we were
16 focused on the topic. And that's what we talked
17 about. He understood.

18 Q. What conversations did y'all have that
19 changed his decision from trial to plea?

20 A. Well, we had talked in length about the
21 hand of one is the hand of all. We had talked
22 about the evidence. The fact he had no witnesses,
23 he had no alibi. He was wanting a trial. We were
24 getting ready for trial. I will say after we met
25 with his mom and dad and the preacher, he had time

1 to talk with them about it, I think that may have
2 kind of helped him understand because, you know,
3 people tend not to trust us too much sometimes.
4 But I will say after that meeting we met. I met
5 with him the next day and he was still on board
6 with the plea.

7 Q. Was a trial scheduled at this point?

8 A. I don't think that it was necessarily
9 scheduled as it's going to be Monday at a certain
10 time. But it was going to be the next one up I
11 think as far as the solicitor.

12 Q. How far along had your preparations
13 gotten?

14 A. I think we had started dividing the
15 case up. I can't tell you who was going to do what
16 or anything like that. But we had started talking
17 about that kind of stuff.

18 Q. If the case had been called would you
19 have been ready?

20 A. We would have been ready.

21 Q. Beg the Court's indulgence, please.

22 (Attorney confers with client.)

23 MR. WALLER: No further questions.

24 Thank you.

25 THE COURT: Any redirect?

1 MR. MITCHELL: Nothing further.

2 THE COURT: You may step down,

3 Mr. Mellard.

4 MR. MITCHELL: I have no further
5 witnesses.

6 THE COURT: Anything from either party
7 in summation?

8 MR. WALLER: Nothing from the
9 applicant, Your Honor.

10 MR. MITCHELL: Nothing, Your Honor.

11 THE COURT: I will take the time to
12 review the record and notify you of an opinion.

13 (These proceedings were concluded at
14 11:59 a.m., February 23, 2016, Dorchester County,
15 South Carolina.)
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1 CERTIFICATE OF REPORTER

2
3 I, Ruth C. Weese, Registered Diplomate
4 Reporter for the State of South Carolina at Large,
5 do hereby certify that the foregoing transcript is
6 a true, accurate, and complete record.

7 I further certify that I am neither related
8 to nor counsel for any party to the cause pending
9 or interested in the events thereof.

10 Witness my hand, I have hereunto affixed my
11 official seal this 28th day of July, 2016 at
12 Charleston, Charleston County, South Carolina.

13
14 *Ruth C. Weese*

15 _____
16 Ruth C. Weese
17 Registered Diplomate
18 Reporter
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Deshaun Jamel Fordham, #342917,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

2014-CP-38-00810

ORDER OF DISMISSAL
TRUE COPY

Wingya B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed July 3, 2014. Respondent made its Return on February 23, 2015, requesting an evidentiary hearing be convened. Jonathan D. Waller, Esquire, was appointed by the Orangeburg County Clerk's Office to represent Applicant. An evidentiary hearing was held on February 23, 2016, at the Dorchester County Courthouse. Applicant was present and represented by Counsel Waller. J. Clayton Mitchell, Esquire, 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, R. Douglas Mellard, Esquire. 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 incarcerated with the South Carolina Department of Corrections pursuant to the Orangeburg County Clerk of Court's orders of commitment. The Orangeburg County Grand Jury indicted Applicant at the November 2012 term of General Sessions for Murder (2012-GS-38-1413), Attempted Murder (2012-GS-38-1415), and Possession of a

Weapon During the Commission of a Violent Crime (2012-GS-38-01414). Counsel Mellard, represented Applicant.

On February 27, 2014, Applicant pleaded guilty pursuant to a negotiated plea deal. The Honorable Edgar W. Dickson accepted the parties' negotiations and sentenced Applicant to thirty (30) years imprisonment for both the Murder and Attempted Murder charges. The Possession of a Weapon During the Commission of a Violent Crimes charge was *nolle prossed*. Applicant did not appeal his plea or sentences.

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

1. Involuntary and unintelligent guilty plea in that Counsel failed to review the evidence in the case.
2. Ineffective assistance of Counsel in failing to have Applicant evaluated for competency.

II. 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).

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

Applicant claims he did not plead guilty knowingly and voluntarily. This Court finds this contention meritless. The Court finds the record reflects Applicant was fully advised of the State's evidence. The plea court's thorough colloquy with Applicant demonstrates that he understood the charges, penalties, and his waiver of rights. Applicant testified that Counsel was not prepared to take the case to trial. 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 very credible Counsel's testimony regarding his preparation and advice concerning the case, specifically that he reviewed the evidence with

Applicant and discussed with him that he was likely to be convicted if he proceeded to trial. The record further reflects Applicant fully admitted his guilt to the plea court. Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, ^{voluntarily} ~~voluntary~~, and intelligently made.

Ineffective Assistance of Counsel

Applicant also alleges Counsel was ineffective in failing to investigate his competency and whether he had a defense as to identity if he proceeded to trial.

This Court finds Applicant failed to meet his burden to prove that counsel's performance was either deficient or ineffective for failing to investigate Applicant's competency. "Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (internal citations omitted). ^{The Court finds Counsel's} ~~In light of Counsel's credible~~ testimony that he had no concerns with Applicant's competency because he was able to understand and effectively communicate with him. ^{credible} Applicant has produced no reliable testimony that would diminish his culpability on the charges. Notably, this allegation rests entirely on speculation because no records were produced at the hearing. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) ("failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result.").

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.

IV. CONCLUSION

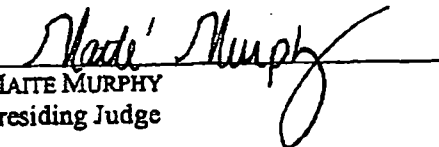
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate ^{counsel's} ~~counsel's~~ performance was unreasonable under prevailing professional 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), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED 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 23 day of May, 2016.


 MAITE MURPHY
 Presiding Judge

St. George, South Carolina

WITNESSES

Riley Godwin

Orangeburg County Sheriff

ARREST WARRANT NUMBER

M807226

Arrested: June 25, 2012

ACTION OF GRAND JURY

TRUE BILL

Car H...

NOV 07 2012

Foreperson of Grand Jury

Date: November 7, 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012GS38-1413

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

November 5, 2012 TERM

THE STATE

vs.

Deshaun Jamel Fordham

Indictment for

MURDER

ATTEST: TRUE COPY

Winnif B. Clark

CLERK OF COURT

ORANGEBURG COUNTY, SC

SC Code: 16-3-10

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

72
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
Winnif B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC
2012 NOV 7 AM 11:54

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

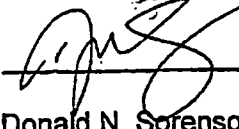
INDICTMENT
2012GS38-1413

At a Court of General Sessions, convened on November 5, 2012 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about June 21, 2012, with malice aforethought, the defendant, Deshaun Jamel Fordham did kill one K█████ Mack by means of shooting the victim with a gun. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, 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

Orangeburg

STATE 74

VS.

Deshaun Jamel Fordham

AKA:

Race: BLACK Sex: M Age: 20

DOB: 1993 SS#: [REDACTED]

Address:

City, State, Zip: Orangeburg, SC 29115-6336

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS38-1413

A/W#: M807226

Date of Offense: 6/21/2012

S.C. Code § : 16-3-10

CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 7512 * [Signature] 13521
Sorenson, Donald N. SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 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: 2/27/14
☒ 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 ☐ True Copy ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Winnifred B. Clark Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. or Job Corp. Recipiant: ORANGEBURG COUNTY, SC May serve W/E beginning *Fine: Substance Abuse Counseling ☐§ 14-1-206 (Assessments 107.5 %) \$ Random Drug/Alcohol testing ☐§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal, consecutive weekly/monthly§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ pmts. of \$ beginning § 56-5-2995 (DUI Assessment) \$12 \$ \$ paid to Public Defender Fund§ 56-1-286 (DUI Breath Test) \$25 \$ Other: Proviso 47.9 (Public Def/Prob) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§ 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-114(BUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90Clerk of Court/ Deputy Clerk V. VlesCourt Reporter: Bethanie Patterson

SCCA/217 (03/2011)

Presiding Judge [Signature]Judge Code: 2153Sentence Date: 2/27/14

WITNESSES

Riley Godwin

Orangeburg County Sheriff

ARREST WARRANT NUMBER
M807229

Arrested: June 25, 2012

ACTION **TRUE BILL**

Date NOV 07 2012

Foreperson of Grand Jury
Date: November 7, 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012GS38-1415

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

November 5, 2012 TERM

THE STATE
vs.

Deshaun Jamel Fordham

Indictment for

ATTEMPTED MURDER

ATTEST: TRUE COPY

Winnif B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

SC Code: 16-3-29

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

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
Winnif B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

2012 NOV -7 05:11:54

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

INDICTMENT
2012GS38-1415

At a Court of General Sessions, convened on November 5, 2012 the Grand Jurors of Orangeburg County present upon their oath:

ATTEMPTED MURDER

That in Orangeburg County, South Carolina, on or about June 21, 2012, the Defendant, Deshaun Jamel Fordham, did with intent to kill, attempt to kill Travis Felder, with malice aforethought, either express or implied, by means of shooting a gun at the victim, this offense in violation of Section 16-3-29 of the South Carolina Code of Laws, 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

ORANGEBURG COUNTY
CLERK
JAN 11 2013
ALICE L. TRUCCO

STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg
STATE VS.Deshaun Jamel Fordham

AKA:

Race: BLACK Sex: M Age: 20DOB: -1993 SS#: Address: City, State, Zip: Orangeburg, SC 29115-6336DL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Attempted Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS38-1415 77A/W#: M807229Date of Offense: 6/21/2012S.C. Code §: 16-3-29CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-3-29 of the S.C. Code of Laws, bearing CDR Code # 3410☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Sorenson, Donald N9512
SC Bar#DefendantAttorney for Defendant13521
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: 2/27/14☒ 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:

Payment Terms:

☐ Set by SCDPPPS

Recipient:

CLERK OF COURT

ORANGEBURG COUNTY, SC

*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	\$	100.00
\$100	\$	
\$12	\$	
\$25	\$	
\$500	\$	
\$25	\$	25.00
\$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

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2153

Sentence Date:

2/27/14