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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Clarendon County

Honorable Jocelyn J. Newman, Circuit Court Judge  
\_\_\_\_\_

LERON DINGLE,

PETITIONER

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-000113  
\_\_\_\_\_

APPENDIX  
\_\_\_\_\_

LAURA R. BAER  
Appellate Defender

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Attorney General

South Carolina Commission on Indigent  
Defense  
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ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

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1 State of South Carolina

2 County of Clarendon

3

4

5 Leron Dingle,  
6 Plaintiff

Guilty Plea  
2013-GS-14-00166

7 vs.

8

9

10 The State of South Carolina  
11 Defendants

September 17, 2014  
Manning, S.C.

12

13 Before the Honorable DeAndrea G. Benjamin,

14 Judge.

15

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

17 Mr. Charles D. Barr,  
18 Attorney for Plaintiff

19 Mr. Christopher Durant,  
20 Assistant Solicitor for the State

21

Margaret T. Sullivan,  
Court Reporter

22

23

24

25

1 THE COURT: Yes, sir.

2 MR. DURANT: Thank, Your Honor. Your  
3 Honor has been informed during the break that  
4 Mr. Dingle has indicated he wishes to plead guilty  
5 to the offenses in the indictment. That's  
6 Indictment No. 2013-GS-14-166. He's pleading  
7 guilty as charged burglary first degree, murder,  
8 two counts of attempted murder and armed robbery,  
9 possession of a weapon during the commission of a  
10 violent crime. The State has committed a 30-year  
11 sentence for Mr. Dingle at this time.

12 THE COURT: And is that correct, Mr. Barr?

13 MR. BARR: Yes, ma'am.

14 THE COURT: And have you explained to your  
15 client the charges contained in the indictments,  
16 the possible punishment and his constitutional  
17 rights?

18 MR. BARR: Yes, ma'am, I have.

19 THE COURT: And how does he wish to plea?

20 MR. BARR: He wishes to plead guilty,  
21 Judge.

22 THE COURT: And do you agree with his  
23 decision to plead guilty?

24 MR. BARR: Under the circumstances of the  
25 case I do, Your Honor.

1 THE COURT: Let me get you to stand up,  
2 Mr. Dingle.

3 (Whereupon, the Defendant is sworn.)

4 THE COURT: You want to stand over here?

5 MR. FINNEY: Come to the mike. Leave the  
6 mike.

7 THE COURT: So she can hear. Mr. Dingle,  
8 how old are you? Well let me ask you this, sir,  
9 is that correct, that you wish to plead guilty to  
10 murder, two counts of attempted murder, burglary  
11 first degree, armed robbery, and possession of a  
12 weapon during the commission of a violent crime.  
13 Is that correct?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And how old are you, sir?

16 THE DEFENDANT: I am 20 years old.

17 THE COURT: 20?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And how far did you go in  
20 school?

21 THE DEFENDANT: Two years of college.

22 THE COURT: And what type of work do you  
23 do?

24 THE DEFENDANT: Landscaping before I got  
25 locked up.

1 THE COURT: And how long have you been in  
2 jail?

3 THE DEFENDANT: 18 months.

4 THE COURT: Since April.

5 MR. DURANT: 14th, Your Honor.

6 THE COURT: April 14th. Are you on  
7 probation or parole?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Who do you live with?

10 THE DEFENDANT: I stay with my mama.

11 THE COURT: Your mother?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Could I get you to pull the  
14 microphone up a little, Mr. Barr, so I can hear.  
15 That air-conditioner is running hard. You live  
16 with your, you said your mother. And within the  
17 last 24 hours have you taken any medication, drugs  
18 or alcohol?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Listen closely to the  
21 solicitor as he states the facts.

22 MR. DURANT: Your Honor, of course, you've  
23 heard some of the facts in this case. Two of the  
24 surviving victims testified that they were at the  
25 residence of the deceased victim Akiame Cousar, on

1 the night of April 13th 2013; that several guns  
2 had opened fire outside of the residence. And  
3 they came inside demanding drugs and or money from  
4 the deceased victim stating where's it at, several  
5 times.

6 One of the surviving victims,  
7 Mr. Blanding, was struck by gunfire as he opened  
8 the door to leave the residence when the first  
9 shots were fired outside. The deceased victim  
10 Mr. Cousar, was shot several times in the upper  
11 chest and right leg. He was found underneath a  
12 kitchen cabinet. His pants had been removed.  
13 Later testimony in this trial would have revealed  
14 that the pants pocket -- the pockets of his jeans,  
15 which were on the kitchen floor, had been turned  
16 out.

17 Later testimony would have also revealed  
18 that upon a search of Mr. Dingle's vehicle, which  
19 testimony would have revealed was used in this, in  
20 the commission of these crimes; that there were  
21 several items belonging to a co-defendant  
22 Mr. Nivens in the back of that vehicle; including,  
23 a ski mask and a toboggan with holes cut out for  
24 the eyes. And that matched Mr. Nivens DNA. There  
25 was also blood in the back seat, and several other

1 items. Of course, the blood in the inside of the  
2 front of the residence, which Your Honor has seen  
3 the pictures of, matched the co-defendant  
4 Mr. Nivens' DNA.

5 Sled crime scene responded, and they  
6 collected several -- a multitude of spent shell  
7 casings from 3 different weapons, a 9 millimeter,  
8 a 380 caliber handgun, and a 40 caliber handgun.  
9 Of course one of the surviving victims has  
10 testified that that 40 caliber belonged to the  
11 deceased victim. And believed he used it to  
12 defend himself. Testimony from Sled Crime Scene  
13 would have revealed that Mr. Dingle's fingerprints  
14 were found outside on Mr. Riley's BMW that was  
15 parked in front of the residence. And of course,  
16 Your Honor, we had a co-defendant which was  
17 expected to testify in this case as well.

18 THE COURT: Sir, you've heard the facts as  
19 alleged by the solicitor. Do you agree with the  
20 facts as stated?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And is that what you are  
23 pleading guilty to?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And do you have any -- is

1 there anything that you dispute in those facts?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Sir, you understand that  
4 murder carries between 30 and life; that  
5 attempted murder carries up to 30 years. And  
6 that's two counts. So that 60 years. The  
7 burglary carries 15 to life. Armed robbery  
8 carries 10 to 30 years. And the possession of a  
9 weapon during the commission of a violent crime  
10 carries 5 years. You understand, and I understand  
11 it's a negotiated sentence. You understand though  
12 that the overall sentences, you could be looking  
13 at two life sentences, 30, 60, 90. Two life  
14 sentences and 95 years. You understand that, sir?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Knowing that you still wish to  
17 plead guilty?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: You understand on the murder  
20 charge that it is day for day. You understand  
21 that, 30 years day for day. You understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Knowing that you still wish to  
24 plead guilty?

25 THE DEFENDANT: Yes, ma'am.

1           THE COURT: You understand that these are  
2           classified as violent, most serious offenses.  
3           Meaning under our two strike law, if you were to  
4           get another offense that is classified as a most  
5           serious offense; that the State could move before  
6           the court for life without parole. You understand  
7           that.

8           THE DEFENDANT: Yes, ma'am.

9           THE COURT: And you understand the  
10          classification of violent. You understand that.

11          THE DEFENDANT: Yes, ma'am.

12          THE COURT: Knowing that, you still wish  
13          to plead guilty.

14          THE COURT: Yes, ma'am.

15          THE COURT: Do you understand that when  
16          you plead guilty you give up certain important  
17          constitutional rights. You have the right to a  
18          jury trial, as you have already exercised that  
19          right. We have the jurors here. As you heard me  
20          state early, I have already informed them that you  
21          are presumed to be innocent until proven guilty by  
22          a jury of 12. That, sir, you do not have to  
23          testify. The burden is upon the State to prove  
24          you guilty beyond a reasonable doubt. If you gave  
25          any incriminating statements, you have the right

1 to challenge the admission of those statements as  
2 your lawyer did.

3 Sir, if you -- you would have right to  
4 cross examine any witnesses against -- that  
5 testify against you, as your lawyer has done, and  
6 was prepared to do with other witnesses that came  
7 before the court. But by pleading guilty, sir,  
8 you give up the right, oh, and also, sir, if you  
9 decided not to testify, I would inform the jury  
10 that the could not hold that against you. You  
11 understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Knowing that, sir, knowing all  
14 of that, you wish to give up your rights to the  
15 jury trial and go forward with a guilty pleas  
16 today.

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: And, sir, is anyone forcing  
19 you to plead guilty today?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: And are you pleading guilty of  
22 your own free will?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And, sir, is anyone other than  
25 the offer from the State -- the offer of a

1 negotiated sentence, has anyone offered you  
2 anything in exchange for your guilty plea today?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: And, sir, you, has anyone  
5 coerced you?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Threatened you?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Your plea of guilty is freely  
10 and voluntarily, is that correct?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: You have been represented by  
13 Mr. Barr. Are you satisfied with his  
14 representation?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Do you need anymore time to  
17 speak with him?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: And have you met with him for  
20 as often as you feel it was necessary for him to  
21 properly represent you?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And has he done everything for  
24 you that you feel he could have done or should  
25 have done?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Are you completely satisfied  
3 with his representation?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And, Mr. Barr, do you have any  
6 concerns regarding his competency?

7 MR. BARR: No, ma'am, I don't have any  
8 concerns concerning his competency.

9 THE COURT: And in the negotiated  
10 sentence, sir, it's my understanding it is a  
11 negotiated sentence of 30 years to all run  
12 current. Is that your understanding also, sir?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And is that your  
15 understanding, Mr. Barr?

16 MR. BARR: Yes, ma'am.

17 THE COURT: And is that the negotiated  
18 sentence that you want me follow, sir?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And have you understood all of  
21 my questions?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And have you answered them  
24 truthfully?

25 THE DEFENDANT: Yes, ma'am.

1           THE COURT:  And is there -- the answers  
2           that you have given me have been your answers.  I  
3           know your attorney has advised you as to what I  
4           would ask.  But the answers you have given me  
5           today have been your answers, is that correct?

6           THE DEFENDANT:  Yes, ma'am.

7           THE COURT:  And is there anything you  
8           would like to ask me about what I've just gone  
9           over with you?

10          THE DEFENDANT:  No, ma'am.

11          THE COURT:  And you understand you have  
12          the right to appeal the guilty plea and sentence  
13          of this court within 10 days of today's date.  If  
14          you cannot afford an attorney for your appeal, an  
15          attorney will be appointed for you.  Do you  
16          understand that, sir?

17          THE DEFENDANT:  Yes, ma'am.

18          THE COURT:  I find that there is a  
19          substantial factual basis for this plea.  I also  
20          find that the defendant's decision to plead guilty  
21          is freely, voluntarily, knowingly and  
22          intelligently made.  That he is represented by  
23          counsel to whom he has indicated to me he is  
24          completely satisfied with.  I will accept your  
25          plea.  Prior record.

1 MR. DURANT: No prior record, Your Honor.

2 THE COURT: I will be glad to hear from  
3 the victims if they wish to speak at this time.

4 MR. FINNEY: Your Honor, the family, the  
5 mother and sister and brother are here. They  
6 have been here throughout the trial. They are not  
7 wanting to make a statement, but they do want you  
8 to know that they miss their loved one. Mr.  
9 Cousar was a new father. He had a two-year old  
10 daughter. She's two now. The baby was just a few  
11 months old at the time of this tragic shooting.  
12 And they appreciate the court's efforts in  
13 scheduling this matter, and getting this matter  
14 heard. They appreciate the lawyers on both sides  
15 putting this forward so that the whole case can be  
16 resolved today.

17 THE COURT: Thank you all for being here,  
18 and I sorry for your loss.

19 THE COURT: Yes, sir, Mr. Barr. I will be  
20 glad to hear from you.

21 MR. BARR: Your Honor, Mr. Dingle he has  
22 already indicated he is 20 years. I don't usually  
23 put myself out on a limb for a client. But  
24 Mr. Dingle was formerly represented by my brother  
25 Verdell. And from the very first time I met him,

1       there was something different about him. I've  
2       been trying cases a long time, but there was  
3       something different about him. Different from the  
4       usual kind of defendants that I am involved with.  
5       This young man, it's just unfortunate the way that  
6       he allowed his life to slide into this pattern of  
7       criminal conduct.

8               I think he probably started off getting  
9       high. Then he went from getting high to smoking  
10      reefer. And he went from smoking reefer to  
11      sticking up people to get money to smoke reefer.  
12      And he, when he went to the residence to where  
13      Mr. Cousar was, he knew that Mr. Cousar was in the  
14      business of selling cocaine. And they went there  
15      to get some money. Now in the past I think  
16      they've threatened a couple of people and they  
17      have been able to get money without having a  
18      shootout. Unfortunately this time they wound up  
19      having a shootout with the owner of the home.

20             And, Judge, I don't minimize the  
21      criminality of anything that Mr. Dingle has done.  
22      But he was not the shooter in this case. And as I  
23      have said, I have grown to have a special sense of  
24      affection for him, because he's always been  
25      truthful to me from the very first time I meet

1 him. He told me exactly what happened. I've  
2 tried my best to explain to him how especially the  
3 confession that you are about to see, he confesses  
4 to at least going in the residence with a weapon;  
5 going there with the intent to rob. And, Judge,  
6 as I've said, it's from one thing lead to another,  
7 lead to another and lead to another.

8 I don't usually -- and I don't usually give the  
9 solicitor's any compliments. But I'll certainly give  
10 Mr. Finney his just due in this case. And one thing he  
11 said in his opening statement that I've got to figure  
12 out some kind of way to fence it. But when you get a  
13 gun, and that's when you make up your mind that you  
14 might have to kill somebody. And otherwise, you don't  
15 get a gun. And if you listen to it, you can make a good  
16 argument out of that. And I'm just so sorry in this  
17 case, that these young men took it upon themselves to  
18 use a weapon. They don't go there to kill anybody. But  
19 it turned out that circumstances can change. And as  
20 circumstances change, then you have to modify your  
21 conduct and adjust accordingly.

22 And as I said, I do -- I do liably will hear  
23 some more of that. But in any event, that's part of the  
24 advocacy, and I admire that. Mr. Dingle's father is  
25 here. I'm not sure whether he wants to say a word to

1 the court. He's a fine man. Mr. Dingle, would you  
2 like to say anything?

3 MR. DINGLE: Yes, I'd like to say that I  
4 sympathize with the young man who lost his life, and his  
5 family. I sympathize. I just recognize a lot of things  
6 me and my wife and we made sure, we did provide and did  
7 all those things. But I'd like him to know personally,  
8 that I love him regardless of what happened. I'll stand  
9 by him. I can't change it. I love all of you all.  
10 That's it. That's just what I wanted to say. But you  
11 know putting a young man away for a long time, he won't  
12 have the opportunity like I had. This gentleman has an  
13 attempt to still be good in life.

14 THE COURT: Thank you.

15 MR. BARR: That's the defense's case.

16 THE COURT: On indictments 2013-GS-14-166,  
17 Count 1, for burglary first, sir, you will be sentenced  
18 to the State Department of Corrections for 30 years.  
19 Count 2, murder, you will be sentenced to the State  
20 Corrections for 30 years. On Count 3, attempted murder,  
21 you will be sentenced to the State Department of  
22 Corrections for 30 years. Count 4, attempted murder,  
23 you will be sentenced to the State Department of  
24 Corrections for 30 years. And armed robbery, Count 5,  
25 you will be sentenced to the State Department of

1 Corrections for 30 years. Possession of a weapon during  
2 the commission of a violent crime, you will be sentenced  
3 to the State Department of Corrections for 5 years. All  
4 sentences will run concurrent. You will be given credit  
5 for the 521 days that you have served.

6 Anything else from the State?

7 MR. FINNEY: Not from the State, Your Honor.

8 THE COURT: Anything from defense?

9 MR. BARR: No, ma'am.

10 THE COURT: Thank you, and good luck to you all.

11 Once again, I am sorry for your loss. And thank you,  
12 sir, for your comments.

13 -----End of Requested Transcript of Record---

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

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced on September 18, 2014, in the General Sessions Court for Clarendon County, Manning, South Carolina.

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

7.1.15  
DATE

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

FORM 5

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF HORRY )  
 )  
Leron Dingle 361404 )  
 Full name and prison number (if any) of Applicant. )  
 )  
 v. )  
 )  
 State of South Carolina )  
 )

2015-CP-14-275  
 IN THE COURT OF COMMON PLEAS

APPLICATION FOR  
 POST-CONVICTION RELIEF

BEULAH G. ROBERTS  
 CLERK OF COURT  
 CLARENCE COUNTY, SC  
 2015 MAY 27 AM 10:45

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Kirkland Reception & Evaluation Center
2. Name and location of Court which imposed sentence Circuit Court, Manning SC
3. Name(s) of co-defendant(s) (if any) Tony Wright, Raheem Nivens
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: I'm not sure but, these are my charges
  - (a) Murder, (2) att Murder, Arm Robbery, 1<sup>st</sup> degree Burglary
  - (b) possession of firearm during violent crime
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) Wednesday September 17, 2014
  - (b) 30 year negotiated plea

(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

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. N/A \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. N/A \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. N/A \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. N/A \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

(a) Being emotionally distressed, I didn't understand clear my options

(b) My lawyer didn't inform me of an "appeal" or "pcr."

(c) \_\_\_\_\_

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

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- 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. I wrote Court of appeal pertaining to file a "Reconsideration of Sentence" as well as "PCR"
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. Court of Appeals, Columbia SC
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (c) the disposition thereof:
  - i. I haven't received any information answering my request.
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

iv. \_\_\_\_\_

(d) the date of each such disposition:

i. Not sure but, I wrote letter to Court of Appeal in January,

ii. 2015

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. N/A

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?

N/A

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

(a) which grounds have been presented:

i. N/A

ii. \_\_\_\_\_

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

i. N/A

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) N/A

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

- your arraignment and plea? \_\_\_\_\_
- (b) your trial, if any? \_\_\_\_\_
- 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. (Charles Barr) 319 West Main Street, Kingstree SC 29556
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. Bond hearings, arraignment and plea, sentencing
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

\_\_\_\_\_

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

NO I am not

STATE OF SOUTH CAROLINA )  
 )  
County of Clarendon )

VERIFICATION

I, Leron Dingle, 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.

Leron Dingle

SWORN to and subscribed before me this 06  
day of may, 2015.

J. Franklin (L.S.)  
*Notary Public*

My Commission Expires: 12-16-2019

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

I, Leron Dingle, 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:

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

Leron Dingle  
Applicant

SWORN or affirmed to and subscribed before me this  
06 day of May, 2015.

J Franklin  
Notary Public

My Commission Expires: 12-16-2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON	)	FOR THE THIRD JUDICIAL CIRCUIT
	)	
Leron Dingle, #361404,	)	Case No. 2015-CP-14-275
	)	
Applicant,	)	
	)	
v.	)	<b>RETURN</b>
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Respondent, making its Return to the Application for Post-Conviction Relief filed May 27, 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 Clarendon County Clerk of Court. In July 2013, the Clarendon County Grand Jury indicted Applicant for Burglary, first degree, Murder, two counts of Attempted Murder, Armed Robbery, and Possession of a Weapon during the Commission of a Violent Crime (2013-GS-14-0166). Charles David Barr, Esquire, represented Applicant. On September 17, 2014, Applicant pled guilty as indicted Burglary, first degree, Murder, two counts of Attempted Murder, Armed Robbery, and Possession of a Weapon during the Commission of a Violent Crime. The Honorable DeAndrea G. Benjamin sentenced Applicant to a negotiated sentence of:

- thirty (30) years imprisonment for Burglary, first degree
- thirty years imprisonment for Murder
- thirty years imprisonment for the first count of Attempted Murder
- thirty years imprisonment for the second count of Attempted Murder

- thirty years imprisonment for Armed Robbery
- five (5) years imprisonment for Possession of a Weapon during the Commission of a Violent Crime

All sentences were to run concurrently. 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 Counsel
  - a. "My lawyer didn't inform me of an 'appeal' or 'pcr'"

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

## III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered

adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the 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.

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

V.

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

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Deputy Attorney General

DANIEL GOURLEY  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737

July 9, 2015

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CLARENDON )  
 )  
 )  
 )  
 LERON DINGLE, #361404, )  
 )  
 Applicant, )  
 )  
 vs )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 Respondent. )

---

IN THE COURT OF COMMON PLEAS

2015-CP-14-275

AFFIDAVIT OF SERVICE BY MAIL

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

**Helena Daphne Seamour, Esquire**  
**8847 Plowden Mill Rd.**  
**Alcolu, SC 29001**

DATED this 9<sup>th</sup> day of July, 2015.




Caroline Collins, Legal Assistant  
 For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	C/A NO: 2015-CP-14-275
	)	
Leron Dingle, #361404,	)	
	)	
Applicant,	)	
	)	<b>FIRST AMENDMENT TO PRIOR</b>
v.	)	<b>APPLICATION FOR PCR</b>
	)	
State of South Carolina,	)	
	)	
<u>Respondent.</u>	)	

The Applicant, at his request and through appointed counsel below, makes the following additional claim and amendment to his prior application for post-conviction relief filed May 27, 2015:

- 10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
  - (i) Involuntary guilty plea.

THE BOOZER LAW FIRM, LLC

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


February 22, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	C/A NO: 2015-CP-14-275
	)	
Leron Dingle, #361404,	)	
	)	
Applicant,	)	
	)	<b>AFFIDAVIT OF SERVICE</b>
v.	)	
	)	
State of South Carolina,	)	
	)	
<u>Respondent.</u>	)	

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

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

THE BOOZER LAW FIRM, LLC

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

Columbia, South Carolina  
February 22, 2016

State of South Carolina )  
County of Sumter )

In the Court of Common Pleas  
Third Judicial Circuit  
2015-CP-14-0275

Leron Dingle, )  
Applicant, )  
vs. )  
State of South Carolina, )  
Respondent. )  
\_\_\_\_\_ )

Transcript of Record

July 26, 2016  
Sumter, South Carolina

B E F O R E:

The Honorable Jocelyn Newman, Judge

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

Lance S. Boozer, Esquire  
Attorney for the Applicant

Julie A. Coleman, Esquire, Assistant Attorney General  
Attorney for the Respondent

Elizabeth B. Harris, CVR-M-CM  
Circuit Court Reporter

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I N D E X

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No Exhibits Introduced.

1 MS. COLEMAN: May it please the court?

2 THE COURT: Yes, ma'am.

3 MS. COLEMAN: This is *Leron Dingle vs. The State of*  
4 *South Carolina*, 2015-CP-14-275. Applicant is presently  
5 confined in the South Carolina Department of Corrections  
6 pursuant to orders of commitment of the Clarendon County  
7 Clerk of Court. In July of 2013, the Clarendon County  
8 Grand Jury indicted applicant for burglary first degree,  
9 murder, two counts of attempted murder, armed robbery, and  
10 possession of a weapon during the commission of a violent  
11 crime. Charles David Barr, Esquire, represented applicant.

12 On September 17, 2014, applicant pled guilty as  
13 indicted for burglary first, murder, two counts of  
14 attempted murder, armed robbery, possession of a weapon  
15 during the commission of a violent crime. The Honorable  
16 DeAndrea G. Benjamin sentenced the applicant to a  
17 negotiated sentence of thirty years' imprisonment for  
18 burglary first, thirty years' imprisonment for murder,  
19 thirty years' imprisonment for the first count of attempted  
20 murder, thirty years' imprisonment for the second count  
21 over of attempted murder, thirty years' imprisonment for  
22 armed robbery, and five years' imprisonment for possession  
23 of a weapon during the commission of a violent crime. All  
24 sentences were to run concurrently. Applicant did not  
25 appeal his plea or sentence.



L. DINGLE - DIRECT EXAMINATION BY MR. BOOZER

5

1 here today?

2 A. Yes, sir.

3 Q. All right, why is that? What are we doing here today?

4 A. We're here today because I, I want on the record, I'm  
5 stating that my lawyer was ineffective. I feel if it  
6 wasn't for his deficiency, I wouldn't have been deprived of  
7 a fair trial.

8 Q. Okay. Well, let's talk about that. You -- and along  
9 those lines, you obviously filed what's called an  
10 application for post-conviction relief.

11 A. Yes, sir.

12 Q. All right, and currently you're serving a thirty-year  
13 sentence for burglary, burglary first, murder, and armed  
14 robbery?

15 A. Yes, sir.

16 Q. All right, and do you understand that the only thing  
17 that this court can do for you today in most circumstances  
18 is grant you a new trial or belated direct appeal? Is that  
19 what you're requesting from this court?

20 A. Yes, sir.

21 Q. All right, and knowing that you could get a new trial,  
22 obviously going back to trial you could either be found not  
23 guilty -- of course if everything went terribly wrong for  
24 you at a trial, of course you could be found guilty by a  
25 jury and you could face more time than what you have left.

1 Do you understand that?

2 A. I understand that.

3 Q. And are you willing to take that risk by proceeding  
4 with your PCR?

5 A. Yes, sir.

6 Q. Okay. Now in your application, as you've heard the  
7 attorney general state, you've got an allegation that your  
8 lawyer didn't inform you of an appeal. Is that one of your  
9 allegations?

10 A. Yes, sir.

11 Q. And you want a belated appeal of your plea?

12 A. Say that again, sir?

13 Q. Yes, sir. Do you want the chance to file an appeal  
14 from the plea that you entered?

15 A. Yes, sir.

16 Q. Okay, and you've also alleged through an amendment  
17 that your plea was not voluntarily entered. Is that right?

18 A. Yes, sir.

19 Q. All right.

20 A. I agree with that, sir.

21 Q. Okay. Now, who represented you for your plea?

22 A. Mr. Charles Barr.

23 Q. All right. Was Mr. Barr your lawyer the entire time,  
24 or did you have another lawyer prior to Mr. Charles Barr?

25 A. Well, first his brother had my case and his brother

L. DINGLE - DIRECT EXAMINATION BY MR. BOOZER

7

1 passed away, and this was December of 2013, and he, he took  
2 over my case.

3 Q. All right. How many times had you met with his  
4 brother prior to him representing you?

5 A. I met with him twice. The first time I met with him,  
6 he was just letting me know that he, you now -- my, my, my  
7 family assigned him to my case and whatnot, and I was just  
8 asking him about his, his confidence, how well he feel  
9 about taking my case and whatnot. We probably spoke about  
10 -- not long, maybe about ten or fifteen minutes. He came  
11 to the county and he left.

12 And the second time was in September of 2013. He took  
13 me up for a bond hearing. I got denied, but that was the  
14 only reason why I went up for a bond, and he left and I  
15 didn't have any more words with him. I was told he passed  
16 away in December, and his brother, his brother took my case  
17 as of December 2013.

18 Q. All right. Did -- were, were they appointed to  
19 represent you or did you hire them?

20 A. My, my mother and dad hired them.

21 Q. Okay. How many times did you meet with Mr. Charles  
22 Barr prior to your plea?

23 A. Prior to my plea? Three times, three times. I met  
24 with him in -- this was January of 2014. It was the first  
25 time I ever see him, the first I ever spoke with him. He

1 was just telling me that he was taking my case, as well as  
2 he also told me that, you know, he, he knew my victim, Mr.  
3 Riley. He stated that my victim worked on his car once or  
4 twice, as well as his brother car once or twice, and we  
5 spoke about maybe twenty minutes, thirty minutes our first  
6 conversation. I asked him the same thing as well as I  
7 asked his brother: how, how confident do he feel in taking  
8 my case. He told me, you know, he got a 97 percent success  
9 rate of beating murder trials. He say he felt confident in  
10 it, and he say, you know, he was ready. I told him, I said  
11 okay.

12 And second time, second time I seen him was -- this  
13 was March. He took me up for a bond hearing as well. I  
14 got denied. We, we didn't had no type conversation. I  
15 just went up for the bond, you know. Got denied and I went  
16 back to the county.

17 Third time we spoke, this was in July. This was in  
18 July of 2014, and I was just asking him, you know, what,  
19 what, what was I looking at, what was I facing. He told  
20 me, you know, I was facing a lot of time. He said he was  
21 going to do everything in his favor, everything in his will  
22 to, to make me happy, you know, as well as the solicitor.  
23 He said was going to -- that's what he told me. That was  
24 that. That was that.

25 But -- and what I found funny, though, was that, like,

L. DINGLE - DIRECT EXAMINATION BY MR. BOOZER

9

1 I felt, I felt like he was unprepared in a lot of ways  
2 because during my time incarcerated in the county, I was  
3 sending him multiple letters. I was writing, you know,  
4 and, and he even told my mom and them that -- he said he  
5 don't take calls from inmates. I was calling and calling,  
6 writing letters. I never got answered back.

7 Q. What, what were you trying to ask him either through  
8 your letters or through your phone calls?

9 A. Basically the confidence in, in this trial. What are  
10 you doing to, you know, make, make sure because I -- he, he  
11 asked me at one point what, what, what am I willing to  
12 plead to. What am I willing to get out of this, and I told  
13 him, you know, ten to a twenty, somewhere between a ten to  
14 a twenty, and he was saying he was going to talk with Mr.  
15 Chris DuRant around that time, my solicitor. I never -- he  
16 never got back with me on that or anything of that nature.

17 Q. Okay. Do you know if he ever spoke or entered into  
18 any negotiations with the solicitor's office about any sort  
19 of sentence between ten and twenty years?

20 A. If he did, he didn't inform me.

21 Q. Let me ask you this. You then -- have you testified  
22 that you met with your lawyer three times?

23 A. Yes, sir.

24 Q. Okay. Each time, how long would the meeting last?

25 A. Like I said, first, the first conversation was maybe

1 about a twenty, thirty-minute conversation. Like I say, it  
2 basically we was just speaking on his confidence in the  
3 trial. We were speaking on, you know, personal aspects of  
4 life as well, you know? We wasn't only talking about the  
5 case. We was talking about our life as well, as I was  
6 saying. The second, second time I met with him, like I  
7 said, we went up for the bond in March. We didn't speak on  
8 the case or anything. We just went up for that, solely for  
9 that purpose, for a bond hearing. I got denied. Third  
10 time, I wasn't even expecting to see him. He came to the  
11 county to see someone else, but I asked the officer can he  
12 speak with him and ask him if it's okay if I have a word  
13 with him, and he said that would be fine, and that's why I  
14 spoke with him during that time, you know?

15 Q. Now, you actually started the trial in your case  
16 before your plea. Is that right?

17 A. Yes, sir, I did.

18 Q. All right. When did you start the trial?

19 A. That's another thing. I received a letter. This was,  
20 like, September, it was early September of 2014 telling me  
21 that I was going to be going to trial on the 3rd. That's  
22 the day after my birthday. I went to trial September 18th,  
23 know what I'm saying? That's a whole two, three weeks  
24 before he told me I was going to go. I felt he was  
25 unprepared. I wasn't even expecting to go. They just told

L. DINGLE - DIRECT EXAMINATION BY MR. BOOZER

11

1 me pack my stuff and took me to trial.

2 Q. Well, before your trial started, when was the last  
3 time you met with your lawyer before your trial started in  
4 September? When did the trial start?

5 A. The trial started September, in September.

6 Q. Okay. Before that trial started, when was the last  
7 time you met with him?

8 A. Like I said about July, June, July when he came to the  
9 county to see another, another individual incarcerated and  
10 I asked the officer to ask him would it be okay if I speak  
11 with him.

12 Q. Okay, and how did you become aware the trial would be  
13 coming up in September, or were you ---

14 A. I didn't know; I didn't know at all. Like I say, he  
15 informed me and I, I received a letter as well saying that  
16 I would be going to trial October 3rd. I'll never forget.  
17 It was the day after my birthday, October 3rd. I went to  
18 trial September 18th.

19 Q. All right.

20 A. That's two weeks before that.

21 Q. Prior to your trial and when you started the trial.

22 A. Yes, sir.

23 Q. What was your understanding of what your defense would  
24 be at trial?

25 A. He never really spoke with me on that. He never

1 really spoke with me on that.

2 Q. Well, did you discuss what your strategy would be at  
3 trial?

4 A. He, he never, he never, he never discussed that with  
5 me as well.

6 Q. Did you discuss with your attorney any of the evidence  
7 that was in the case?

8 A. Yeah. Yeah, we, we look at certain evidence in the  
9 case, yes, sir.

10 Q. And did you talk about, you know, either you  
11 testifying or any witnesses testifying on your behalf?

12 A. I didn't, no, sir.

13 Q. All right. Were there any plea offers before the  
14 trial?

15 A. Thirty years, yes, sir.

16 Q. When was that plea offer made?

17 A. That plea was in -- this was -- that was, that was  
18 early. That was, like, January, to be honest with you, our  
19 first visit. On our first exact visit, he was telling me  
20 the state put a plea out there of thirty.

21 Q. And your response to that was you declined it?

22 A. Declined it.

23 Q. Why? Why?

24 A. Because I feel, I feel for a person -- I never been in  
25 trouble, no prior history, you know? Never done nothing.

L. DINGLE - DIRECT EXAMINATION BY MR. BOOZER

13

1 I felt that was a lot of time for a person who never had a  
2 criminal history, you know, and I was just basically asking  
3 him to see if he could get something better than that. He  
4 told me he would. Like I told you a few minutes ago, he  
5 say he was going to speak with Mr. DuRant and see what was  
6 going to happen or what, what he can work out. He never  
7 came to me with anything.

8 Q. Now, obviously the trial was cut short because there  
9 was a plea entered, right?

10 A. Well, well, no. My -- Mr. Barr, he, he, he made a  
11 scary statement to me. It wasn't only just the statement.  
12 It was a certain few things in trial that, you know, scared  
13 me and allowed me to, to, to plea out.

14 Q. Okay. Well, explain what that is to the court.

15 A. First, first what it was is you know how they have,  
16 they have, like, pretrial motion? Like, I'm, I'm not quite  
17 sure what it is, but it's like they, they say certain  
18 things that they're going to accept and take out of the  
19 trial, and they had our interrogation tapes in there. So,  
20 in the interrogation tape I was speaking with the, the  
21 officer, whatnot, and he was telling me, you know, I was  
22 looking at life. And I told him I, I tell him that's a  
23 long time. Life is a long time, and he also, he, he  
24 questioned, he questioned me about another crime.

25 So, the judge of my trial, she told me, Ms. Benjamin,

1 she told me that she was going to exclude that part. He  
2 say he felt best that it went in. I was asking him why,  
3 you know what I'm saying? They're asking me about another  
4 crime. How is that best it's in it? If my, my jury going  
5 to be looking at this, how is that best because if they  
6 seen them question me of another crime, they might felt  
7 like, you know, maybe, maybe he, he's got a long of history  
8 of criminal activity. Just can't prove it or something,  
9 you know? I was asking him why would you want that part in  
10 there, as well as another thing that scared me.

11 When I was picking my jury, when I was picking my  
12 jury, it was a girl up there, Adrianna Kinard, know what  
13 I'm saying, I went to high school with her, whatnot, and we  
14 had a long history of me with her sister, you know? I had  
15 little altercations with her brother, little things like  
16 that. I told him, you know, I told him that. He said --  
17 he put her on the stand. I nudged him, like, no, don't put  
18 her up there. He went and put her up there. He say he  
19 felt that was best in my interest. He said he felt like  
20 she would be best in my interest. I don't see how.

21 Q. Okay. What else?

22 A. And as well as -- this was the third day of trial. I  
23 was in trial three days. My third day of trial, we went on  
24 a break or whatnot. So, we went on a break. He came, you  
25 know. He asked the officers to leave, say he want to talk

L. DINGLE - DIRECT EXAMINATION BY MR. BOOZER

15

1 to me one on one. So, when he spoke with me, he was  
2 saying, he asked me what you expect to get out of this  
3 trial, Mr. Dingle. I said I expect to get ten to twenty,  
4 then go home, but at least a ten to twenty. He told me, he  
5 say I just don't see that happening. He say he can see me  
6 convicted of first-degree burglary, and he say he could see  
7 me convicted of the armed robbery. He say he didn't see me  
8 getting nothing less than sixty. I was thinking of all the  
9 numbers you could have throw out, why the number sixty, you  
10 know? I felt like they was against me from the beginning.

11 And then another thing is it was when they was  
12 questioning my victims and whatnot, my victim made a  
13 statement in the interrogation tape, right, that he never  
14 seen no one. He said he was in the closet; he said he was  
15 in the closet. He was scared. He was hiding, He didn't  
16 see no one. So, in trial they put him on the stand. He  
17 made a statement, said that he seen two masked subjects  
18 over there with long hair, pistol, or whatever, you know,  
19 and I was asking him. I was asking my lawyer, Mr. Barr, to  
20 ask him why, you know what I'm saying, why would you say  
21 this at this time and you saying this at this time. The  
22 first time you claim you didn't see no one. Now you saying  
23 two people standing over you, and he, he, he never asked  
24 that question that I asked him to ask Mr. Riley.

25 Q. Let me, let me ask you this. Going back to where

1 you're alleging that your lawyer said he didn't see  
2 anything less than sixty years, was it at that point that  
3 you entered at plea?

4 A. Yes, sir.

5 Q. Okay. So, the trial stopped and you entered a plea?

6 A. Yes, sir. Well, well, no, not during that time. Not,  
7 not at that time. At that time, I really, I still was  
8 wanting to go through with it.

9 Q. Okay.

10 A. So, when we -- they started the trial back. I said we  
11 was on break at the time, so when we went back in the  
12 trial, he, he asked me again. He said are you sure you  
13 want to go all the way through with this. I told him yeah,  
14 I do, you know? So, the trial continued and then he  
15 stopped for a second, asked me again. He asked me, he say  
16 you sure you want to go through with this. I asked him how  
17 does he feel about beating this trial. He told me same  
18 thing he told me when we took a break. He said honestly,  
19 son, I see you convicted of two of these charges. I don't  
20 see, you know, me, we winning this trial.

21 So, I told him, I said go ahead, go ahead and talk to  
22 the solicitor, you know, and he spoke with the solicitor,  
23 whatever. He came back and spoke with me. He told me as  
24 well. He say he think that would be best in my interest,  
25 though, if I plea out because I did partake with writing a

L. DINGLE - DIRECT EXAMINATION BY MR. BOOZER

17

1 statement as well, you know? I did wrote a statement as  
2 well, and -- so, he told me that would be best if, if I was  
3 to plea out. He say he do believe that would be in the  
4 best of my interest because he don't see me getting nothing  
5 less than sixty. He told me I was facing ninety-five  
6 years.

7 Q. Well, how did you feel at that time hearing that?

8 A. Felt heartbroken. I felt like, no, I didn't want to  
9 plea out, but to a certain degree, him having the degree in  
10 law, I felt like his, his decision might be a little better  
11 than mine, you know?

12 Q. Well, why is it that you ultimately entered the plea?  
13 Why did you plead guilty?

14 A. Because like I said, him being my lawyer, he, he made  
15 the statement saying that he feel he cannot beat this  
16 trial. He told me it would be best in my interest if I  
17 plea, you know?

18 And another thing that scared me in my trial was you  
19 know how they give an opening statement, and my -- the  
20 solicitor who was over -- he, he wasn't over my case but  
21 Chip Finley [sic], or whatnot, he stated in the -- like I  
22 say, he did the opening arguments or the opening  
23 statements. He was saying how, you know, basically they  
24 wasn't here to prove whether I was the murderer or the  
25 gunman or not, but that they could prove I was at the scene

1 during the commission of this crime. You know what I'm  
2 saying? He was saying the hands of one is the hands of  
3 all.

4 Mr. Barr got up there with the opening statement about  
5 sin being first on earth. He made it seem to the jury that  
6 I'm guilty off the top when he said something like that,  
7 sin -- not -- no. He said that sin wasn't here first on  
8 earth. He said it was started in heaven. He gave up.  
9 I'll never forget that opening statement, you know? That I  
10 felt off the top like -- basically telling them, like, in  
11 so many words guilty.

12 Q. Let me ask you this. You know, you, you've alleged a  
13 number of things that Mr. Barr either was doing or was not  
14 doing that you feel like -- on your behalf prior to trial  
15 and at the trial.

16 A. Yes, sir.

17 Q. Do you feel that him not doing certain things that you  
18 thought he should have been doing, that that affected your  
19 decision to plead guilty?

20 A. Definitely. Definitely.

21 Q. Why?

22 A. I feel like that -- I feel as if he could have do a  
23 lot more. I feel as if he could have do a lot more.

24 Q. Now, do you remember the guilty plea?

25 A. And that's another thing. That's another thing.

L. DINGLE - DIRECT EXAMINATION BY MR. BOOZER

19

1 With, with my plea, I never knew it was mandatory sentence.  
2 He never told me that. He said thirty years. I was  
3 thinking eighty-five percent. That's twenty-five years,  
4 six months, you know? But, but he never, he never told me  
5 that it's thirty years for a mandatory day for day thirty  
6 years.

7 Q. Let me ask you this. Obviously there was a -- there's  
8 a plea transcript and in it there's certain questions that  
9 are asked of you at the plea.

10 A. Yes, sir.

11 Q. And the transcript would indicate that you stated to  
12 the court you were happy with your lawyer's services and  
13 that no one had threatened you to plead guilty.

14 A. Yes, sir.

15 Q. Do you know why it was that you gave those responses  
16 to the court?

17 A. Yes.

18 Q. Okay, and why is that?

19 A. I'm guessing so that if we was to have a case like  
20 here today, that I can say that I knew what I was doing  
21 basically, you know, but really I didn't. Really I didn't  
22 because being that -- understand that's a lot of emotional  
23 stress. You catch time, you know. I know anybody can't  
24 just say they know how that feel, you know, but that ain't  
25 a good feeling, know what I'm saying? A lot of things be

1 on your mind during that time. Be honest with you, thirty  
2 years feel that's over with. I got locked up eighteen  
3 years old, you know?

4 Q. Let me ask you this. Had Mr. Barr spent more time  
5 with you or discussed defenses to the case with you or had  
6 he, as you've alleged today, had he, you know, attempted to  
7 keep -- or, or not make statements that you allege he made  
8 about you and the crime, or had he not tried to exclude the  
9 juror that you allege you had some sort of relationship  
10 with the family, and the other actions that you feel like  
11 he was doing at trial, had he done or not done all that,  
12 would you have still plead guilty?

13 A. No, I wouldn't because if he would, if he would have  
14 never tell me that, if he would have never tell me it was  
15 best in my interest to plea out, or if he would have never  
16 mentioned the sixty years that I was -- he could really see  
17 me get, I would have finished my trial.

18 Q. After the plea, did you have any contact with Mr.  
19 Barr?

20 A. I tried. I, I, I was calling, sending letters about a  
21 PCR, appeal, about reconsideration of a sentence. I never  
22 got any of it. When I spoke with my mom and them and told  
23 them to contact him on my behalf, he told them that's not  
24 his job, you know? He told them that's not his job of --  
25 for him to do. He said I can do that on my own.

L. DINGLE - DIRECT EXAMINATION BY MR. BOOZER

21

1 Q. All right. Did you -- when you say reconsideration,  
2 reconsider the sentence, did you want him to file something  
3 so that you can try to get back before a judge so that they  
4 could reconsider the sentence that you received?

5 A. Yes, sir. Yes, sir. I, I was willing during that  
6 time, you know, to do any one of those, a PCR or, like I  
7 say, a reconsideration of a sentence, any one of them. I  
8 was, I was writing him, for him to file it, but I was also  
9 asking him to file which one he feel best on his interest.  
10 But like I say, he told me that that's not his job.

11 Q. So when you say whichever one was best, do you mean an  
12 appeal or a motion to reconsider?

13 A. Yes, sir.

14 Q. Okay, and neither one of those were filed?

15 A. Neither one of those filed.

16 Q. All right, and did you ever write either the Court of  
17 Appeals or Supreme Court about whether you had a pending  
18 appeal or anything like that?

19 A. I did, not a pending appeal, but I wrote them on the  
20 same thing, talking about a reconsideration of a sentence.  
21 I wrote them speaking on how my lawyer scared me in trial.  
22 I wrote them speaking on things of that nature.

23 Q. Okay, Mr. Dingle, apart from the allegations in your  
24 PCR application that we've been over.

25 A. Yes, sir.

L. DINGLE - DIRECT EXAMINATION / CROSS-EXAMINATION 22

1 Q. And apart from your testimony that you've entered here  
2 today, have we covered everything as it relates to your PCR  
3 or to representation or complaints you have against Mr.  
4 Barr's representation?

5 A. Can you repeat that again?

6 Q. Yes, sir. Today we're of course here for your PCR  
7 hearing.

8 A. Yes, sir.

9 Q. So, have we covered everything that's in your  
10 application and in your amendment?

11 A. Yes, sir.

12 Q. All right. Have we covered all the complaints you  
13 have against Mr. Barr or anything related to your trial or  
14 plea here for this court? Have we covered everything?

15 A. Yes, sir.

16 Q. Okay.

17 MR. BOOZER: I don't have any questions right now, but  
18 please answer any questions that Madame Attorney General  
19 may have.

20 WITNESS: Okay.

21 CROSS-EXAMINATION BY MS. COLEMAN:

22 Q. Hi, Mr. Dingle. How are you?

23 A. I'm doing fine. Yourself?

24 Q. Good. I'm doing fine. Thank you.

25 Do you recall reviewing discovery with your attorney?

L. DINGLE - CROSS-EXAMINATION BY MS. COLEMAN

23

1 Did he show you any of the evidence against you?

2 A. Like I said, we, we spoke on it. We spoke on certain  
3 evidence. As for him showing me, going through it, no, he  
4 never did that.

5 Q. Okay. Do you remember discussing any possible  
6 defenses with your attorney?

7 A. No, ma'am.

8 Q. Okay. Did you give him any witnesses or leads to  
9 investigate?

10 A. I didn't, no, ma'am.

11 Q. Do you remember at the plea hearing, do you recall  
12 waiving your constitutional rights, like your right to a  
13 jury trial and your right to remain silent?

14 A. Yes, I remember that. Yes, ma'am.

15 Q. Do you remember telling the plea judge that you were  
16 satisfied with your attorney's services?

17 A. Yes.

18 Q. And did you have any complaints about him at the time?

19 A. I didn't. I didn't, no, ma'am.

20 Q. Do you recall telling the judge that no one was  
21 promising or threatening you in order for you to plead  
22 guilty?

23 A. I do remember telling him that.

24 Q. Do you remember telling the plea judge that you wished  
25 to plead guilty?

1 A. Yes.

2 Q. Do you remember telling the plea judge that you were  
3 indeed guilty?

4 A. No, ma'am. No, ma'am.

5 MS. COLEMAN: Beg the court's indulgence.

6 BY MS. COLEMAN:

7 Q. Okay, do you recall agreeing with the facts presented  
8 by the state at your plea hearing?

9 A. Yes, ma'am.

10 Q. Do you recall the plea judge ask -- or telling you  
11 that you had ten days to file an appeal?

12 A. I don't remember that.

13 Q. Okay.

14 A. No, ma'am.

15 MS. COLEMAN: May I approach, Your Honor?

16 THE COURT: Yes.

17 BY MS. COLEMAN:

18 Q. If you'll look at page 12 of the plea transcript?

19 A. Yes.

20 Q. And if you would please read from line 11 right there?  
21 You can read that out loud, please.

22 A. It say:

23 The Court: And you understand you have the right  
24 to appeal the guilty plea and sentence of the  
25 court within ten days of today's date. If you

L. DINGLE - CROSS-EXAMINATION BY MS. COLEMAN

25

1 cannot afford an attorney for your appeal, an  
2 attorney will be appointed for you. Do you  
3 understand that, sir?

4 Defendant says: Yes, Your Honor.

5 Q. Thank you.

6 A. Yes.

7 Q. Did you ask your attorney for an appeal in this case?

8 A. Yes, ma'am.

9 Q. Okay.

10 A. Yes, ma'am, and it was before the ten days.

11 Q. Okay.

12 A. Definitely before the ten days. Wrote several times.

13 Q. Okay.

14 A. Like I said, I, I, I pled. I did that, but I did that  
15 only because I felt his words, his words were true and  
16 exact. He made me feel like it was the right thing to do,  
17 definitely. If it wasn't for him coming at me like that, I  
18 would have never pled out.

19 Q. Do you remember how many years you were facing if you  
20 have gone to trial?

21 A. He told me ninety-five years.

22 Q. And you got thirty years. Is that correct?

23 A. Yes, ma'am.

24 Q. So, you got a good deal by pleading, pleading guilty,  
25 correct?

1 A. I don't, I don't agree with that.

2 Q. Okay. Do you want to go back and face a trial on  
3 these charges and face ninety-five years?

4 A. I would. Yes, ma'am.

5 Q. Okay.

6 MS. COLEMAN: Thank you. No further questions.

7 WITNESS: Okay.

8 THE COURT: Anything further?

9 MR. BOOZER: No redirect, Your Honor.

10 THE COURT: All right, you can go sit back next to  
11 your lawyer.

12 WITNESS: Okay.

13 (THE WITNESS EXITS THE STAND.)

14 THE COURT: Any other witnesses, Mr. Boozer?

15 MR. BOOZER: Your Honor, one moment.

16 THE COURT: Sure.

17 (A PAUSE.)

18 MR. BOOZER: No other witness on behalf of the  
19 applicant.

20 THE COURT: All righty. Ms. Coleman.

21 MS. COLEMAN: The state calls Charles Barr.

22 CHARLES D. BARR, BEING DULY SWORN,  
23 TESTIFIES AS FOLLOWS:

24 BAILIFF: State your full name. Spell your last name  
25 for the record.

C. BARR - DIRECT EXAMINATION BY MS. COLEMAN

27

1 WITNESS: Charles David Barr, B-a-r-r.

2 DIRECT EXAMINATION BY MS. COLEMAN:

3 Q. Hi, Mr. Barr. Thank you for being here today. How  
4 are you?

5 A. I'm blessed.

6 Q. How long have you been practicing law?

7 A. Thirty-nine years, thirty-eight years.

8 Q. Do you recall whether you were appointed or retained  
9 in this case?

10 A. Retained.

11 Q. And the applicant testified your brother represented  
12 him first. Is that correct?

13 A. Verdell represented Mr. Dingle. He died in November  
14 2013. I sent Mr. Dingle a letter indicating that I had  
15 been appointed by the South Carolina Supreme Court. I also  
16 notified him that if he wanted to get another lawyer, he  
17 was welcome to do that, or if he wanted me to continue  
18 representing him, I would, I would accept representation.

19 Q. Okay. How many times did you meet with the applicant  
20 prior to his plea?

21 A. I, I met with him a number of times. I just don't  
22 recall the number of times. I met with him and his parents  
23 at the back of the courtroom.

24 Q. Okay. Would you say it's ---

25 A. We met numerous times.

1 Q. Okay. Would you say it's more than three times?

2 A. Yes, ma'am.

3 Q. Did you file any Rule 5 or Brady motions in this case?

4 A. Rule 5 was filed when I got involved in the case.

5 Q. Did you review discovery with the applicant?

6 A. We, we reviewed the discovery thoroughly, and I also  
7 reviewed it with his parents.

8 Q. Did you discuss the applicant's version of facts?

9 A. Yes, ma'am.

10 Q. And what were those, if you wouldn't -- would you just  
11 kind of tell us about those?

12 A. His version of the facts? Mr. Dingle and a couple of  
13 his buddies got together. They decided to rob some boys;  
14 they were going to stick them up for money and drugs. They  
15 shot their way in the house and shot their way out.  
16 Somebody got killed. Somehow this guy got -- had to go to  
17 the hospital or the morgue or wherever he went, but was a  
18 lot of shooting and there was just -- as, as far as what he  
19 told me or, or what I knew the facts to be, I knew that's  
20 what happened.

21 Q. Did you discuss any possible defenses with the  
22 applicant?

23 A. Yes, ma'am, I did. We, we started the trial.

24 Q. And what were your defenses?

25 A. What I wanted to do is -- and I don't remember all of

1 it. It's a bunch of stuff that after thirty-eight years  
2 they, they start running together. This case was one, I  
3 probably felt bad about this case worse than any other  
4 criminal trial that I've ever had because Mr. Dingle is a  
5 young man and he's, quite frankly, I think he's a good,  
6 he's a good, good fellow but he did the wrong thing.

7 Now if I'm not mistaken, I wasn't sure whether they  
8 could prove exactly who shot who. We thought about, we  
9 thought about arranging a -- an internal drug shootout  
10 where people got shot involving a drug transaction and Mr.  
11 Dingle and his group came along, but the dead fellow could  
12 have already been dead. We discussed all of that, but Mr.  
13 Dingle said he wanted ten to twenty years.

14 Well, guess what? I tried to get him ten to twenty  
15 years, but Chip Finney would not budge and he wanted all or  
16 nothing. I don't usually -- you seldom ever -- at least I  
17 seldom ever have a case, I don't think I've ever had one  
18 where a defendant had to take everything. I mean the  
19 burglary, the murder, the armed robbery, the attempted  
20 murder, but in this case it was either all or nothing. And  
21 in order to take advantage of the negotiated thirty years,  
22 that's what we, that's what we had to do.

23 Q. Okay. Did you discuss the elements of the charges  
24 with the applicant?

25 A. I discussed the elements of each one of the charges.

1 We went through them offenses by offenses and, and not only  
2 the elements but the factual circumstances surrounding what  
3 they could prove and what they probably could not prove.

4 Q. How would you describe the state's evidence against  
5 the applicant? Would you describe it as overwhelming?

6 A. It wasn't overwhelming. It was strong.

7 Q. Strong, okay, and can you briefly describe what some  
8 of that was?

9 A. Well, they had a fellow, one fellow, I believe, that  
10 was shut up in a closet who was, was probably the closest  
11 thing to an eyewitness. They had all given statements.  
12 Different ones had told different parts. The prosecutors  
13 were able to put it all together based on the statements  
14 that the individuals had given. I don't know that Mr.  
15 Dingle -- I can't remember exactly whether, whether or not  
16 he had given a statement or not, but the evidence in terms  
17 of what was coming in, in my opinion, under the hand of  
18 one, the hand of all was sufficient. We even looked at  
19 trying to determine whether or not they could actually  
20 prove that they aided or abetted each other insofar as the  
21 execution of the robbery, the break-in itself.

22 I'm not sure Mr. Dingle ever even went in the house.  
23 I don't think he -- he was shooting, if I'm not mistaken.  
24 And then again I, I, I, I don't remember who went in the  
25 house or -- but seems like the fellow that was in the house

C. BARR - DIRECT EXAMINATION BY MS. COLEMAN

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1 opened the door, and I believe that's how he got shot. He,  
2 when he opened the door, I think somebody, somebody in Mr.  
3 Dingle's group -- but clearly on the -- one of the central  
4 issues was the aiding and abetting because, I mean, that's  
5 where the hand of one, hand of all came in.

6 And as far as Mr. Dingle's criminality, if I'm not  
7 mistaken, I don't think he, I don't think he was a  
8 principal, but he was just with some bad fellows. And they  
9 got together to do the wrong thing, and they got caught.  
10 They killed somebody.

11 Q. Did the applicant give you any potential leads or  
12 witnesses to investigate?

13 A. Madame Attorney General, I, I investigated everything  
14 that I could, and Mr. Dingle was very, very cooperative.  
15 If I had to put him on a scale, he would probably be among  
16 one of the nicest persons I have ever defended over the  
17 years. He's a young man. He exercised some bad judgment  
18 under some circumstances that turned out very bad.

19 Q. Before the guilty plea, did you review the applicant's  
20 constitutional rights that he was waiving by pleading  
21 guilty?

22 A. We, we -- before the guilty plea, I counseled him. I  
23 also talked with his parents, and we discussed all of the  
24 ramifications of what he would be giving up in terms of  
25 potential sentence, as well as his right to -- he could

1 continue. We could have continued the trial. In my  
2 opinion, we would have lost, but Chip Finney was ready to  
3 go forward because he had a whole lot of stuff, and all he  
4 had to do was convict him on one or two of the most serious  
5 charges and that would have -- it would have defeated the  
6 purpose.

7 Q. So, did you believe that it was in his best interest  
8 to plead guilty?

9 A. I know it was in his best interest, and I, and I told  
10 him that. Under those circumstances -- of course before he  
11 went to jail and got with the jail house lawyers and all of  
12 this business that we're here for today, he understood that  
13 quite well. The family understood it. Everybody's  
14 forgotten that now.

15 Q. Did he ever tell you at the time that he didn't  
16 understand something?

17 A. No, ma'am.

18 Q. Whose decision was it to plead guilty ultimately?

19 A. It was his decision. You got a, you got a, you got a  
20 transcript of this plea.

21 Q. Did he ever indicate that he wanted to go to trial  
22 rather than plead?

23 A. If he had wanted to go to trial, I would have  
24 continued the trial and, and, and I would have loved to see  
25 him get the twenty years that he wanted. But under the

1 circumstances, the solicitor felt like they had -- they  
2 were going to treat, treat everybody, going to treat  
3 everybody alike. Mr. Dingle is not the only one that got  
4 thirty years. They all, all that was involved, they all  
5 got thirty years.

6 Q. Did Mr. Dingle ever ask you to file an appeal?

7 A. No, ma'am. If he had asked me to file an appeal in  
8 ten days of the day of his plea, I assure you it would have  
9 been filed.

10 MS. COLEMAN: Thank you. No further questions.

11 CROSS-EXAMINATION BY MR. BOOZER:

12 Q. Mr. Barr, just a couple of questions. Did you tell  
13 Mr. Dingle about your discussions with Mr. Finney, that he  
14 was not going to entertain the ten to twenty-year plea?

15 A. Probably. I'm sure I did. Those discussions, they  
16 started, they started even before trial. They continued  
17 even up til, until the time we decided, we decided that we  
18 needed to take -- everybody else, everybody else involved  
19 had taken the negotiated sentence, but Mr. Dingle and I,  
20 for what -- we, we decided we were going to push the  
21 envelope.

22 Q. Well, what ---

23 A. That's what we did.

24 Q. Well, was there one defendant that actually got twenty  
25 years?

1 A. They all got, you know, they all got a bunch of time.

2 Q. But Mr. Wright, do you recall a fellow, Tony Wright?

3 A. Is that the little light-skinned fellow?

4 Q. That I'm not sure of.

5 A. Well, there was one of them that ratted everybody out.

6 Q. Is he maybe the one that got twenty years?

7 A. I think he's the one that got -- first one in the  
8 trough is usually the one that usually gets the best deal.

9 Q. Was he going to testify at trial? Do ---

10 A. Yes, sir.

11 Q. --- you recall? Okay. Was that something that came  
12 up, though, pretty late in the game?

13 A. I can't remember when. I think we always knew because  
14 even when I saw him at the jail, I think we always knew  
15 that, that, that other -- the young boy was going to turn  
16 state's evidence.

17 Q. Do you recall Mr. Dingle indicating to you during the  
18 jury selection that he had had either some sort of  
19 relationship or interaction with either one of the jurors  
20 or one of the juror's family members? I think it was Ms.  
21 Kinard.

22 A. Listen. If, if -- even -- based on our research when,  
23 when I get a juror that I feel that that juror might be  
24 susceptible to listening to a case and make a decision  
25 based on the evidence and the law, if my client says I

C. BARR - CROSS-EXAMINATION BY MR. BOOZER

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1 don't want them, I'm not going to ever put a juror on a  
2 jury if the client says no. I don't care, I don't care  
3 what it -- if they say no, then that's, that's the decision  
4 that ultimately is left to the client, even if it's  
5 somebody that I like. And a lot of times they don't  
6 understand and wouldn't begin to understand the strategy of  
7 why you put certain people on a jury. But aside from  
8 *Batson* issues and all of that, I would not have put anybody  
9 on the jury that he said don't put on there.

10 Q. Did you and Mr. Dingle ever have any discussion about  
11 any psychological or mental concerns that he had?

12 A. I don't remember having anything with him. He's a  
13 very intelligent young man.

14 Q. Following the plea, did he ever -- to your knowledge,  
15 were you ever contacted to file either a motion to  
16 reconsider the sentence or an appeal?

17 A. I, I, I know that if I was asked either by him or by  
18 his family, his mother and father sitting right back in  
19 that courtroom. If I'm, if I'm not mistaken, I think that  
20 they visited my office. I can't exactly what we talked  
21 about, but if I was asked to file an appeal, I assure you I  
22 would have done it.

23 Q. Do you think that Mr. Dingle was aware of the amount  
24 or the percentage of time he would actually have to do on a  
25 thirty-year sentence?

1 A. Here is what I tell my clients. The calculation of  
2 the amount of time people are going to do is determined by  
3 the South Carolina Department of Corrections. I don't ever  
4 speculate on -- if, if, if they're not sure about what they  
5 want to do if it's a plea, then don't do the plea. But in  
6 terms of calculating time, I don't -- and I'm not familiar  
7 with all the rules that's used by the South Carolina  
8 Department of Corrections to calculate time. So, I don't  
9 represent to clients how much time you're going to do on  
10 whatever sentence.

11 MR. BOOZER: Court's indulgence, Your Honor.

12 (A PAUSE.)

13 BY MR. BOOZER:

14 Q. Mr. Barr, did you ever review with Mr. Dingle prior to  
15 trial or the plea, ultimately the plea any interrogation  
16 tapes or statements ---

17 A. Mr., Mr. ---

18 Q. --- with the defendant?

19 A. I provided Mr. Dingle and if, and if he -- I don't  
20 know whether he's still got them or not, but with copies.  
21 I'm talking about the written transcript of the transcribed  
22 statements of every potential witness that, that was  
23 discovered through the discovery process or any other  
24 witness. He, he got copies and he had an opportunity to  
25 review them. We talked about them. We discussed them, but

C. BARR - CROSS-EXAMINATION / REDIRECT EXAMINATION

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1 all of the, the, the statements of the people that were  
2 involved on both sides, starting with the one fellow that  
3 was left alive, and I think he hid in the bathroom. When  
4 the shooting lulled down, he sneaked out of the house and  
5 ran off somewhere. But his statement as well as everybody  
6 else's statement that was, that was still living, Mr.  
7 Dingle's got copies of them.

8 Q. How, how about ---

9 A. We talked about them.

10 Q. I'm sorry. How about video, video of any statements?

11 A. I did not. I don't remember seeing any video of any  
12 statements; I don't even remember there being any videos.

13 MR. BOOZER: Thank you, Mr. Barr. That's all the  
14 questions I have.

15 MS. COLEMAN: Just a couple more, Your Honor.

16 THE COURT: Yes, ma'am.

17 REDIRECT EXAMINATION BY MS. COLEMAN:

18 Q. Mr. Barr, Mr. Dingle implied during his testimony that  
19 maybe you had scared him or threatened him into pleading.  
20 Do you feel that you scared him into pleading guilty or  
21 threatened him unreasonably to plead guilty?

22 A. No, and that's ludicrous.

23 Q. Did Mr. Dingle ask you for advice on filing an  
24 application for post-conviction relief?

25 A. I don't recall him asking me any advice on -- I don't

1 usually counsel clients on -- I counsel them on the right  
2 to appeal, but they get enough counseling when they get to  
3 the jail house on the PCRs, but I don't, I don't think that  
4 I've got a responsibility to, to advise them of the nature  
5 of PCRs and, and...

6 Q. Right, and regardless of whether or not you advised  
7 him on PCR, he did file an application and he is here for  
8 his hearing today, correct?

9 A. Yes, ma'am.

10 MS. COLEMAN: Thank you very much. No further  
11 questions.

12 THE COURT: All right, thank you, Mr. Barr.

13 WITNESS: Thank you, Judge. Congratulations.

14 THE COURT: Thank you.

15 (THE WITNESS EXITS THE STAND.)

16 MS. COLEMAN: State has no further witnesses.

17 THE COURT: All right. Any argument, or does that  
18 conclude this case?

19 MR. BOOZER: That concludes this case, Your Honor.

20 THE COURT: All right, I'll let you know something.

21 --- END OF TRANSCRIPT OF RECORD ---

**CERTIFICATE**

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH 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 EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR CLARENDON COUNTY, SOUTH CAROLINA, ON THE 26TH DAY OF JULY, 2016.

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

/S/ELIZABETH B. HARRIS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

MAY 10TH, 2017

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON ) IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT

RECORDED  
2016 DEC 30 PM 3:59  
CLOCKED IN ERROR

Leron Dingle, #361404,

2015-CP-14-275

Applicant,

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

v.

**ORDER OF DISMISSAL**

State of South Carolina,

Respondent.

2017 JAN -6 PM 2:17

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 27, 2015. Respondent submitted its return on July 9, 2015. An evidentiary hearing was convened on July 26, 2016, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Lance Boozer, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. In July 2013, the Clarendon County Grand Jury indicted Applicant for Burglary, first degree, Murder, two counts of Attempted Murder, Armed Robbery, and Possession of a Weapon during the Commission of a Violent Crime (2013-GS-14-0166). Charles David Barr, Esquire, represented Applicant. On September 17, 2014, Applicant pled guilty as indicted Burglary, first degree, Murder, two counts of Attempted Murder, Armed Robbery, and Possession of a Weapon during the Commission of a Violent Crime. The Honorable DeAndrea G. Benjamin sentenced Applicant to a negotiated sentence of:

CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE

DATE 1/6/2017

*Bonnie H. Roberts*

CLERK OF COURT  
CLARENDON COUNTY, SC

- thirty (30) years' imprisonment for Burglary, first degree
- thirty years' imprisonment for Murder
- thirty years' imprisonment for the first count of Attempted Murder
- thirty years' imprisonment for the second count of Attempted Murder
- thirty years' imprisonment for Armed Robbery
- five (5) years' imprisonment for Possession of a Weapon during the Commission of a Violent Crime

All sentences were to run concurrently. Applicant did not appeal his plea or sentence.

### ALLEGATIONS

In his current application, Applicant alleges that he is being held in custody unlawfully based on the following allegations:

1. Ineffective assistance of counsel
  - a. "My lawyer didn't inform me of an 'appeal' or 'PCR'

Applicant filed an amended application on February 22, 2016, adding an additional allegation of an involuntary guilty plea.

### II. APPLICABLE LAW

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, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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, the 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 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 pleas, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart , 474 U.S. 52, 106 S.Ct. 366 (1985).

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

#### INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant raises an allegation arguing that Plea Counsel was ineffective in his representation surrounding his guilty plea. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). This Court finds that the testimony presented at the PCR

hearing satisfies neither prong of the Strickland test; Applicant can show neither ineffectiveness nor prejudice, thus these allegations should be denied and dismissed with prejudice.

At the hearing, Plea Counsel credibly testified that he met with Applicant more than three times prior to his plea. He stated that he reviewed discovery with Applicant and with his parents, and he discussed each element of the charges against him, as well as possible defenses. Plea Counsel stated that the State's evidence against Applicant was strong, and it included statements from several witnesses who were present. He testified that he investigated everything that he could in this case.

Plea Counsel testified that Applicant did not ask him to file an appeal on his behalf. He stated that, if Applicant or his family had asked him to file an appeal, he would have done so. Plea Counsel further stated that he did not recall discussing post-conviction relief with Applicant, but if Applicant had asked him for information on it, he would have advised him.

Based on this testimony, this Court finds that Plea Counsel's representation did not fall below the standard of reasonableness under professional norms set out in Strickland. Plea Counsel acted competently in Applicant's best interest throughout the course of his representation and went above and beyond what was required of him. Applicant has failed to prove that Plea Counsel was ineffective in any way. This Court further finds that Plea Counsel was not ineffective for failing to discuss an appeal of his guilty plea or post-conviction relief. Furthermore, this Court finds that Applicant cannot prove any prejudice from any alleged failure to discuss post-conviction relief because Applicant did, in fact, file a timely application for post-conviction relief and received a hearing to argue his allegations.

Because Applicant has failed to meet his burden in proving that Plea Counsel was ineffective and that his ineffectiveness prejudiced him, these allegations are denied and dismissed with prejudice.

#### INVOLUNTARY GUILTY PLEA

Applicant alleges that his guilty plea was entered involuntary. This claim is meritless and must be denied.

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).

At the evidentiary hearing, Applicant testified that he did not want to plead guilty, but that he was scared into it by Plea Counsel. He stated that Plea Counsel told him that he was facing a lot of time in prison if he were convicted at trial and that it was in his best interest to

plead. He stated that he felt heartbroken and he felt like he had to plead guilty because of Plea Counsel's actions.

Plea Counsel testified that he reviewed Applicant's constitutional rights with him and with his parents before the guilty plea and Applicant never told him that he did not understand anything. He stated that it was Applicant's decision to plead guilty.

This Court finds that the record reflects that Applicant was fully advised of the rights he was giving up by pleading guilty. 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 Plea Counsel's testimony that he advised Applicant of all facts and risks of pleading guilty and that it was Applicant's decision to plead. This Court finds that Applicant's plea was knowingly and intelligently entered. This Court finds that Applicant was not coerced and forced in any way to plead guilty, and he voluntarily chose to enter his plea.

The record reflects Applicant fully admitted his guilt to the plea court. "A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). Notably the South Carolina Supreme Court has held "[a] guilty plea represents a break in the chain of events which has preceded it in the criminal process." Id. (citations omitted). "When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." Id. (citing Rice, 401 S.C. at 332, 737 S.E.2d at 486). Therefore, this Court finds the plea

judge correctly found Applicant's plea was freely, voluntary, and intelligently made. Accordingly, this allegation must be denied and dismissed with prejudice.

#### ALL OTHER ALLEGATIONS

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

#### IV. CONCLUSION

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

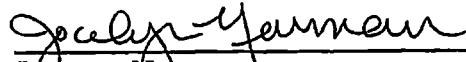
This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an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

*[signature block on following page]*

**IT IS THEREFORE ORDERED:**

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

**AND IT IS SO ORDERED** this 20<sup>th</sup> day of December, 2016.

  
\_\_\_\_\_  
JOCELYN NEWMAN  
Presiding Judge  
Third Judicial Circuit

Columbia, South Carolina

**WITNESSES**

B. R. Elms                      Clarendon County Sheriff

Kenneth Clark

**DOCKET NO. 2013-GS-14-0166**

**The State of South Carolina**

**County of CLARENDON**

**COURT OF GENERAL SESSIONS**

**July      TERM      2013**

**ARREST WARRANT NUMBERS**

2013A1410100034, 2013A1410100248,  
2013A1410100249, 2013A1410100262,  
2013A1410100263, 2013A1410100264  
2013A1410100033, 2013A1410100244,  
2013A1410100245, 2013A1410100256,  
2013A1410100257, 2013A1410100258  
2013A1410100035, 2013A1410100246,  
2013A1410100247, 2013A1410100259,  
2013A1410100260, 2013A1410100261

**THE STATE**

**vs.**

**LERON DINGLE**

**RAHEEM NIVENS**

**TONY WRIGHT**

**ACTION OF GRAND JURY**

*Larry B. Boyd*  
Foreperson of Grand Jury  
Date: *7-25-13*

**VERDICT**

*True Bill*

Foreperson of Petit Jury  
Date:

**Indictment for**

1. BURGLARY
2. MURDER
3. ATTEMPTED MURDER
4. ATTEMPTED MURDER
5. ARMED ROBBERY
6. POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

*Ernest A. Finney III*

**ERNEST A. FINNEY, III, SOLICITOR**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CLARENDON )

INDICTMENT FOR

1. BURGLARY, 1<sup>ST</sup> DEGREE
2. MURDER
3. ATTEMPTED MURDER
4. ATTEMPTED MURDER
5. ARMED ROBBERY
6. POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions convened on July 25, 2013, the Grand Jurors of CLARENDON County present upon their oath:

**COUNT ONE – BURGLARY, 1<sup>ST</sup> DEGREE**

That Leron Dingle, Raheem Nivens and Tony Wright did in Clarendon County on or about April 13, 2013 enter the dwelling of Akiame Cousar located at 2042 Kingstree Highway in Manning, without consent and with the intent to commit a crime therein and the entering or remaining in the dwelling occurred during the nighttime hours and/or when, in effecting entry or while in the dwelling or in immediate flight, the defendants were armed with a deadly weapon and/or displayed what was or appeared to be a firearm and/or caused physical injury to a non-participant in the crime, said acts being in violation of Section 16-11-0311(A), S.C. Code of Laws, (1976), as amended.

**COUNT TWO - MURDER**

That Leron Dingle, Raheem Nivens and Tony Wright did in Clarendon County, on or about April 13, 2013, at 2042 Kingstree Highway in Manning, willfully, feloniously, and intentionally kill the victim, Akiame Cousar, with malice aforethought, either express or implied, by means of shooting the victim with a firearm, said injuries then and there sustained being the proximate cause of the death of Akiame Cousar on or about April 13, 2013 in Clarendon County; said acts being in violation of Section 16-03-0010, S. C. Code of Laws (1976), as amended.

**COUNT THREE – ATTEMPTED MURDER**

That Leron Dingle, Raheem Nivens and Tony Wright did in Clarendon on or about April 13, 2013, with intent to kill, attempt to kill another person, namely, Brenton Blanding, with malice aforethought, either express or implied, by shooting at the victim with a firearm; said acts being in violation Section 16-3-0029, S.C. Code of Laws (1976), as amended.

**COUNT FOUR – ATTEMPTED MURDER**

That Leron Dingle, Raheem Nivens and Tony Wright did in Clarendon on or about April 13, 2013, with intent to kill, attempt to kill another person, namely, James Riley, Jr., with malice aforethought, either express or implied, by shooting at the victim with a firearm; said acts being in violation Section 16-3-0029, S.C. Code of Laws (1976), as amended

ARRO2

**COUNT FIVE – ARMED ROBBERY**

That on or about April 13, 2013, in Clarendon County, South Carolina, the Defendants, Leron Dingle, Raheem Nivens and Tony Wright did, at 2042 Kingstree Highway in Manning, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, to be armed while using a representation of a deadly weapon or other object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Akiame Cousar, with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A), S.C. Code of Laws (1976), as amended.

**COUNT SIX – POSSESSION OF A WEAPON**  
**DURING THE COMMISSION OF A VIOLENT CRIME**

That Leron Dingle, Raheem Nivens and Tony Wright, did in Clarendon County, on or about April 13, 2013, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws (1976) as amended.

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

Solicitor

