

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Anderson County

Carmen T. Mullen, Circuit Court Judge

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S.C. Supreme Court

JASON SANFORD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000410

APPENDIX

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

JOHN WALT WHITMIRE
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF ANDERSON) FOURTH JUDICIAL CIRCUIT

2012-GS-04-0968

State of South Carolina	)	
	)	
Plaintiff,	)	
	)	
v.	)	Transcript of Plea
	)	
Jason Sanford and Lorenzo	)	
Sullivan,	)	
	)	
Defendants.	)	
	)	

December 4, 2012
Anderson, South Carolina

B E F O R E:

The Honorable J.C. Maddox, Judge

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

Ms. Byford, Assistant Solicitor
Attorney for the State

Mr. Robinson, Esquire
For Mr. Sanford
Mr. Potts, Esquire
For Mr. Sullivan
Attorneys for the Defendants

Hilda M. Jordan, CVR
Circuit Court Reporter

I N D E XWITNESS/DESCRIPTIONPAGE NO.

Pleas

EXHIBITS:

No exhibits were marked to this proceeding.

Certificate of Court Reporter 30

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1 December 4, 2012

2 THE COURT: Thanks. Have a seat. Thank you for
3 waiting.

4 Okay, Ms. Byford, what do we have?

5 MS. BYFORD: Jason Sanford and Lorenzo Sullivan.

6 THE COURT: Are we doing them together.

7 MS. BYFORD: Yes sir. It's the same facts. I thought
8 it might be easier if that's okay with you.

9 THE COURT: Yes.

10 MS. BYFORD: Lorenzo Sullivan is first.

11 Your Honor may it please the Court. First is
12 indictment 2012-GS-04-0991, Lorenzo Sullivan pleading guilty
13 to Murder, and 2012-GS-04-0968, Jason Sanford, also pleading
14 guilty to murder. Refer to your recommendations.

15 THE COURT: 30 years.

16 MS. BYFORD: Yes, sir.

17 THE COURT: Okay.

18 You're Mr. Sullivan?

19 MR. SULLIVAN: Yes, sir.

20 THE COURT: And you're Mr. Sanford; is that correct?

21 MR. SANFORD: Yes, sir.

22 THE COURT: Okay. What I'm going to ask you some
23 questions. She's taking everything down so make sure you
24 speak up. Okay?

25 MR. SULLIVAN: Yes, sir.

1 MR. SANFORD: Yes, sir.

2 THE COURT: First, you have a right to do you pleas
3 separately. I don't mind doing them together. Apparently,
4 the facts are very similar, somewhat the same.

5 Do you object to that, be hearing your pleas at the
6 same time?

7 MR. SULLIVAN: No, sir.

8 MR. SANFORD: No, sir.

9 THE COURT: Really speak up.

10 MR. SANFORD: No, sir.

11 THE COURT; All right. I need both of you to raise
12 your right hands.

13 (WHEREUPON, Lorenzo Sullivan was sworn to tell the
14 truth.)

15 (WHEREUPON, Jason Sanford was sworn to tell the truth.)

16 THE COURT: Okay. I don't mean any disrespect when I
17 ask these questions. Just respond so we can keep it
18 straight. Mr. Sullivan answer and then Mr. Sanford answer.

19 Mr. Sullivan how long have you been in jail?

20 MR. SULLIVAN: 18 months.

21 MR. POTTER: May it please the Court. 550 days.

22 THE COURT: 550 days?

23 MS. BYFORD: Yes, sir.

24 THE COURT: And Mr. Sanford how long have you been in
25 jail?

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1 MR. SANFORD: 18 months.

2 THE COURT: The same?

3 MS. BYFORD: Yes, sir. I believe their arrest dates
4 are both the same.

5 THE COURT: The reason that's important is that you get
6 credit for time served. So I want to make sure that's
7 right.

8 MS. BYFORD: Yes, correct.

9 THE COURT: All right. Did anyone of you have any
10 drugs or alcohol within the last 24 hours?

11 MR. SULLIVAN: No, sir.

12 MR. SANFORD: No.

13 THE COURT: Are either one of you on any kind of
14 prescription or medication that might prevent you from
15 knowing what's going on here today?

16 MR. SULLIVAN: No, sir.

17 MR. SANFORD: No, sir.

18 THE COURT: Mr. Sullivan how old are you?

19 MR. SULLIVAN: 22.

20 THE COURT: Mr. Sanford how old are you?

21 MR. SANFORD: 20.

22 THE COURT: Mr. Sullivan how far did you go in school?

23 MR. SULLIVAN: 10th.

24 THE COURT: 10th grade. Where did you go to high
25 school?

1 MR. SULLIVAN: (inaudible) Westside.

2 MR. SANFORD: (inaudible) Westside.

3 THE COURT: All right. Is one of you married?

4 MR. SULLIVAN: No, sir.

5 MR. SANFORD: No, sir.

6 THE COURT: Do either one of you have any children?

7 MR. SULLIVAN: No, sir.

8 MR. SANFORD: Yes, sir.

9 THE COURT: How many children?

10 MR. SANFORD: One.

11 THE COURT: How old?

12 MR. SANFORD: Four.

13 THE COURT: Boy or girl.

14 MR. SANFORD: Boy.

15 THE COURT: Where does he live?

16 MR. SANFORD: My mother.

17 THE COURT: What's his name?

18 MR. SANFORD: (inaudible)

19 THE COURT: (Inaudible)

20 MR. Sanford: Yes, sir.

21 THE COURT: Before you went to jail 550 days ago, how
22 often did you see him?

23 MR. SANFORD: Every day.

24 THE COURT: Every day.

25 MR. SANFORD: Yes, sir.

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1 THE COURT: And he's living with your mother now.

2 MR. SANFORD: Yes, sir.

3 THE COURT: Just generally how's he doing?

4 MR. SANFORD: He's doing good.

5 THE COURT: Good news. She takes good care of him.

6 How old is he?

7 MR. SANFORD Four.

8 THE COURT: Four.

9 All right. Both of you understand that if you want to
10 plead guilty today you have to waive your constitutional
11 rights?

12 MR. SULLIVAN: Yes, sir.

13 MR. SANFORD: Yes, sir.

14 THE COURT: All right. And have both of you had plenty
15 of time to speak with your lawyers and are you satisfied
16 with their services?

17 MR. SULLIVAN: No, sir.

18 THE COURT: Okay. Do you need to talk to him again?

19 I'll finish Mr. Sanford while you figure out --

20 (Mr. Sullivan steps down and returns to the jury box to talk
21 with his attorney.)

22 THE COURT: All right. Mr. Sanford, have you had
23 plenty of time to speak with your lawyer?

24 MR. SANFORD: Yes, sir.

25 THE COURT: And are you satisfied with his services?

1 MR. SANFORD: Yes, sir.

2 THE COURT: Has he done everything you've asked him to
3 do?

4 MR. SANFORD: Yes, sir.

5 THE COURT: And do you have any questions for him right
6 now?

7 MR. SANFORD: No, sir.

8 THE COURT: Okay. And if you have any question for me,
9 just stop me, all right?

10 MR. SANFORD: (No response.)

11 THE COURT: You've got to respond.

12 MR. SANFORD: Yes, sir.

13 THE COURT: All right. As I said, you have to waive
14 your constitutional rights when you plead guilty.

15 Are you waiving your right to a jury trial?

16 MR. SANFORD: Yes, sir.

17 THE COURT: Are you waiving your right to remain
18 silent?

19 MR. SANFORD: Yes, sir.

20 THE COURT: You have a right to put up a defense to
21 these charges; are you waiving that right, too, that right
22 to a defense?

23 MR. SANFORD: Yes, sir.

24 THE COURT: You also have the right of confrontation
25 under the constitution which means that you can go to trial

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1 and require the State to come in and bring witnesses to
2 testify against you. You have the right to confront them on
3 their testimony. That's your right to confrontation.

4 Are you waiving that right, too?

5 MR. SANFORD: Yes, sir.

6 THE COURT: Has anybody promised you anything or
7 threatened you in any way to get you to plead guilty?

8 MR. SANFORD: No, sir.

9 THE COURT: All right. Now, this charge carries with
10 it a minimum of 30 and a maximum of life; correct?

11 MS. BYFORD: Yes, sir.

12 THE COURT: Mr. Sanford, you understand this a
13 recommendation here of 30 years?

14 MR. SANFORD: Yes, sir.

15 THE COURT: Do you understand that I don't have to go
16 along with that recommendation. I could sentence you to
17 life in prison. Do you understand that?

18 MR. SANFORD: Yes, sir.

19 THE COURT: Do you have any questions of me about your
20 constitutional rights that you've waived?

21 MR. SANFORD: No, sir.

22 THE COURT: Do you have any questions of your lawyer?

23 MR. SANFORD: No, sir.

24 THE COURT: Are you pleading guilty today of your own
25 free will?

1 MR. SANFORD: Yes, sir.

2 THE COURT: And you've had plenty of time to think
3 about this case, talk to your lawyer about the facts and do
4 any investigation that you think you may need to do?

5 MR. SANFORD: Yes, sir.

6 THE COURT: Mr. Robinson, have you had plenty of time
7 to speak to your client?

8 MR. ROBINSON: I have.

9 THE COURT: And do you think he understand the waiver
10 of constitutional rights?

11 MR. ROBINSON: I do.

12 THE COURT: Do you also think that he understands the
13 elements of this charge?

14 MR. ROBINSON: I do.

15 THE COURT: And he also understand that while there is
16 a recommendation of 30 years, I'm not bound by that. I could
17 sentence him to life in prison. Does he understand that?

18 MR. ROBINSON: Yes, sir.

19 THE COURT: Mr. Sanford, you are charged with murder.

20 What happened to the possession of a weapon -- You
21 understand that upon the indictment you are charged with
22 with murder and possession of a weapon during a violent
23 crime; do you understand that?

24 MR. SANFORD: Yes, sir.

25 THE COURT: And do you understand the State is

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1 apparently dropping the possession of a weapon during a
2 violent crime?

3 MR. SANFORD: Yes, sir.

4 THE COURT: So basically you're here today just to
5 plead guilty to murder; do you understand that?

6 MR. SANFORD: Yes, sir.

7 THE COURT: All right. Do you want to plead guilty to
8 murder today?

9 MR. SANFORD: Yes, sir.

10 THE COURT: And are you guilty of murder?

11 MR. SANFORD: Yes, sir.

12 THE COURT: All right.

13 Yes, ma'am.

14 MS. BYFORD: Your Honor, may it please the Court. This
15 occurred on May 27, 2011. At approximately 8:15 in the
16 evening, Mr. Sanford and Mr. Sullivan arrived at Meadow Run
17 Apartments (sp). They were driven there by Ms. Tiffany
18 Norris.

19 Meadow Run Apartments is on Abbeville Highway directly
20 across from Eddie's Minute Mart. So this entire incident
21 was captured on the Eddie's Minute Mart surveillance
22 camera.

23 You can observe Ms. Norris's car pulling up, the
24 defendants, Mr. Sanford and Mr. Sullivan getting out of the
25 car. They immediately jog off behind that first building

1 that's there. A few minutes go by. Ms. Norris leaves the
2 apartment complex. Rashawn William (sp) drives by on a
3 motorcycle. The motorcycle stalls at the front of the
4 apartment complex. Both defendants come out from behind the
5 building, get about half-way start firing, run back. they
6 are driven from the scene by Ms. Norris who would have
7 testified at trial that that was her car, these were the
8 defendants. Additionally, because of the time of evening
9 that this happened, it was a nice weekend in May, there were
10 lots of people out in the apartment complex. We had several
11 people pull them out of a photo line-up. Several people
12 observed the shooting. That's what the State would have
13 presented at trial.

14 Mr. Williams died shortly after being transported to
15 AN-MED (sp). He was struck in the chest and there were two
16 different caliber bullets found. One in Mr. Williams and one
17 in the gas tank of the motorcycle.

18 THE COURT: All right. Mr. Sanford, do you agree with
19 those facts?

20 MR. SANFORD: Yes, sir.

21 THE COURT: Yes, sir.

22 MR. ROBINSON: May it please the court. Your Honor, I
23 have spoken with family. The mother is in the courtroom
24 today. His uncles and other family is in the back.

25 THE COURT: Right.

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1 MR. ROBINSON: Your Honor, Jason is extremely
2 remorseful. He is sorry this happened. This all goes back
3 to getting a gun -- this was a big mistake and he is sorry
4 this happened. If he could he would take it all back. He
5 is very, very sorry this happened. This individual had made
6 threats against him and his mother. But there is no excuse
7 for this ever. He does apologize for this.

8 THE COURT: Does he have any record?

9 MS. BYFORD: Your Honor, Mr. Sanford's record is a 2009
10 ABHAN, and he had some magistrate court charges from 2010.
11 A malicious injury of personal property and disorderly
12 conduct.

13 The victim's family, Your Honor, are here and they do
14 wish to speak at the appropriate time.

15 THE COURT: Sure.

16 MR. Sanford, anything you want to tell me?

17 MR. SANFORD: No, sir.

18 THE COURT: You were 19 at the time this happened?

19 MR. SANFORD: Yes, sir.

20 THE COURT: And you got a baby at home?

21 MR. SANFORD: Yes, sir.

22 THE COURT: Why'd you do it?

23 MR. SANFORD: (No response.)

24 THE COURT: How about stand a little closer to that
25 microphone. I need to hear you.

1 Look, I'm not asking you to embarrass yourself, it's
2 just after 11 years of listening to this kind of thing, it's
3 hard for me to understand why somebody like you would --
4 basically take the life of somebody else. I'm just trying
5 to figure out why you did it? I mean, you were 19.

6 MR. SANFORD: It was all a misunderstanding.

7 THE COURT: What did you misunderstand?

8 MR. SANFORD: Why he pull to my mama head.

9 THE COURT: On his motorcycle? Where was he coming
10 from?

11 MR. SANFORD: The apartment house.

12 THE COURT: Meadow Run?

13 MR. SANFORD: Yes, sir.

14 THE COURT: How far --

15 MR. SANFORD: I know the truth, he knows the truth. I
16 feel like I was defending myself.

17 MR. ROBINSON: Your Honor, we had actually considered
18 self-defense. Last week we were allowed to --

19 THE COURT: He didn't have a gun when he was picked up?

20 MS. BYFORD: No, sir.

21 MR. ROBINSON: I think all this is animosity. All this
22 stuff that went on. The evidence would show that.

23 THE COURT: Well, did Mr. Williams go to Westside?

24 MR. SANFORD: I didn't know him.

25 THE COURT: You didn't know who he was?

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1 MR. SANFORD: No, sir.

2 THE COURT: Well, if you didn't know him why did you
3 think he was going to shoot you?

4 MR. SANFORD: There was an altercation between his
5 friends and my friends. Altercation. There as a rumor
6 going around he put a gun to my mama head. Well, he saw me
7 he thought I was a threat. So I know what I saw, and the
8 man that's gone, he know what he did. He got killed. My
9 whole discovery is saying is the -- it wasn't my gun. It
10 wasn't the same caliber of gun. Like I say, I thought my
11 life was in danger, too. That's why I'm standing up here
12 today for murder.

13 THE COURT: Do you have any proof that he put a gun to
14 your mama's head or is that a street rumor?

15 MR. SANFORD: My mama ain't going to lie.

16 THE COURT: Yeah, I'll be happy to hear from the
17 victims. If y'all would, give us your name and spell your
18 last name so we can keep it straight for the record.

19 MS. HILL: I'm Tiffany Hill, Rashawn's girlfriend. My
20 last name is H-i-l-l. And I was wondering if the Court know
21 and you know what effect it had on our family. The last
22 week of May all I remember was Rashawn Williams was so
23 happy. All he could think was this is our new beginning.
24 He was so excited and proud. He was moving me and his three
25 daughters out of Meadow Run. He didn't want them raised in

1 a violent environment. And was moving closer to his family.
2 That's the person he was. He loved his family.

3 Who would have knew that our moving day, the last box,
4 would be a tragedy. Who have knew that new beginning for a
5 mother who lost her baby boy. The mother who he always
6 called on. Now, beginning her tears every night not being
7 able to speak of or think about a good time without reliving
8 the pain of missing her son. Grandkids asking, Grandma,
9 please don't cry. The new beginning for a father who lost
10 his only son, living with his pain and anger is all I see.

11 A new beginning for his three daughters with only
12 questions of when is daddy coming back. His oldest daughter
13 expects to see him when she look at the sky, sad to not see
14 him there. His middle who as a daddy's girl, only three and
15 used to spend all day with him, now her smile is a frown.
16 Her laugh is a cry saying I want my daddy. Her birthday,
17 everybody singing happy birthday, she burst out hollering
18 she want her -- she don't even want a birthday. I asked her
19 how she feel. If my child, Rashawn's child, four years old
20 -- I'm going to get shot to see my daddy. That night she
21 cried so hard for her daddy she bursted her eardrums. She
22 has dreams of him at night and cries when she awakes and her
23 daddy is not there. Our youngest, who is only four weeks
24 old without a worry in the world, now only with pictures to
25 look at and say Da-da. To ask where daddy is -- she looks up

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1 to the sky. A trip to the grave, she gives him a kiss.

2 So much was taken from my girls. Him picking them up
3 from school, coaching basketball teams, taking family trips
4 and seeing and being with their daddy every day was taken
5 away.

6 Some new beginning for my babe, my everything. 12
7 years together. He was all I knew. We made our life
8 together and now my new beginning seems like my life is
9 about to end. A broken heart. Now a mother of three,
10 tears of pain, dealing with my children's pain isn't any
11 better. How can you be strong when my backbone is gone.
12 Counseling, psychiatry, care everyday and I'm still lost.
13 Trying my best to be strong for my girls.

14 A new beginning with family gatherings are not the
15 same. Everybody missing his smile, laugh, and jokes. The
16 new beginning that his young relatives had to watch their
17 older cousin, who they admire, life taken away right in
18 front of their eyes. That moment will always be in their
19 mind. How do they go on with their life with that moment in
20 their minds. His cousins -- they were so close that he
21 called the sis and bro. We didn't just lose another family
22 member. We lost Rashawn and he meant a lot to a lot of
23 people.

24 Justice cannot repair the loss we have. What's a
25 picture, speaking of a memory, when because of people

1 foolish action we could have him here.

2 Who would knew what we called a new beginning would be
3 without him. One sad day May 27, will never be a good day.
4 Only the thoughts and memory of losing him. Losing Rashawn
5 has effected a lot of people in many ways and we can only
6 pray for better days. This is a picture of my baby on
7 Thanksgiving kissing her daddy grave. This is Easter at his
8 grave. Can't nobody ever repay my children. 30 year, not
9 even life. You have taken away everything.

10 MR. WILLIAMS: I would like for you to -- I'm his
11 father, Joe Williams.

12 THE COURT: Yes, sir.

13 MR. WILLIAMS: I would like for you to send life in
14 prison without parole.

15 THE COURT: Thank you, sir.

16 I'll be happy to hear anybody else from the victims?

17 MS. BYFORD; I think that's it, Your Honor.

18 THE COURT: Okay.

19 Yes, ma'am. How are you. Give us your name?

20 UNIDENTIFIED SPEAKER: (Inaudible)

21 COURT REPORTER: I can't hear, Judge.

22 THE COURT: Is that mic on? You might have to move
23 over there, I think that mic's on. It's very hard to hear
24 with the air conditioning on.

25 UNIDENTIFIED SPEAKER: (Inaudible)

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1 THE COURT: I cannot imagine how you feel.

2 Counsel, y'all approach for a minute.

3 (Off the record bench conference with counsel and the
4 Court.)

5 THE COURT: All right, Mr. Potter, is your client going
6 to plead guilty?

7 MR. POTTER: That's my understanding.

8 THE COURT: All right. What I'm going to do -- I'm
9 going to accept your plea. I find it freely voluntarily made
10 and based on the advice of counsel. I find that you have
11 waived your constitutional rights and that knowingly and
12 intelligently, that you understand the elements of the
13 charge and you understand your waiver.

14 I'm going to defer sentencing until I can do them at
15 the same time. So unless there's an objection I'm going to
16 ask you to sit back up there so I can finish up, please.

17 (Mr. Sanford returns to jury box.)

18 (Mr. Sullivan comes forward to complete his plea.)

19 MR. POTTER: May it please the Court.

20 THE COURT: Yes, sir.

21 We're back on the record with Mr. Sullivan.

22 MR. POTTER: Judge -- you asked my client whether or
23 not he had any other issues or questions of me. We went to
24 the jury box and talked. I've answered all his questions.
25 He is prepared to go forward.

1 THE COURT: Okay.

2 All right. Mr. Sullivan, you're still under oath, but
3 I've still got questions. We stopped your plea so you could
4 speak with your lawyer. Have you now had a sufficient
5 amount of time to talk with him?

6 MR. SULLIVAN: Yes, sir.

7 THE COURT: Okay. Do you have any questions of me?

8 MR. SULLIVAN: No.

9 THE COURT: Mr. Sullivan, you'll have to speak up.

10 MR. SULLIVAN: No, sir.

11 THE COURT: All right. Mr. Sullivan, you understand
12 that there is a recommendation 30 years here and I don't
13 have to go along with that. I can sentence you to 30 years
14 or I can sentence you up to life in prison; do you
15 understand that?

16 MR. SULLIVAN: Yes, sir.

17 THE COURT: In order to plead guilty you have to waive
18 your constitutional rights; do you understand that?

19 MR. SULLIVAN: Yes, sir.

20 THE COURT: And you waived your right to a jury trial?

21 MR. SULLIVAN: Yes.

22 THE COURT: Are you waiving your right to remain
23 silent?

24 MR. SULLIVAN: Yes.

25 THE COURT: Are you waiving your right to put up a

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1 defense to these charges?

2 MR. SULLIVAN: Yes, sir.

3 THE COURT: And you have a right under the constitution
4 to require the State to bring any witnesses to testify
5 against you so that you can question them. That is your
6 right of confrontation under the constitution. Are you
7 waiving that right?

8 MR. SULLIVAN: Yes, sir.

9 THE COURT: And you're 22, now?

10 MR. SULLIVAN: Yes, sir.

11 THE COURT: And you have had plenty of time to speak
12 with your client?

13 MR. POTTER: I have.

14 THE COURT: Do you think he understands elements of
15 these charges and his waiver of constitutional right and
16 also the charges that he's pleading guilty to today?

17 MR. POTTER: Yes, sir.

18 THE COURT: All right.

19 Mr. Sullivan, I assume the same is true as to the
20 dismissing of possession of a weapon?

21 MS. BYFORD: Yes, sir.

22 THE COURT: You understand that?

23 MR. SULLIVAN: Yes, sir.

24 THE COURT: Basically, you're pleading guilty to
25 murder?

1 MR. SULLIVAN: Yes, sir.

2 THE COURT: All right. Do you want to plead guilty to
3 murder?

4 MR. SULLIVAN: Yes, sir.

5 THE COURT: Are you guilty of murder?

6 MR. SULLIVAN: Yes, sir.

7 THE COURT: All right.

8 Yes, ma'am.

9 MS. BYFORD: Your Honor, this occurred on May 27, 2011.
10 This defendant, along with his co-defendant, arrived at
11 Meadow Run Apartments across from Eddie's Minute Mart. They
12 were seen on the Eddie's Minute Mart surveillance camera
13 exiting Ms. Norris's vehicle, jogging off behind the
14 building. When the victim drove by on a motorcycle both
15 defendants ran out and began firing. They then ran -- left
16 the scene and got into Ms. Norris's vehicle. Ms. Norris
17 would testify at trial, she would identify them on the video
18 as being the persons who shot Rashawn Williams. Again, Mr.
19 Williams was struck in the chest. He passed away at AM-MED
20 shortly after he was transported there. We did find two
21 different caliber bullets. One in Mr. Williams and one in
22 the gas tank of the motorcycle. You can also see them both
23 clearly shooting on the video.

24 Those are the facts that the State would present at
25 trial.

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1 THE COURT: All right. So you agree with those facts?

2 MR. SULLIVAN: Yes, sir.

3 THE COURT: Anything you want to tell me?

4 MR. SULLIVAN: The circumstance and everything --

5 THE COURT: Yes, sir.

6 MR. POTTER: Judge, I've done a fair number of these,
7 as you know. He's done a fair number of these. This one is
8 probably one of the most disturbing. This has got to stop.
9 There are children that are dying. These children going to
10 jail. When I sit down and I talk to Lorenzo, he is a good
11 guy. He's a good person. Circumstances where you or I
12 probably would -- unfortunately there is this mentality and
13 there is this idea that this is to be a man, this is the way
14 things have to go. I don't think that's what he wanted, but
15 he -- I don't know if there's anything I could say that will
16 justify -- obviously justify -- it's disappointing, it's
17 heartbreaking because -- I didn't know the victim, but I
18 know Lorenzo, and my conversations with him -- it's
19 disturbing because he could have been something had he had a
20 better circumstances. He made his choice. I suspect that
21 this is something they never suspected was going to happen,
22 but given this situation where it's going to be vibrato,
23 it's was going to be give him a good scare and --
24 unfortunately, it didn't.

25 It's my hope that the families can forgive one another.

1 That's all.

2 THE COURT: Okay.

3 MS. BYFORD: Your Honor, Mr. Sullivan's record. He has
4 a 2010 unlawfully carrying a pistol and a 2011 PWID crack.
5 That's it.

6 THE COURT: Yes, sir.

7 MR. WILLIAMS: I'm Rashawn Williams father, Joe
8 Williams.

9 THE COURT: Yes, sir.

10 MR. WILLIAMS: I would like for you to send him -- you
11 know -- life without parole.

12 THE COURT: Thank you, sir.

13 MR. WILLIAMS: He's a monster. He don't deserve no
14 freedom at all.

15 THE COURT: Just out of curiosity, and I don't mean
16 this in a general sense, but is there a problem between your
17 families. Sir, maybe you can tell me. If you would come
18 back up. I'm trying to understand. I'll never understand
19 anyone who has a future and one has a child would literally
20 throw away their life or take your son's life by killing
21 somebody. It's just disturbing to me. The children that
22 die and the children that go to jail. It almost seems like
23 they're willing to go to jail. The reason they're willing
24 to go to jail is because they've never been to jail. They
25 have no idea what it's like. I'm just trying to figure out

State v. Sanford and Sullivan 12/4/12

25

1 if there's a problem with the families or if there's a
2 problem -- you know, back in the day this might have been a
3 fist-fight but now everybody's pulling out pistols.

4 MR. WILLIAMS: Like I say, every since that happen
5 there's been problems.

6 THE COURT: What kind of problems?

7 MR. WILLIAMS: I really don't know what kind of
8 problems. Ignorance, really, just ignorance, you know, just
9 back and forth, mouth. Going by what people say. I say, I
10 don't know why. I can't say why. Just back and forth what
11 people said is just a bunch of nonsense.

12 THE COURT: Okay. Was it going back and forth between
13 the family, I mean, like cousins --

14 MR. WILLIAMS: Yes, sir.

15 THE COURT: For lack of a better word, bow-wowling at
16 each other.

17 MR. WILLIAMS: Yeah.

18 THE COURT: All right. Thank you.

19 MR. WILLIAMS: Yes, sir.

20 THE COURT: Any kind is any indication it was gang
21 related; I don't mean them, I just mean --

22 MS. BYFORD: From what we understand there were
23 certainly gangs there at Meadow Run but this -- from how
24 we've been able to trace it back the word on the street
25 really is that this happened because the victim showed

State v. Sanford and Sullivan 12/4/12

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1 disrespect to his mother. Whether he pulled a gun on her or
2 not, we've never been able to -- but that is what Mr.
3 Sanford originally said is the story that we have heard
4 also, that that's what happened.

5 THE COURT: Okay. All right. I have accepted both
6 pleas

7 You know, maybe I'm just getting older. I want to tell
8 you something. I sit up here and listen to this and I'm
9 just stunned. I'll tell you what stuns me. It's not this
10 community, it's a whole generation of young people who are
11 either dead or they are in prison and it's usually something
12 that just in hindsight makes no sense. I mean, if somebody
13 disrespected my mama, they might have gotten their ass beat,
14 excuse my French, but I not going to pull out a pistol and
15 shoot at them across a parking lot.

16 And I'm just -- I don't understand. and just for the
17 people out in the audience, I'm not preaching to you, but
18 this kind of stuff has to stop. It's easy for me to sit up
19 here and say, but 16, 17, 18, and 19 year old kid, because
20 that's what they are, don't get it, it's up to their parents
21 and grandparents to see they get it.

22 Violence is everywhere. If all of y'all came to court
23 Monday through Friday, you'd see it's -- I don't want to do
24 that, but what scares me is as a result of this there's
25 going to be something else. I'm just telling you, don't

1 waste another -- don't waste your whole life. When you're
2 17 you have no clue how wonderful life can be. If you throw
3 it away after some crazy disrespect -- you're not going to
4 figure out -- you're going to get it, you're going to figure
5 it out. The question is whether you figure it out when
6 you're 17 or when you're 30 or 50.

7 So I would just beg y'all -- I know the last time we
8 talked -- there are people upset. I hear reports about
9 people threatening each other. I'm asking you not to be --
10 I'm asking the people in your families, like my grandma, who
11 would tell me what to do and I'd listen. Try to stop it.
12 But I'm also telling you young people that if you don't stop
13 it I'm going to stop it. You're going to be stopped
14 standing right here in a yellow jumpsuit going off to a
15 place that you don't want to go. I can promise you that.
16 So I'm begging you. I'm telling you that if you don't it
17 will either be me or somebody else. I tell you that just so
18 I can sleep at night. So I can come back in here and watch
19 another kid go off and my greatest fear -- last week I was
20 down in Beaufort for a gang killing. You have no idea. It
21 was tear-jerking. The biggest idiots you've ever seen.
22 They had no idea what they were doing and after they were
23 led out of the courtroom they broke down and cried like
24 babies because they didn't have any reason to be tough any
25 more. What I told them is what I'm telling you. My biggest

1 fear is that I'm going to see your son and I'm going to live
2 long enough and do this job long enough that some day your
3 son is going to be standing there and when I ask him why he
4 did whatever he did he's going to say, well, my daddy was in
5 prison and I didn't know any better and I didn't have
6 anybody to guide me. That's my fear. That's the day I
7 quit. I'd walk off the bench the day that happens.

8 You've got an innocent four-year-old son. You won't
9 see your son. I know you hate it at this time of the year,
10 especially.

11 Anyway, I know I sound like a preacher. I'm just tired
12 of it. So like I said, either y'all take care of it or
13 we'll take care of it.

14 All right. I've accepted your pleas.

15 The sentence on each is 30 years. I'll give you credit
16 for time served. I wish y'all best.

17 Y'all sit down. I got to tell you one other thing. I
18 know you're tired of me preaching. I saw some of you
19 rolling your eyes. I'm telling you I'll probably be seeing
20 you again. So just have a seat right now.

21 Okay. Everybody stay seated until I tell you further.
22 (Victim's family exits the courtroom.)

23 THE COURT: I'm begging you, especially the young
24 people to not do anything, not try to do anything to make
25 this better. I'm going to say the same thing to them. I

State v. Sanford and Sullivan 12/4/12

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1 don't know what else to tell you except you should all come
2 up here on Monday and see your children and my children
3 going away because of stupid, crazy, television, feuds,
4 machismo, whatever it is. I don't know.

5 Please. Everybody's worried that something's going to
6 happen between y'all and y'all. And everybody is mad and
7 upset and the truth of the matter is very few people get
8 away with doing anything. You're going to be back up here.
9 And I'm just begging you not to do it, not to do anything.
10 And like I said, I don't want to see -- especially you kids
11 that are under 25 or under 30. I'm not worried about the
12 old people. We're too old to do anything. I'm just telling
13 you.

14 All right. Y'all can leave. Okay. Y'all stay.

15 (This proceeding was concluded.)
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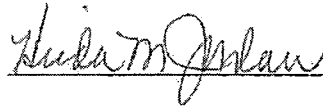
State v. Sanford and Sullivan 12/4/12

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

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT
REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF
SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE
HEARING IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL
SESSIONS FOR ANDERSON COUNTY, SOUTH CAROLINA, ON THE 4 DAY
OF DECEMBER, 2012.

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



Hilda M. Jordan, CVR-M

October 23, 2013

DOCKET NO. 2012GS04 00968

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

APR 17 2012

Term

THE STATE

vs.

Jason Jamal Sanford

EJB

Indictment for

COUNT ONE : Murder / Murder
SC Code: 16-03-0010, 0020
CDR Code: 0116

COUNT TWO : Weapon / Possession of a
Weapon during violent crime
SC Code: 16-23-0490
CDR Code: 0549

WITNESSES

2 Epps, Anderson County Sheriff's Dept.

ARREST WARRANT NUMBER

J910239

J893335

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

COMMITMENT

12/4/12-RJ

STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT

APR 17 2012

At a Court of General Sessions, convened on _____, the Grand Jurors of
Anderson County present upon their oath:

COUNT ONE

Murder / Murder

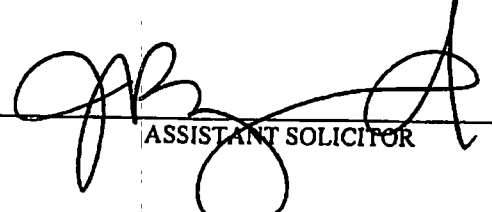
That Jason Jamal Sanford did in Anderson, County, on or about May 27, 2011,
unlawfully and with malice aforethought kill Rashaun Williams by means of shooting the
victim with a gun, and that Rashaun Williams died as a proximate result thereof. This is
in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

Weapon / Possession of weapon during violent crime

That Jason Jamal Sanford did in Anderson, County, on or about May 27, 2011,
while committing the crime of Murder, a crime of violence, have in his possession a
handgun, all in violation of Section 16-23-490, Code of Laws of South Carolina,
(1976), as amended.

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


ASSISTANT SOLICITOR

SOUTH CAROLINA
COUNTY OF Anderson
STATE VS.
Jason Jamal Sanford
AKA:
Race: Sex: M Age: 19
DOB: 0 SS#:
Address: 224 Cherry Ave
City, State, Zip: Anderson, SC 29624
DL#: SID#: SC01877394
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

IN THE COURT OF GENERAL SESSIONS 33

INDICTMENT/CASE#: 2012GSO400968
A/W#: J910239
Date of Offense: 5/27/2011
S.C. Code § : 16-03-0010, 0020
CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State (defendant's initials)

ATTEST: [Signature] Byford, Jenn SC Bar# 68297 [Signature] Defendant [Signature] Attorney for Defendant [Signature] SC Bar# 6251

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 550 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____
☐ Set by SCDPPPS

Recipient: _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge [Signature]

Judge Code: #2131

Sentence Date: 12-4-12

Clerk of Court/Deputy Clerk [Signature]

Court Reporter: Hilda Jordan

SCCA/217 (03/2011)

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$5.00
3% to County (if paid in installments)		\$3.90
TOTAL		\$133.90

FORM 5

STATE OF SOUTH CAROLINA

County of AndersonJason Jamal Sanford #340276

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2013-CP-04-01432

APPLICATION FOR

POST-CONVICTION RELIEF

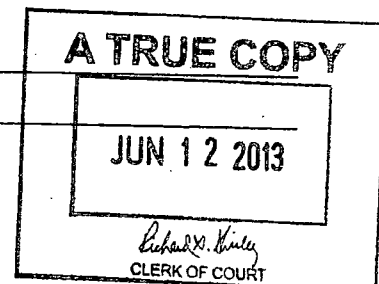
FILED-CLERK'S OFFICE
ANDERSON SC
2013 JUN 12 P 3:08
COMMON PLEAS AND
GENERAL SESSIONINSTRUCTIONS - READ CAREFULLY

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 LEE Correctional Inst., 990 W. Zachary Hwy., Bishopville, SC 29010
2. Name and location of Court which imposed sentence Court of General Sessions in Anderson County, South Carolina
3. Name(s) of co-defendant(s) (if any) Lorenzo D. Sullivan and Tiffany D. Norris
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012CG0400968
 - (b) _____



- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Sentence to 30 years on December 4, 2012
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty —
- (c) after a plea of nolo contendere —
7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. N/A
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. N/A
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. N/A
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. N/A
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Unintelligent / Involuntary Guilty plea
- (b) —

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel (SEE Attached page 1-2)
- (b) Violation of Applicant Rights of Due Process (SEE Attached pages 1-2)
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE Attached Pages 1-2
- (b) SEE Attached Pages 1-2
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. N/A
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. N/A
- iii. _____
- iv. _____

Applicant plead guilty to an indictment on Murder Charge with a recommendation of ³⁷ thirty (30) years guilty plea. Under South Carolina law Murder carries a potential Sentence of a Mandatory Minimum thirty (30) years to Life imprisonment if not Death (Section 16-3-10 in SC Law). Applicant was never advised by retained counsel nor sentencing judge of the requirement of a Mandatory day for day Sentence which was thirty (30) years term. A defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any Mandatory Minimum penalty, and the nature of the Constitutional right being waived U.S.C.A. Const Amend. 14. State v. Hazel, 245 S.C. 392, 276 S.E. 2d 602 (S.C. 1980). Applicant was never told by his counsel that he was going to have to do a Mandatory Minimum of 30 yrs if applicant plead guilty, but counsel did inform Applicant if he continue to trial he would receive a life sentence. See Pittman v. State, 334 S.C. 394, 524 S.C. 2d 623 (SC. 1999) [the Court failed to inform Pittman of Mandatory Minimum Sentence]. It is elementary that in order for a defendant to knowingly and voluntarily plead guilty, he must have a full understanding of the consequences of his plea. (Boykin v. Alabama, 395 U.S. 238, 242, 89 S.Ct. 1441, 1449, 25 L.Ed. 2d 463 (1969).) Upon the facts in this case, Appellant's plea was not knowing because it was entered without an understanding of the Mandatory Punishment for the offense to which he was pleading. Defendant's guilty plea was neither voluntary nor knowing; trial judge did not affirmatively advise defendant of crucial elements of the charged offense, judge failed to inform defendant that the Murder charged carried a Mandatory Minimum sentence of thirty (30) years. Applicant plea was involuntary and intelligent as a result of ineffective assistance of counsel because his attorney never explain to him the correct information of guilty plea, but if not for counsel error Appellant would not plead guilty but would insisted on going to trial. Also if Applicant knew about the Mandatory sentence he would have also went to trial, because if found guilty at trial he could received the same punishment as guilty plea. Due to ineffective assistance of counsel Applicant orders vacating conviction and Sentence Evidentiary hearing on this issue.

Applicant counsel stated that there was no defense that he could argue at trial, Appellant and his mother been inform counsel about Applicant past history of Mental disorder. But Applicant counsel never tried to get Appellant evaluated to see a psychological doctor when Applicant inform counsel to do so. Lee v. State, 396 S.C. 314, 721, S.E. 2d 442.

But Applicant counsel never tried to get Appellant evaluated to see a psychological doctor when Applicant informed counsel to do so. *Lee v. State*, 396 S.C. 314, 121, S.E. 2d 442. The Applicant's right of effective assistance of counsel was violated by failure to get Applicant evaluated relevant to his psychological state of mind when indicted on capital offense. U.S.C.A. Const. Amend. 6. If counsel would of done so maybe they would of found that the defendant was mentally ill during crime and could of argued for insanity. See *Wolfe v. State*, 326 S.C. 158, 485, S.E. 2d 367 (S.C. 1997). But by Applicant being misinformed of "correctly" information by counsel and did not get psychological evaluated before trial, he plead guilty under pressure from counsel by stating "if Appellant continued to trial he would be found guilty and would receive a life sentence". Because of the complexity of an Applicant for PCR, and to follow the Rules and Guideline, Applicant places respondents on notice of his intent to Amend. But states as follow there was numerous statutory and rules violation in Applicant's case that could resulted in him not pleading guilty to the plea recommendation in violation of Appellant due process rights and ineffective assistance of counsel. U.S.C.A. Const. Amend. 6 § 14

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. N/A
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. N/A
- iv. _____

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

- i. _____
- ii. _____
- iii. N/A
- iv. _____

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

NO

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

(a) which grounds have been presented:

- i. _____
- ii. N/A
- iii. _____

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

- i. _____
- ii. N/A
- 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) Not Required
 (b) _____
 (c) _____

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

(a) your arraignment and plea? yes
 (b) your trial, if any? —
 (c) your sentencing? yes
 (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. Scott D. Robinson Law office, 9 East Ave
Greenville, SC 29604
 ii. Scott D. Robinson Law office
9 East Ave, Greenville, SC 29604
 iii. _____

(b) the proceedings at which each such attorney represented you:

i. Scott D. Robinson (Guilty Plea and Sentencing)
 ii. _____
 iii. _____

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

Order Vacating Conviction and Sentence evidentiary hearing on this issue.

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

NO

STATE OF SOUTH CAROLINA)

County of Anderson)

VERIFICATION

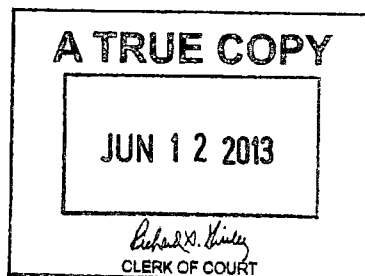
I, Jason Sanford, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that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

Jason Sanford

SWORN to and subscribed before me this 7 day of June, 2013.

Debra Jones (L.S.)
Notary Public

My Commission Expires: 11-4-2015



FILED-CLERK'S OFFICE
ANDERSON SC
2013 JUN 12 P 3:05
COMMON PLEAS AND
GENERAL SESSIONS

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

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

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

Jason Sanford
Applicant

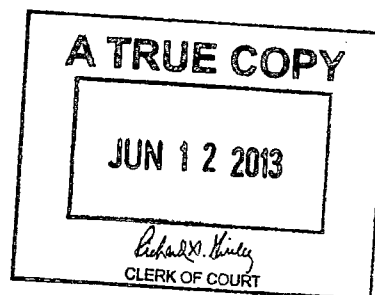
SWORN or affirmed to and subscribed before me this

7 day of June, 2013.

Debra Super
Notary Public

My Commission Expires: 11-4-2015

FILED-CLERK'S OFFICE
ANDERSON SC
2013 JUN 12 P 3:05
COMMON PLEAS AND
GENERAL SESSIONS



RICHARD A. SHIRLEY
CLERK OF COURT
FOR ANDERSON, SOUTH CAROLINA

43

Jason Sanford #340246,

C/A No. 2012CS0400968

Appellant,

v.

CERTIFICATE OF SERVICE

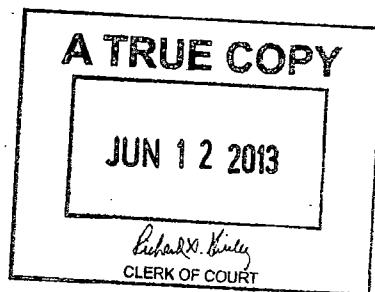
State, et al.,

2013-CP-04-01432

Respondents.

I, Jason Sanford hereby certify that a true copy of the foregoing Motion and accompanying Memorandum of Law has been sent this 9 day of June, 2013, by regular United States Mail with sufficient postage affixed thereto to insure delivery thereof to the office of Richard A. Shirley, Clerk of Court, P.O. Box 8002, Anderson, South Carolina 29622.

/s/ Jason Sanford
Appellant,



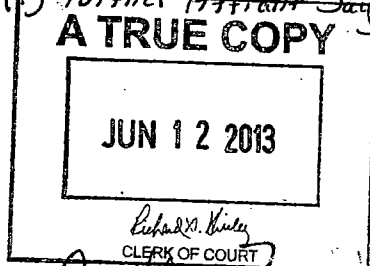
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ANDERSON SC
2013 JUN 12 P 3:05
COMMON PLEAS AND
GENERAL SESSIONS

AFFIDAVIT OF JASON JAMAL SANFORD

The Affiant, Jason J. Sanford, being the Petitioner herein and being first duly sworn, Say:

- 1.) He affirms and confirms all of the facts contained in the attached Motion and its accompanying Memorandum of Law attributed to him, as it fully reiterated herein;
- 2.) The facts stated in Motion and Memorandum of Law attributed to the Affiant, including those not reflected in the record, are to the best of his information and belief;
- 3.) Specifically, the Affiant swears and affirms as to the following matters not reflected in the record:
 - A. No time, before nor during Guilty Plea did Counsel or Trial Judge inform Petitioner that his thirty (30) year plea was a Mandatory Minimum Sentence.
 - B. During Guilty Plea Petitioner Constitutional rights was violated Due Process Clause as ineffective assistance of Counsel.

4.) Further Affiant Sageth naught.



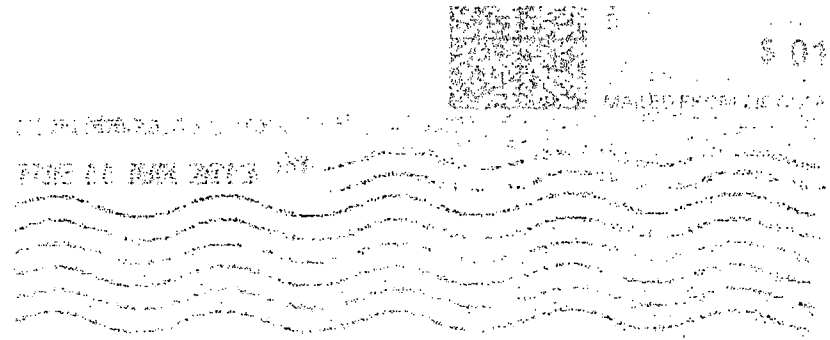
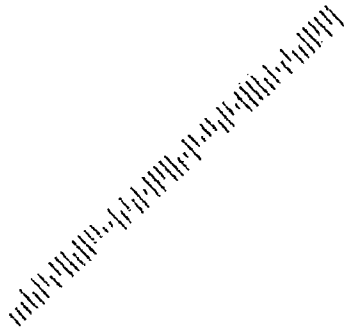
Jason J. Sanford
Jason Jamal Sanford
Affiant

On this 7 day of June, 2013, the above signed and appeared before me, a notary Public for the state of SC, and executed the foregoing instrument.

Notary Public: Debra Jones
My Commission Expires: 1-4-2015

JUN 12 P 3:05
CLERK'S OFFICE
ANDERSON SC
GENERAL PLEAS AND
GENERAL SESSIONS

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Bishopville, SC 29010



Richard A. Shirley
Clerk of Court
P.O. Box 8002
Anderson, SC 29622

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ANDERSON SC
2013 JUN 12 P 3:07
COMMON PLEAS AND
GENERAL SESSIONS

LEGAL MAIL ONLY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ANDERSON	)	TENTH JUDICIAL CIRCUIT
	)	
Jason Jamal Sanford,	)	C.A. No. 2013-CP-04-1432
S.C.D.C. No. ~~345044~~ ,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	(counsel has been appointed)
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed June 12, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Anderson County. The Applicant was indicted at the April 2012 term of the Court of General Sessions for Anderson County for murder (2012-GS-04-0968) and possession of a weapon during a violent crime. The Applicant was represented by Scott D. Robinson, Esq. On December 4, 2012, the State called its case and Applicant entered a guilty plea as indicted pursuant to the State's recommendation for the minimum thirty (30) year prison sentence. The Honorable J. Cordell Maddox Jr., accepted Applicant plea and sentenced Applicant pursuant to the State's recommendation for a thirty (30) year term of imprisonment. Applicant did not appeal his sentence or conviction.

Attached herewith and incorporated herein by reference are the records of the Anderson County Clerk of Court regarding the subject conviction(s), and the transcript

from Applicant's plea hearing, the transcript from Applicant's sentencing hearing, and records from the Dept. of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

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

1. Ineffective Assistance Counsel
 - a. Failure to adequately advise Applicant on that a murder conviction required day-for-day service in the Dept. of Corrections;
 - b. Failure to investigate a mental health defense;
 - c. Failure to submit Applicant for a competency evaluation.

III.

The Applicant's first claim is an allegation of ineffective assistance of trial counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 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, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 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.

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 cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the

basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

V.

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

VI.

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

VII.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held solely on the claims of ineffective assistance of counsel, federal and state law violations, and the allegations made in amendments submitted by the Applicant.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

WALT WHITMIRE
Assistant Attorney General

By: 
for ATTORNEYS FOR RESPONDENT

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

July 2 2014

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE TENTH CIRCUIT
COUNTY OF ANDERSON	)	
	)	
JASON J. SANFORD	)	2013-CP-04-1432
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent	)	

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

Hugh W. Welborn
P.O. Box 173
Anderson, SC 29622

DATED this 2th day of July, 2014


 Troyeshi Brailey, Legal Assistant
 For Respondent

State of South Carolina

County of Anderson

In the Court of Common Pleas

Jason Jamal Sanford,

Applicant,

-vs-

State of South Carolina,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

2013-CP-04-1432

December 1, 2014

Transcript of Record

B E F O R E:

The Honorable Carmen T. Mullen, Judge

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

Hugh Welborn, Esquire
Attorney for the Applicant

John W. Whitmire, Esquire
Attorney for the State

Renee H. Tollison
Circuit Court Reporter

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EXHIBITS

No	DESCRIPTION	ID	EV
A-1	<i>No exhibits were presented during the hearing</i>		
A-2			
A-3			

1 (WHEREUPON, court convened with all parties present
2 and the following proceedings were had commencing at
3 approximately 11:29 a.m.)

4 MR. WHITMIRE: Your Honor, this is Jason Jamal
5 Sanford v. State of South Carolina, case number 2013-CP-
6 04-1432. Sanford was indicted for murder and possession
7 of a weapon during a violent crime. Mr. Robinson
8 represented him on these charges.

9 On December 4th, 2012, the State called its case,
10 and he pled guilty pursuant to the State's recommendation
11 and agreement for the mandatory minimum of a thirty-year
12 sentence. Judge Maddox accepted the plea and accepted
13 the State's recommendation and sentenced him accordingly.
14 He did not appeal the sentence or conviction. However,
15 he has timely filed a post-conviction relief action.

16 He is present and represented by Mr. Welborn. At
17 this time, Your Honor, I turn matters over to Mr. Welborn
18 to present his case.

19 THE COURT: Certainly.

20 Mr. Welborn?

21 MR. WELBORN: May it please the Court. We call
22 Jason Sanford to the stand.

23 THE COURT: Come on forward, Mr. Sanford.

24 (WHEREUPON, the Applicant was duly sworn.)

25 THE COURT: All right, Mr. Sanford.

Jason Jamal Sanford - Direct Examination by Mr. Welborn

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1 MR. WELBORN: May it please the Court.

2 THE COURT: Yes, sir.

3 JASON JAMAL SANFORD,

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MR. WELBORN:

7 Q. You're Jason Sanford?

8 A. Yes, sir.

9 Q. Mr. Sanford, can you hear me okay?

10 A. Yes, sir.

11 Q. If you can't, then let me know. If you can't
12 understand me, tell me. Okay?

13 A. Yes, sir.

14 Q. Mr. Sanford, you pled guilty to murder in the case
15 that was just referenced, and the court sentenced you to
16 thirty years as a result of that guilty plea; is that
17 correct?

18 A. Yes, sir.

19 Q. And then you filed an application for post-
20 conviction relief that we're here on today. And in that
21 particular application, among several things you alleged
22 was the failure of your lawyer, Mr. Scott Robinson, to
23 advise you adequately that on a murder conviction you
24 would have to serve day for day in the Department of
25 Corrections. Now, what do you mean by that? And tell

1 the Court how Mr. Robinson failed to tell you what that
2 meant.

3 A. Okay. Well, when I took my plea, I didn't know that
4 a thirty-year sentence was going to be a hundred percent
5 day-for-day sentence. He didn't explain to me that it
6 was going to be a mandatory minimum of thirty years day-
7 for-day. My understanding when he was explaining it to
8 me, the only thing was eighty-five percent as a most
9 serious violent crime. I didn't have no type of
10 understanding that it was going to be a day-for-day
11 sentence. He didn't never explain to me all the elements
12 of the charge of murder. If that's the case, I would
13 have continued with the trial, and I could have got the
14 same thing at trial which is a thirty year day-for-day
15 sentence. But I wouldn't have pled for that.

16 Q. All right. But you understand in your guilty plea
17 transcript on page 9, line number 9, the Court says, "All
18 right. Now, this charge carries with it a minimum of
19 thirty and a maximum of life." And you were there when
20 that was read; is that correct?

21 A. That was an indirect statement. It wasn't no direct
22 statement toward me.

23 Q. Okay. And then the Court two lines down on line 12
24 of the same page says, "Mr. Sanford, do you understand
25 this is a recommendation here of thirty years?" And you

Jason Jamal Sanford - Direct Examination by Mr. Welborn

6

1 said, "Yes, sir." And then on line 15, "Do you
2 understand I don't have to go along with the
3 recommendation; I could sentence you to life in prison?
4 Do you understand that?" And your answer was, "Yes,
5 sir." Do you remember that conversation?

6 A. Yes, sir.

7 Q. And would you agree that the judge was basically
8 saying you can get more than thirty years; you can get
9 life which means you never come out?

10 A. Correct.

11 Q. Till you die?

12 A. Correct.

13 Q. Are you telling the Court then that knowing that,
14 you still would have -- if Mr. Robinson had properly told
15 you that you were going to serve day for day of thirty
16 years, you would have insisted on going to trial? Is
17 that what you're telling the Court?

18 A. Correct, because I didn't know all the elements of
19 the charge. He never explained all the elements of that
20 charge to me.

21 Q. We'll talk about that in a moment. So you're
22 telling the Court then so the Court understands, you were
23 willing to risk under the facts and circumstances that's
24 testified to by the Prosecution, you still would have
25 insisted on having a full trial knowing you might have

1 been found guilty and gone away forever and ever? Do you
2 understand that?

3 A. Yes, sir.

4 Q. Now, do you understand then that the minimum you
5 could have got is what you got here, thirty years?

6 Thirty years in jail is the minimum. Do you understand
7 that?

8 A. Yes, sir.

9 Q. And do you understand that's what you got?

10 A. (No verbal response)

11 Q. Do you understand you got thirty years in jail, Mr.
12 Sanford?

13 A. I understand that.

14 Q. And you understand that was the minimum sentence
15 that you could have gotten in this case? Do you
16 understand that?

17 A. Yes, sir.

18 Q. And so you're telling the Court that in spite of
19 getting the minimum sentence, if you had been told the
20 minimum really means thirty years, you're telling the
21 Court you still would have insisted on going to trial
22 regardless of the evidence that was presented that day?

23 A. I still would have went to trial.

24 Q. Okay. Now, you feel like you were prejudiced by
25 your lawyer in him not telling you that you were going to

1 do literally the thirty years?

2 A. Yes, sir, because I didn't get the whole proper
3 understanding of the charge or how much time I was going
4 to do on the charge.

5 Q. Now, the Court did give you credit for your eighteen
6 months you stayed in jail in the detention center; is
7 that correct?

8 A. Yes, sir.

9 Q. All right. You also allege that your lawyer, Mr.
10 Scott Robinson, failed to investigate your mental health.
11 And you actually wrote me a letter sometime back asking
12 for a mental evaluation. Do you remember that?

13 A. Yes, sir.

14 Q. And I wrote you and said, "Well, that's not relevant
15 now; it would have been relevant before your trial." Do
16 you remember that?

17 A. Correct.

18 Q. Now, did you tell Mr. Robinson then, "I think I have
19 some problems, and I need a mental evaluation," prior to
20 your ever going to trial? Did you tell him that?

21 A. Yes, sir.

22 Q. And what was his response to you about that?

23 A. He never gave me a response. He never filed for me
24 to get a psychological evaluation.

25 Q. And why do you think you need to have a

1 psychological evaluation? What was happening in your
2 life that caused you to believe that?

3 A. I always had mental problems ever since I've been a
4 child.

5 Q. Have you ever been found to be -- by a court of
6 competent jurisdiction, have you ever been found to be
7 mentally ill?

8 A. No, sir.

9 Q. Have you ever been admitted voluntarily or
10 involuntarily to a mental hospital in this state like Pat
11 Harris Hospital as an example?

12 A. No, sir, because I never had no serious charges.

13 Q. So you're telling the Court though you've had mental
14 problems?

15 A. Yes, sir.

16 Q. Now, how do you know that since you've never been
17 admitted and diagnosed as that?

18 A. Because I used take medications for my mental
19 problems when I was younger.

20 Q. What medications did you take?

21 A. I can't -- I can't really say what they was. At the
22 time I didn't know what it was.

23 Q. So how do you know you had mental problems?

24 A. Because I used to take medicine for it.

25 Q. Did your mama say, "You've got mental problems; take

1 this medicine"?

2 A. Yes, sir.

3 Q. And she didn't tell you what kind it was?

4 A. I was young.

5 Q. How long ago did you stop taking it?

6 A. I was about eleven or twelve.

7 Q. And how old are you now?

8 A. I'm twenty-two.

9 Q. So ten years ago you were taking this?

10 A. Something like that.

11 Q. All right. Did you tell Mr. Robinson all this?

12 A. He knew all about it. He talked to my parents.

13 Q. And did you ask them to have a mental evaluation?

14 A. Yes, sir.

15 Q. Now, you also alleged -- let me stop right there.

16 Do you think the court, if you had had a mental

17 evaluation, it would have found that you were mentally

18 ill?

19 A. It's a possibility. We won't never know the answer

20 because it never happened.

21 Q. All right. Now, any reason why you didn't tell Mr.

22 Robinson, "I'm not going to trial if I don't get this

23 mental evaluation. I need help." Any reason you didn't

24 tell him that?

25 A. No reason because at the time I thought he was going

- 1 to do that.
- 2 Q. So you pled guilty thinking he was going to do that?
- 3 A. Get me evaluated before I pled.
- 4 Q. Well, I'm curious and I know the Court wants to
- 5 know, well, if you felt this way, why did you plead
- 6 guilty that day?
- 7 A. Because at the time, he was telling me that I was
- 8 going to get a life sentence if I didn't take the plea.
- 9 Q. So you pled guilty thinking you were going to go
- 10 away forever and come out in a pine box when you're dead?
- 11 Is that it?
- 12 A. Correct.
- 13 Q. All right. Now, you also alleged that Mr. Robinson
- 14 failed to submit you for a competency evaluation. Is
- 15 that the same thing basically you said a moment ago?
- 16 A. Same thing.
- 17 Q. Correct?
- 18 A. Correct.
- 19 Q. Now, you've also alleged -- you asked me to amend,
- 20 and I did. And I think opposing counsel would agree that
- 21 you've alleged that you should have been indicted on this
- 22 -- excuse me -- yes, your indictment should have been
- 23 quashed because they didn't indict you within ninety days
- 24 of your being incarcerated; is that correct?
- 25 A. Correct.

Jason Jamal Sanford - Direct Examination by Mr. Welborn

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1 Q. And how long were you incarcerated before you got
2 served with an indictment?

3 A. Eleven months and seventeen days.

4 Q. All right. Now, you've also alleged that -- bear
5 with me -- that investigators discovered two different
6 caliber bullets even though you had a co-defendant that
7 also fired a shot, and this was an issue. Tell the Court
8 what you mean by that.

9 A. Okay. The victim got killed with a .40 caliber
10 bullet which they had a shell casing there that was not a
11 .40 caliber gun. The co-defendant had a .38 revolver
12 which do not have any type of shell casings at all.
13 Okay? If I got one gun and it's a .40 caliber, and I
14 shoot it, they just got that shell casing, and the co-
15 defendant got a .38 revolver which do not empty no type
16 of shell casings at all, then that mean somebody else had
17 a different type of gun. Which the victim did. So by
18 that, they had found another shell casing like fifteen
19 feet away from where I was at shooting the gun. So this
20 means this man had a gun because the shell casing is
21 right there laying by where he was laying.

22 Q. Let's unpack this for the Court. Okay? Now, you
23 and a co-defendant allegedly shot someone. Allegedly; is
24 that correct?

25 A. That's what they say.

1 Q. Now, you're trying to tell the Court, I think, that
2 that could not have been your gun that shot this guy
3 because it was a different caliber than what you had.
4 Did I say that correctly?

5 A. No. What I'm saying is my lawyer could have fought
6 for self-defense which he never did because if you get
7 two guns and one of them is a .40 caliber and another one
8 is a .38 revolver which does not have no type of shell
9 casings at all, and the spot they allegedly say I was at
10 shooting, just the shell casings right there, and where
11 the alleged victim's body was at and one shell casing was
12 there that was not fired, I mean, that's common sense.

13 Q. I want to understand this. Okay? I know the Judge
14 does too. Self-defense -- and I'm trying to piece
15 together -- I think it's alleged that you and a co-
16 defendant shot somebody on a motorcycle and that person
17 died. Now, whether that's true or not, it's alleged. Is
18 that correct?

19 A. That's correct.

20 Q. Now, where does self-defense come in this for you?
21 Explain to the Court what you're trying to say about
22 these different calibers.

23 A. Okay. If somebody got a gun on them and ---

24 Q. Well, who had a gun on them?

25 A. Let's say the victim.

Jason Jamal Sanford - Direct Examination by Mr. Welborn

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1 Q. The victim?

2 A. Let's say ---

3 Q. Well, did the victim have a gun on him, or do you
4 know?

5 A. I don't -- I'm not a hundred percent sure. But my
6 lawyer could have investigated it a little bit more than
7 he did. That's all I'm saying.

8 Q. Well, was there a shot fired at you that was from a
9 gun that he had, or do you know?

10 A. That's a possibility.

11 Q. You don't know?

12 A. It's a possibility.

13 Q. All right. I just want to make sure the Court
14 understands. So you're not alleging that he had a gun
15 that was a different caliber from your co-defendant;
16 you're alleging that the victim had a gun, and then
17 something about a different caliber being found that I
18 don't understand. Can you explain that?

19 A. Okay. Different calibers is like different shell
20 casings, different bullets is like you got a .22
21 different type of caliber, and you got a ---

22 Q. Let me stop you. Where did they find a different
23 caliber bullet that you're trying to allege? Was it ---

24 A. One ---

25 Q. Was it near you, or was it fired at you? Or where

- 1 did they find it?
- 2 A. By the victim.
- 3 Q. By the victim? Now, what kind of gun did they say
- 4 you had?
- 5 A. A .40 caliber.
- 6 Q. Now, you're under oath today. What kind did you
- 7 have?
- 8 A. Me?
- 9 Q. You.
- 10 A. I didn't have no gun.
- 11 Q. You had no gun?
- 12 A. They didn't find no weapon on me at all.
- 13 Q. All right. But you pled guilty to this; correct?
- 14 A. Correct.
- 15 Q. Now, did your lawyer explain to you about the hand
- 16 of one being the hand of all in these cases?
- 17 A. He never explained that to me.
- 18 Q. All right. Why did you plead guilty then?
- 19 A. I told you just because he's saying if I didn't
- 20 plead guilty, if I went to trial -- there was no possible
- 21 way I would win at trial -- they would give me a life
- 22 sentence.
- 23 Q. All right. Now, a couple more questions. You're
- 24 saying you didn't have a gun and you've tried to explain
- 25 -- and I'm confused about it to this point. What

Jason Jamal Sanford - Direct Examination by Mr. Welborn

16

1 difference does the caliber make if you didn't have a gun
2 anyway?

3 A. What I'm saying if they saying I'm -- I got this
4 gun, a .40 caliber pistol, and they got this .40 caliber
5 shell casing, but they find a different shell casing by
6 the victim that wasn't fired, just a bullet, how that
7 bullet get there? That's all I want to know.

8 Q. But you said you didn't have a gun?

9 THE COURT: He's saying it was the victim's gun
10 is what he's alleging. Potentially is what I understand.

11 Let me ask you this. Did your lawyer review with
12 you the video surveillance tape at Eddie's Mini Mart?

13 THE APPLICANT: I never saw it.

14 THE COURT: You never saw it?

15 THE APPLICANT: No, ma'am. My parents saw it,
16 but I never saw it.

17 THE COURT: And you also understand that there
18 were people in the apartment complex that identified you
19 out of a photo lineup; is that correct?

20 THE APPLICANT: Yes, ma'am.

21 THE COURT: Sorry. Anything further?

22 Q. Did your lawyer explain -- I may have asked this.
23 Forgive me. Did he explain the elements of murder that
24 you were pleading guilty to?

25 A. No, sir.

1 Q. What did you think you were pleading guilty to?

2 A. Murder.

3 Q. Well, when did you find out the elements of murder?

4 A. When I got convicted and started getting the law
5 work.

6 Q. Starting getting the what work? Law work?

7 A. Law work.

8 Q. Now, the things you just testified to, if your
9 lawyer had done these things that you say he didn't done
10 -- didn't do, would you have insisted upon going to
11 trial?

12 A. Yes, sir.

13 Q. But for these things, you would have gone to trial
14 and maybe risked dying in prison? Do you understand that
15 correctly?

16 A. Yes, sir.

17 Q. All right. So you feel like you were prejudiced by
18 his inadequate representation, and because of that, you
19 want a trial?

20 A. Yes, sir.

21 Q. Did you feel like you were forced into pleading
22 guilty on this?

23 A. Basically because, once again, back to the
24 statement, the third statement issue that we talked
25 about?

1 Q. Yes, sir.

2 A. He told me that it was a third statement written by
3 a co-defendant that basically just wants to testify
4 against me at trial. And I never saw this third
5 statement which he said was the third statement written.
6 I don't know if this statement could have helped me or
7 went against me. So just by him telling me that, that's
8 why I pled.

9 Q. Okay.

10 A. Because he was like there was no way if this person
11 testifies against me at trial, ain't no way I can win at
12 trial, and I was going to get a life sentence. So just
13 by that -- you say that there wasn't no third statement
14 in a new motion of discovery that you just got. So if
15 that's the case, he lied to me.

16 Q. Okay. We talked over the phone the other day, and I
17 told you I hadn't found that third statement and I had
18 all the discovery; isn't that correct?

19 A. That's correct.

20 Q. All right. Thank you. Answer anything that
21 opposing counsel may have.

22 MR. WHITMIRE: I'll be brief, Your Honor. Just
23 a few questions.

24 THE COURT: Okay.

25 MR. WHITMIRE: May it please the Court.

1 CROSS-EXAMINATION

2 BY MR. WHITMIRE:

3 Q. Good afternoon, Mr. Sanford.

4 A. Good afternoon.

5 Q. You just testified that Mr. Robinson forced you to
6 take this guilty plea; is that correct?

7 A. Yes, sir.

8 Q. Was this your first guilty plea?

9 A. Yes, sir.

10 Q. Did you plead guilty to ABHAN a few years prior?

11 A. Oh, yes, sir.

12 Q. Who was your attorney in that case?

13 A. I can't even remember his name.

14 Q. Norman Epps?

15 A. I can't even remember, sir.

16 Q. Did he force you to plead guilty too?

17 A. I really can't even remember back. Like that
18 situation was so long ago, I can't even remember nothing
19 about it.

20 Q. Do you remember how much time you ended up doing for
21 ABHAN?

22 A. I did ---

23 MR. WELBORN: Your Honor, I object

24 A. --- like twelve or thirteen ...

25 MR. WELBORN: I object on the grounds of

1 relevance.

2 MR. WHITMIRE: In response, I guess, to
3 relevance because it would show his understanding of
4 parole eligibility.

5 Q. Do you remember how much time you did?

6 A. I did like twelve or thirteen months.

7 Q. Do you remember how much you were sentenced to?

8 A. I was sentenced to eighteen months.

9 Q. So you got out on parole early?

10 A. Yes, sir.

11 Q. And did you ever ask Mr. Robinson about parole
12 eligibility?

13 A. No, sir.

14 Q. And you claim today he just never brought it up?

15 A. At all.

16 Q. Not once?

17 A. I never knew nothing about it.

18 Q. And when you were serving time in prison, was this
19 your first prison sentence?

20 A. This right here?

21 Q. No. The one before for the ABHAN.

22 A. Yes, sir.

23 Q. Were you on any sort of mental health medication
24 then?

25 A. No, sir.

1 Q. In fact, didn't you plead guilty in front of the
2 same judge, Judge Maddox?

3 A. I can't recall if it was Judge Maddox or not.

4 Q. And one more final question. I'm a little confused.
5 You're claiming Mr. Robinson should have investigated
6 self-defense?

7 A. Correct.

8 Q. But you're also claiming that you didn't shoot the
9 victim; you were just there?

10 A. I'm not answering that question, sir.

11 Q. Going by what you just testified to, you didn't fire
12 the gun?

13 A. I'm not answering that question, sir.

14 MR. WHITMIRE: Your Honor, the record will
15 speak for itself in plea colloquy. I have no further
16 questions.

17 THE COURT: Anything further?

18 MR. WELBORN: Your Honor, that's our case.

19 THE COURT: You may step down, sir.

20 THE APPLICANT: Your Honor, may I read
21 something into the record?

22 THE COURT: Certainly.

23 Have you seen this?

24 MR. WELBORN: I'm sorry, Your Honor?

25 THE COURT: He wants to read something into the

1 record. Have you seen it?

2 MR. WELBORN: I didn't understand the Court.

3 I'm sorry.

4 THE COURT: I said he wants to read something
5 for the record. Would you like to see it?

6 MR. WELBORN: I have no objection.

7 THE COURT: All right. You have no objection.

8 I just wanted to make sure that your attorney knew
9 what you were doing. Go ahead, sir.

10 MR. WHITMIRE: I would just ask that he
11 identify it and there's a copy made for us. I've never
12 seen it.

13 THE COURT: Well, it will be just as if he were
14 giving testimony, so it really doesn't matter.

15 Go ahead, sir.

16 THE APPLICANT: Your Honor, if it please the
17 Court, this case is indicted as 2012-GS-04-00968 in
18 Anderson County for murder. Your Honor, within this
19 post-conviction relief hearing, the governing law would
20 be of the South Carolina Code of Laws, Section 17-27-
21 20(a)(1), (2), (4), and (6). Your Honor, under the
22 governing statute, Petitioner do assert for the record
23 that he is in custody in violation of the Sixth and
24 Fourteenth Amendment of the United States of America and
25 South Carolina Constitution. Petitioner do assert that

1 within the Court of General Sessions Anderson County, the
2 Court was without jurisdiction to impose the sentence of
3 murder. Your Honor, which in this matter there exists
4 evidence of material facts not presented and heard that
5 requires revocation of the conviction or sentence in the
6 interest of justice.

7 Lastly, this conviction or sentence is subject to
8 collateral tech for any common law remedy, motion,
9 proceeding or action to secure relief. Your Honor, the
10 controlling case in this matter would be Strickland v.
11 Washington. Pursuant to guilty pleas or ineffective
12 assistance of counsel, person is petitioned by counsel's
13 deficient advice. By this being stated pursuant to
14 Frazier v. State, the burden of proof is on the Applicant
15 to prove his allegations by a preponderance of the
16 evidence.

17 Also, by asserting ineffective assistance of
18 counsel, Petitioner would need to prove prejudice -- see
19 Taylor v. State -- holding that in order to prove
20 prejudice, an applicant must show that there is a
21 reasonable probability that but for counsel's
22 unprofessional error, the results of the proceeding would
23 have been different.

24 THE COURT: Mr. Sanford?

25 THE APPLICANT: Yes, ma'am.

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1 THE COURT: What you're reading to me right now
2 is the law on post-conviction relief which I am very well
3 versed.

4 THE APPLICANT: Yeah, I understand that.

5 THE COURT: Do you have something in there that
6 talks about the facts of this case that specifically you
7 want me to know about?

8 THE APPLICANT: I'm about to get to that right
9 now.

10 THE COURT: Perfect.

11 THE APPLICANT: Okay. Your Honor, Petitioner
12 would move to enter into the record as exhibit 1 a copy
13 of his arrest warrant by the Honorable Magistrate Judge
14 Denise M. Mallone which was signed on May 28th, 2011,
15 when they arrested Petitioner for the alleged murder on
16 May 27th, 2011 as delivered to Petitioner on June 1st,
17 2011, without any objections from the State for entry.

18 Your Honor, without objection from the State,
19 Petitioner would enter as exhibit 2 a copy of his
20 indictment number 2012-GS-04-00968 as true-billed on
21 April 17th, 2012, with a December 4th, 2012, commitment
22 of the alleged murder.

23 Lastly, for entry, if it please the Court,
24 Petitioner will without objection from the State will
25 enter as exhibit 3 a copy of his sentence sheet as dated

1 December the 4th, 2012, as the sentencing date.

2 Your Honor, looking at exhibit 1, the arrest warrant
3 was executed on May 28th, 2011, for the arrest of
4 Petitioner for the alleged May 27th, 2011, murder. This
5 again was served to Petitioner on June 1st, 2011. Your
6 Honor, turning to exhibit 2, it is evidence that the
7 grand jury true-billed the indictment to indict the
8 Petitioner on murder on April the 17th, 2012.

9 Your Honor, under the governing law of the South
10 Carolina Rules of Criminal Procedures Rule 3(C) that
11 within ninety days after receipt of an arrest warrant
12 from the Clerk of Court, the Solicitor shall take action
13 on the warrant by, one, preparing an indictment
14 presentment to the grand jury which indictment shall be
15 filed with the clerk of court, assigned a criminal case
16 number, presented to the grand jury; two, formally
17 dismissing warrant noting on the face of the warrant the
18 action taken; or three, make another affirmative opposing
19 in writing of such actions with the clerk of court.

20 Your Honor, as detailed on exhibit 1, arrest
21 warrant, the constable slash law enforcement officer on
22 May 31st, 2011, did receive the warrant from the
23 magistrate judge on May 31st, 2011, and delivered to
24 Petitioner on June 6th, 2011.

25 Your Honor, the Solicitor lost jurisdiction over

Jason Jamal Sanford - Cross-examination by Mr. Welborn

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1 this matter proceeding in violation of the South Carolina
2 Rules of Criminal Procedure Rule 3(C), that within ninety
3 days after receipt of the arrest warrant from the clerk
4 of court the solicitor shall take action on the warrant
5 by, one, preparing an indictment presentment to the grand
6 jury which indictment shall be filed with the clerk of
7 court, assigned a criminal case number and presented to
8 the grand jury.

9 Your Honor, the indictment was presented to the
10 grand jury and was true-billed ---

11 THE COURT: Mr. Sanford, let me ask you, how
12 long is that?

13 THE APPLICANT: I got two more sheets.

14 THE COURT: Two more sheets?

15 THE APPLICANT: Yes, ma'am.

16 THE COURT: Okay. I just want to make sure
17 it's something different other than what was requested in
18 your packet. It seems to go above and beyond what you've
19 requested in your ineffective assistance of counsel. Is
20 that correct?

21 THE APPLICANT: Yes, ma'am.

22 THE COURT: It's something above and beyond
23 that?

24 THE APPLICANT: It's the same thing as
25 ineffective assistance of counsel where my counsel didn't

1 go and file to squash my indictment.

2 THE COURT: You mean failure to quash the
3 indictment?

4 THE APPLICANT: Yes, ma'am.

5 THE COURT: All right. Keep going.

6 THE APPLICANT: ... with the clerk of court,
7 assigned a criminal case number and presented to the
8 grand jury. Your Honor, the indictment was presented to
9 the grand jury and was true-billed with the clerk of
10 court, criminal case number as filed with the clerk of
11 court general sessions which included in South Carolina
12 Rules of Criminal Procedures 3(C), ninety days had
13 expired as warranted by law to present an indictment
14 before the grand jury.

15 Moreover, there has been a calculation of ten months
16 and seventeen days following the indictment. Even as
17 located within the South Carolina Constitution, Articles
18 1, 6 and 11, the Court, however, is not concerned with
19 the significance of a particular indictment but with the
20 levity and significance of the process of the grand jury
21 which issued the indictment. As the indictment from this
22 procedure clearly shows, it's invalid significant. This
23 did deprive Petitioner from life and liberty without due
24 process as stated in Courtney v. State. In incidents
25 where such indictments are part of play, therefore, we

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1 take the position that he has been deprived of life,
2 liberty or property without due process of law in
3 violation of the Constitution, Constitution Amendment Six
4 and Fourteen.

5 Your Honor, as a result of the invalid indictment to
6 warrant this conviction of thirty years, Petitioner was
7 convicted. See exhibit 3, sentencing sheet. Your Honor,
8 this caused Petitioner's attorney should have made
9 objections to such indictment and moved to quash under
10 South Carolina Code Section 17-19-90(a) to promptly move
11 to squash there indictment at the trial part; whereas,
12 therefore without subject matter jurisdiction to accept
13 Petitioner's plea, sentencing him to murder as his plea
14 was not voluntarily and understandingly made. Also, see
15 Riddle -- State v. Riddle.

16 Your Honor, for the record, Petitioner would also
17 cite Dover v. State that this sentence was a mandatory
18 minimum, would have insisted on going to trial but for
19 counsel's advice. Your Honor, in short, Petitioner would
20 assert that his plea counselor, Scott D. Robinson's
21 performance was deficient as a showing on the record by
22 exhibit 1, 2 and 3, that counselor made errors so serious
23 that Counselor Robinson was not functioning as the
24 counselor guaranteed to the Petitioner by the Sixth
25 Amendment, by not squashing the invalid indictment

1 causing Petitioner to be convicted and sentenced in
2 violation of the invalid indictment as Counselor Robinson
3 should have known. For this cause, Attorney Robinson's
4 deficient performance did prejudice the Defense to squash
5 the invalid indictment as Counselor Robinson's errors
6 were so serious as to deny Petitioner of a fair trial and
7 trial which would have resulted in denial, Petitioner
8 would not have been sentenced under the invalid
9 indictment.

10 As attorney Robinson rendered ineffective assistance
11 of counsel, however, Your Honor, Petitioner do satisfy
12 the prejudice prong of Strickland, ineffective assistance
13 of counsel requiring the contents of a conviction and
14 sentence by guilty plea. As Petitioner proved through
15 the preponderance and presentation of ---

16 THE COURT: Mr. Sanford, again, you need to
17 tell me again what facts you're arguing. I know what the
18 law is, and I understand what the basis is and the status
19 is. You need to tell me what this lawyer failed to do.
20 And you've laid out quite well what I understand to be
21 his failure to quash the indictment, him not telling you
22 that a murder sentence is day for day, that you believe
23 based on your past history that he should have at a
24 minimum had a mental evaluation done of you.

25 THE APPLICANT: Correct.

1 THE COURT: And as a result of that, you could
2 not plead guilty because you were not mentally competent
3 to plead guilty. I also see that there was an issue in
4 here about potentially your lawyer did say at the guilty
5 plea that you had a potential self-defense argument.

6 THE APPLICANT: Yes, ma'am.

7 THE COURT: And I understand through your
8 testimony right here that you also talk about there being
9 a different caliber of bullet found at the scene which
10 potentially could have been the victim's.

11 THE APPLICANT: Yes, ma'am.

12 THE COURT: I think that pretty much covers it,
13 am I correct, as far as everything? And then you felt
14 like you had no choice but to plead guilty because your
15 lawyer told you that if you proceeded to trial and were
16 found guilty that you would receive a life sentence and
17 never come out. What we call a pine-box sentence. Is
18 that your understanding?

19 THE APPLICANT: Yes, ma'am.

20 THE COURT: Okay.

21 THE APPLICANT: That's basically what I was
22 just basically just reading about. My lawyer failed to
23 file to move to squash my indictment.

24 THE COURT: To quash your indictment. Is that
25 your understanding?

1 THE APPLICANT: Yes, ma'am.

2 THE COURT: Okay.

3 THE APPLICANT: The other issue I'd like to
4 bring up ---

5 THE COURT: Anything else other those specific
6 things that I just went through that you just testified
7 to? Anything else that you think he failed to do?

8 THE APPLICANT: Another thing about like how my
9 indictment, it didn't state the time and the place of
10 death of the victim.

11 THE COURT: Okay.

12 THE APPLICANT: It state the date as being May
13 27th, 2011.

14 THE COURT: Right.

15 THE APPLICANT: And the time was like -- well,
16 I'm not going to say time. It's place. The date and
17 place.

18 THE COURT: Date and place. . It's not required
19 to say ---

20 THE APPLICANT: Time and place?

21 THE COURT: Yeah. It's not required to
22 actually state the time.

23 THE APPLICANT: So in a murder indictment, it
24 don't really got to state as the time ---

25 THE COURT: The actual -- yeah.

1 THE APPLICANT: --- and place.

2 THE COURT: Right.

3 THE APPLICANT: It doesn't?

4 THE COURT: No.

5 THE APPLICANT: Okay. That's all I wanted to
6 know.

7 THE COURT: Okay.

8 MR. WHITMIRE: Your Honor, I just have a few
9 brief follow-up questions based on cross if you will
10 allow it.

11 THE COURT: All right. So we have -- other
12 than that, is that correct?

13 THE APPLICANT: Yes, ma'am.

14 THE COURT: Okay. Go ahead.

15 MR. WHITMIRE: Thank you.

16 CROSS-EXAMINATION

17 CONTINUED BY MR. WHITMIRE:

18 Q. You said you were served the arrest warrant a few
19 days or the day after this offense occurred?

20 A. Yes, sir.

21 Q. Were you out on bond, or were you incarcerated
22 pretrial?

23 A. I was incarcerated.

24 Q. Did you get a chance to read over the arrest warrant
25 when you were incarcerated?

1 A. I read over it.

2 Q. You were aware of what the State was alleging to try
3 you for?

4 A. Yes, sir.

5 Q. And you retained Mr. Robinson as a result?

6 A. Yes, sir.

7 Q. No further questions.

8 THE COURT: Do you have a copy of your
9 discovery, sir?

10 THE APPLICANT: I don't got a copy of it.

11 THE COURT: You didn't get a copy of it?

12 THE APPLICANT: I got one copy when I was in
13 the County, but right now I don't got a copy of it.

14 THE COURT: You don't have a copy right now.
15 No, no, no. Pre your guilty plea?

16 THE APPLICANT: I ain't got a copy of it. The
17 reason I tried to get a new copy because he had stated
18 there was a third statement written by a co-defendant.
19 So I asked the attorney that I got now would he get a
20 copy of my new discovery so I can see if that third
21 statement is really in there.

22 THE COURT: Okay.

23 THE APPLICANT: I never went back over it and
24 saw it, so I'm trying to see if it's really in there. He
25 says it not in there.

1 THE COURT: But you don't know whether or not
2 it's an actual written statement or a recorded statement
3 or just them saying that he is going to come to trial and
4 testify? Is that -- you don't know what it is. Is that
5 what you're saying?

6 THE APPLICANT: Scott Robinson, I mean, this
7 come from my attorney's mouth. And he's basically got my
8 life in his hands. And it's coming out of his mouth that
9 there was a third statement written by a co-defendant
10 that supposedly going to testify to me at trial. So I
11 want to try to see it. I don't know if it's a written
12 statement or ---

13 THE COURT: You don't know what it is?

14 THE APPLICANT: I don't know what it is.

15 THE COURT: Okay. Okay. All right.

16 Anything further, Mr. Welborn?

17 MR. WELBORN: No, Your Honor.

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

19 MR. WELBORN: That's our case.

20 THE COURT: Okay. Thank you.

21 Defendant, call your witness.

22 MR. WHITMIRE: Yes, Your Honor. First I'd like
23 to move for a directed verdict on the issue regarding the
24 indictment pursuant to State v. Culbreath and State v.
25 Gentry. Applicant was aware of the charges he faced. It

1 was sufficient. He was arrested for, met with an
2 attorney, had him retained. This Rule 3 ninety-day issue
3 has been something coming out of the Department of
4 Corrections a lot lately.

5 Furthermore, move for a directed verdict on the
6 parole eligibility issue. By his testimony, counsel
7 never advised him of parole eligibility. Well, that is a
8 collateral consequence. The law has been pretty clear on
9 that. It's buyer beware if you do advise on parole
10 eligibility. Certainly, he could have asked considering
11 he had prior experience in the Department of Corrections.

12 THE COURT: I'm going to hear from Mr.
13 Robinson.

14 MR. WHITMIRE: The State calls -- the
15 Respondent calls Mr. Robinson.

16 (WHEREUPON, the witness was duly sworn.)

17 THE COURT: Can I jump in for a minute?

18 MR. WHITMIRE: Yes.

19 THE COURT: You can go ahead and sit down, Mr.
20 Robinson.

21 THE WITNESS: Sure.

22 THE COURT: Sir, you didn't tell him he was
23 eighty-five percent eligible, did you, for pleading under
24 this thirty-year sentence?

25 THE WITNESS: I don't. I didn't, and I don't

1 do that.

2 THE COURT: Right.

3 THE WITNESS: Because you can't. You just
4 don't know. It's always going to be thirty day for day.

5 THE COURT: Thank you.

6 Go ahead.

7 SCOTT D. ROBINSON,

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. WHITMIRE:

11 Q. Good afternoon, Mr. Robinson.

12 A. Good afternoon.

13 Q. Do you recall your representation in this matter?

14 A. I do.

15 Q. Have you had a chance to review your file prior to
16 testifying here?

17 A. Yes.

18 Q. When were you retained to represent Mr. Sanford?

19 A. I don't know the exact date. But it was months
20 before the trial in this case.

21 Q. Soon after the arrest?

22 A. I believe so.

23 Q. Do you recall how many times you met with Mr.
24 Sanford prior to his plea date?

25 A. As far as number of times, I can't tell you the

1 number. But at least three, five, six. Something like
2 that. It would be a good number of times.

3 Q. Again, I apologize for being redundant. I just have
4 a few questions for the record.

5 A. Sure.

6 Q. Did you have a chance to review the State's
7 discovery disclosures?

8 A. Yes. He received a copy of the file.

9 Q. Did you discuss your impression of the State's
10 evidence with him?

11 A. Yes.

12 Q. Can you briefly share those impressions?

13 A. I thought -- this is what I thought. We went
14 through this whole case, the whole case file and so
15 forth. And here's what it is. There was a tape from
16 across the street that showed the victim that was on -- I
17 think he was on a motorcycle or one of those little
18 motorized bikes coming to an apartment complex. And two
19 guys come across and shoot him. That's what the tape
20 shows. But the thing is, the tape, you can't really --
21 if you look at the tape -- and he saw a copy of this
22 tape. His parents saw it as well. You can't see these
23 guys from a distance that well. It's not really
24 something you can look at and say, "Well, that must be
25 Mr. Sanford." So I think that he was going on -- I think

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1 the position was they can't show that that's me, so I'm
2 not going to plead guilty. That's what I think.

3 But what happened was this. Right before trial, the
4 co-defendant, girlfriend or fiancé came forward and said
5 -- I don't know whether it -- I don't think it was
6 written. But she gave a statement. Went to the
7 Solicitor's office because I think they may have offered
8 her a deal or helped her in her case. I'm not sure what
9 it was. But she said, "I that day dropped ..." "I went
10 over to this apartment complex. I dropped off Jason
11 Sanford and the co-defendant. They came back after
12 shooting this guy, got in the car and left." That's what
13 happened. This girl came forward late in the game, and
14 so that's why I believe he decided to make a change to a
15 plea of guilty in this case, in front of one of the best
16 judges in Anderson County at least or this state to do a
17 plea in front of.

18 Q. You really weren't going with plea negotiations
19 until ---

20 A. There were never plea negotiations. You've got two
21 guys shooting a guy on a motorcycle or one of those
22 little -- I see these things all the time on the road.
23 The little motorized things that -- they call them DUI-
24 mobiles or something. Those little things. They shoot
25 the guy, and they run back. And there's a tape.

1 Unfortunately, it didn't have a great picture. But when
2 you have a girlfriend or fiancé coming forward, "Oh,
3 yeah, I dropped them off. They went and shot the guy and
4 got back in the car and left," that's pretty tough.
5 That's pretty tough to argue.

6 Q. Did he express any concerns about entering a guilty
7 plea to murder regarding ---

8 A. This was --

9 Q. --- what his expectations were?

10 A. This was absolutely his decision. And I can only
11 tell him -- and Judge Maddox is the same way. It's
12 thirty years day for day, thirty years to life. I can't
13 give and I don't give advice on parole eligibility
14 because if I ever am able to determine what the
15 Department of Corrections does, I'm going to write a book
16 and make a lot of money. But I can't -- I just can't do
17 that.

18 Q. But in regards to what he actually expected to get
19 as a sentence?

20 A. I have no idea.

21 Q. How many years?

22 A. No idea. All I know is this. If he entered the
23 plea, the State would recommend the minimum sentence in
24 the case. And that's what he got.

25 Q. I believe one of the allegations here today is

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1 failure to investigate. What was his version of the
2 facts? Was it self-defense? Identity?

3 A. The self-defense, that's a new -- that's a new one
4 for me. That's -- not that it's necessarily a -- it's an
5 idea, but it's not -- it wouldn't have gone anyplace. I
6 mean, there's no reason that you could put forward to a
7 jury that you go across -- you go across a lawn at an
8 apartment complex. And he had -- there were different
9 people that identified him that day as being there.
10 There's no -- I don't know if a jury would have believed
11 that this would have been self defense.

12 Q. Did you share those impressions with him during the
13 course of your representation?

14 A. We would go through -- if there had been any defense
15 to this, a defense that would have helped us in this
16 case, we would have gone over it. Absolutely.

17 Q. Had he wanted to go to trial, would you have gone to
18 trial?

19 A. Absolutely. We went to court that day for trial.

20 Q. And again, Mr. Robinson, I apologize for any
21 redundancy. Just a few more questions for the record.

22 Did he show any reservations, any hesitancy, before
23 entering the plea?

24 A. No, he didn't.

25 Q. Did he express any concerns regarding the elements

1 of murder?

2 A. No. Actually, you know, we -- one of the first
3 things I do when I meet with clients is go through the
4 elements of it, go through the elements of hand of one,
5 hand of all. But obviously, you have murder, malice
6 aforethought, expressed or implied. Going across a lawn
7 and shooting someone, I don't know how much -- I don't
8 how that could not be called murder in this case.

9 Q. Did he have any sort of cognitive deficits? Any
10 problems communicating with you?

11 A. No. I -- Jason is -- he's a very smart guy. He's
12 articulate and so forth. I asked him different questions
13 about his past and so forth. He had some little things
14 in his past. Couldn't recall what he took or anything
15 like that. But it was years, years before anything like
16 this. And you know, you ask these questions. You can't
17 just frivolously go forward and say, "Well, let's go get
18 an evaluation." Something like that. I went through all
19 the questioning in terms of making sure that he knew
20 everything, who the prosecutor was, who the judge was,
21 who I was. All these things. He took part in this case.
22 He is an intelligent, articulate young guy. He just got
23 himself in a bad situation.

24 Q. Did you ever have any concerns that he didn't have
25 the knowledge that he was being detained for a future

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1 murder trial?

2 A. It was always murder. It was always murder.

3 Q. On notice?

4 A. Always. He always knew that it was murder. Of
5 course, that's what I was retained for.

6 Q. Thank you, Mr. Robinson. No further questions.

7 MR. WELBORN: May it please the Court.

8 THE COURT: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. WELBORN:

11 Q. Mr. Robinson, the -- some of this you've already
12 talked about a little bit. I want to make sure I'm
13 clear. You just finished talking about, I think, his
14 ability to understand what was going on. Did he ask you
15 for some type of competency evaluation?

16 A. I don't ever recall him asking me for a competency
17 evaluation. I don't think he's, first of all, the type
18 to do that anyway. But he never asked me anything like
19 that. It was always, you know, just ---

20 Q. You said he was articulate. But was there anything
21 about him -- did he talk to you about his past and say,
22 "I've had some mental health problems. I took these
23 things my mom gave me until I was eleven years old."
24 Anything like that?

25 A. He would talk to me about everything, I'm sure. I

1 mean, as far as specific times when he said, blah, blah,
2 blah, as far as at this time. If I knew about it, I
3 would go through the whole process of figuring out what
4 he knew, what he didn't know. Figuring out things like
5 that. But you know, at the time that I represented him,
6 he didn't indicate anything was competent as far as
7 wrong. He was just like anybody. Just like a regular
8 person. There was nothing that I saw that would indicate
9 that.

10 Q. Did he talk to you about the two different caliber
11 bullets that were found that he testified to a little
12 while ago with me?

13 A. I have no idea -- we talked a good bit. I don't
14 know independently that I sat down one time and that was
15 mentioned in a conversation. We would go through the
16 discovery in detail. Every single document that was
17 available to me was given to him. And he and I would go
18 through it. If we talked about it -- and we may have
19 talked about it -- but I can't independently tell you we
20 talked about it. If that makes any sense.

21 Q. It does. Thank you.

22 MR. WHITMIRE: No further questions, Your
23 Honor. I ask that Mr. Robinson be released from his
24 subpoena.

25 THE COURT: All right.

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1 MR. WELBORN: Anything further for Mr.
2 Robinson?

3 MR. WELBORN: No, ma'am.

4 THE COURT: You're released, sir.

5 MR. ROBINSON: Thank you, Judge.

6 MR. WHITMIRE: Your Honor, the Respondent
7 rests, and we'd be happy to answer any questions you may
8 have.

9 MR. WELBORN: We have no further rebuttal.

10 THE COURT: Fine. Let's go ahead and call the
11 next one.

12 (WHEREUPON, the hearing ended at approximately 12:12
13 p.m.)

14 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

1 CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court
3 Reporter for the Tenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the
7 trial/hearing of the captioned case, relative to appeal,
8 in the Circuit Court for Anderson County, South Carolina,
9 on the 1st day of December 2014.

10 This transcript may contain quoted material. Such
11 material is reproduced as read by the speaker.

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

14 April 27, 2015

15

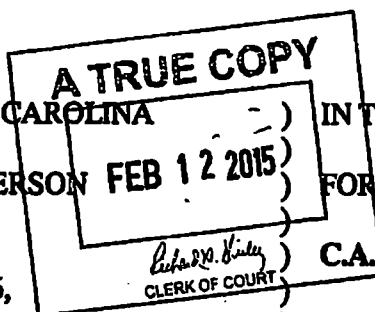
16 s/ *Renee H. Tollison*

17 Circuit Court Reporter



STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON) FOR THE TENTH JUDICIAL CIRCUIT

Jason Sanford,
S.C.D.C. No. 340276,



C.A. No. 2013-CP-04-1432

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

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COMMON PLEAS AND
GENERAL SESSIONS

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed June 12, 2013. Respondent subsequently filed its responsive pleadings. An evidentiary hearing into the matter was convened on December 1, 2014 at the Anderson County Courthouse. Applicant was present and was represented by Hugh W. Welborn, Esq. Respondent was represented by Walt Whitmire, Esq., of the Office of the Attorney General.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Anderson County. Applicant was indicted at the April 2012 term of the Court of General Sessions for Anderson County for murder. (2012-GS-04-0986). He was represented by Scott Robinson, Esq. On December 4, 2012, Applicant entered a guilty plea, as indicted and pursuant to the State's recommendation for the mandatory minimum thirty (30) year term of imprisonment, before the Honorable J. Cordell Maddox Jr. Judge Maddox accepted Applicant's plea and sentenced him pursuant to the State's recommendation. Applicant did not appeal his sentence or conviction.

At the PCR hearing, Applicant proceeded on the limited allegations of ineffective assistance of counsel in his assertion that he was being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel:
 - a. failure to quash a purportedly defective and untimely indictment;
 - b. failure to investigate the State's ballistic and trace evidence;
 - c. failure to investigate and pursue a theory of self-defense;
 - d. failure to submit Applicant for a psychological evaluation.
2. Involuntary Guilty Plea:
 - a. failure to apprise Applicant of the terms of the plea offer, that Applicant was pleading guilty, as indicted, to the offense murder
 - b. failure to apprise Applicant of the terms of the plea offer, that murder carried a mandatory minimum sentence of thirty years to life imprisonment;
 - c. failure to apprise Applicant of the elements of murder;
 - d. failure to apprise Applicant on the consequences of the plea offer, that the offense of murder was classified a no-parole offense.

Summary of Evidence and Testimony from the PCR Hearing

Applicant testified that he would have proceeded to trial if counsel had advised him of certain consequences concerning his plea and sentence. Applicant testified he was unaware that he would be required to serve "day for day" on a murder sentence. Applicant testified that he was unaware that murder carried a mandatory minimum sentence of thirty years. Applicant testified that he was unaware of the elements of murder; moreover, he asserted that had counsel advised him on this matter, he would have proceeded to trial. Applicant also testified that counsel warned him that he would receive the maximum sentence to murder if he went to trial. He testified that counsel told him that they could win at trial. Although Applicant testified that he recalled his

plea hearing, Judge Maddox "did not speak directly to him" during the colloquy.

Applicant testified that counsel did not fully investigate possible defenses in his case. Applicant testified that counsel should have submitted him for a mental evaluation based upon his prior mental health history. Applicant testified that counsel should have pursued a self-defense theory and strategy to his case. However, he also testified that he was uncertain if the victim was armed at the time of his death. Applicant asserted that his attorney should have moved to quash the purportedly defective indictment because it was issued in an untimely manner.

Next, Applicant testified counsel should have further investigated the State's ballistics evidence. He opined that ballistics would have implicated his co-defendant as the killer. He asserted that the State's evidence concerning his possession and ownership of a .40 caliber pistol was inaccurate. Applicant testified counsel never reviewed the surveillance tape that implicated him and the co-defendant in the murder.

Counsel testified to his course of conduct during the representation. Applicant retained counsel months prior to his plea. He met with Applicant three to six times during the representation. Counsel summarized the State's evidence and case against Applicant as follows: Applicant and his co-defendant were driven to the location, acted with deliberation, and executed the victim because of prior animosity between the parties. The driver gave a statement to police that placed Applicant and his co-defendant at the scene. She provided the police a chronological account of the evening that impacted both in the murder. Numerous residents of the neighborhood witnessed the murder and gave statements to police. A security camera from the immediate convenience store captured the murder where two suspects ambushed the victim and killed him while he was operating his moped.

Counsel evaluated the State's evidence and apprised Applicant of his impressions on matter. He was adamant that he reviewed the State's ballistics and trace evidence, among other things, with Applicant. Counsel noted that self-defense was not applicable to Applicant's case. He discussed the elements of murder and the accomplice liability theory of guilt with Applicant. Counsel testified that Applicant appeared coherent and competent during the representation. He had he had no reason to submit Applicant for a psychological evaluation based on his observations. Further, Applicant did not request a competency evaluation.

Counsel testified that the State did not engage him in substantive plea negotiations during the case. He conveyed the State's position to make a recommendation on sentencing, to the mandatory minimum, if Applicant pled guilty as indicted. Counsel testified that he reviewed the implications of pleading guilty with Applicant. He testified that it was Applicant's ultimate decision to plead. Counsel did not advise Applicant on parole eligibility and further noted that he does not advise his clients on the matter as a matter of his general practice.

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 (1984); Butler, 286 S.C. at 441, 334 S.E.2d at 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. at 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, supra. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Kolle v. State, 386 S.C. 578, 588, 690 S.E.2d 73, 78 (2010)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

As a general matter, this Court finds Applicant's global lack of credibility was fatal to his

PCR case. Several allegations of ineffective assistance of counsel were refuted by the plea colloquy that include failure to advise on the sentencing range for murder; Applicant's allegation that counsel was ineffective for failing to investigate a self-defense theory was refuted by his own PCR testimony where Applicant acknowledged that he was unaware if the victim was armed during murder; last, counsel provided credible and convincing testimony that further rendered Applicant's *post-hoc* assessment of his attorney's performance to be illusory. Therefore, this PCR Application is without merit.

A.

Applicant failed to meet his burden to prove that counsel's performance was either deficient or ineffective for failing to move to quash the purportedly defective indictment. In State v. Culbreath, 282 S.C. 38, 316 S.E.2d 681 (1984) the South Carolina Supreme Court interpreted the [Rule 3, SCRCimP] requiring solicitors to act on a warrant within ninety days of its issue. The court agreed with and affirmed the trial court's holding that such a rule was administrative not jurisdictional. Id. Furthermore, the court stated a solicitor's delay does not within itself invalidate a warrant or prevent subsequent prosecution. Id. at 40, 316 S.E.2d at 681. "[T]he United States Supreme Court, in United States v. Cotton, 535 U.S. 625 (2002), held that a defective indictment does not deprive a court of jurisdiction." State v. Gentry, 363 S.C. 93, 99, 610 S.E.2d 494, 498 (2005). "The circuit court should judge the sufficiency of the indictment by determining whether (1) the offense is stated with sufficient certainty and particularity to enable the court to know what judgment to pronounce, and the defendant to know what he is called upon to answer and whether he may plead an acquittal or conviction thereon; and (2) whether it apprises the defendant of the elements of the offense that is intended to be charged." Id. at 102-03, 610- S.E.2d 494 at 500 (internal citations omitted). This Court finds Applicant was certainly

aware that the State intended to proceed on a murder charge against him. He was immediately detained upon arrest and served a copy of the arrest warrant. He retained counsel and met with counsel numerous times prior to the disposition of charge. Furthermore, Applicant failed to even prove that either the indictment or the matter in which it was true-billed necessitated an action from counsel. This Court agrees with counsel that the allegation is per se non-prejudicial where the State sufficiently placed Applicant on notice of the charge. Therefore, this allegation is readily denied and dismissed.

B.

This Court finds Applicant failed to meet his burden to prove that counsel's performance was either deficient or ineffective for failing to investigate the State's ballistics and trace evidence. "Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (internal citations omitted). In light of counsel's credible testimony that he evaluated and apprised Applicant on the matter, Applicant has produced no credible testimony that would even remotely diminish his culpability in the murder. Counsel gave credible testimony that he apprised Applicant of the "hand of one is the hand of all" and its application to the case. See State v. Dickman, 341 S.C. 293, 295, 534 S.E.2d 268, 269 (2000) ("It is well-settled that a defendant may be convicted on a theory of accomplice liability pursuant to an indictment charging him only with the principal offense."). Regardless, the allegation rests entirely on logically incoherent speculation. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) ("failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result.") Therefore,

this allegation is readily denied and dismissed.

Applicant's allegation that counsel was ineffective for failing to pursue a self-defense theory of the case is without merit. This Court finds that Applicant failed to produce any credible testimony or evidence on the four prongs necessary to the invocation of the affirmative defense. See State v. Slater, 373 S.C. 66, 69, 644 S.E.2d 50, 52 (2007). Applicant's testimony that he was unaware if the victim was armed at the time of the ambush was telling. This Court rejects Applicant's contention that evidence of feud qualified as "self-defense." Therefore, this allegation is readily denied and dismissed without further discussion on the matter.

Applicant's allegation that counsel was ineffective for failing to submit him for a psychological evaluation is without merit. The Court rejects Applicant's notion that Strickland provides a "fishing expedition" as a remedy in a collateral criminal allegation. Furthermore, this Court agrees with counsel's assessment on the matter. Regardless, even the prospect of prejudice rested upon mere speculation. See Dempsey v. State, 363 S.C. 365, 369, 610 S.E.2d 812, 814 (2005). ("A PCR applicant cannot show that he was prejudiced by counsel's failure to call a favorable witness to testify at trial if that witness does not later testify at the PCR hearing or otherwise offer testimony within the rules of evidence."). Therefore, this allegation is readily denied and dismissed.

C.

Applicant fell well short of meeting his burden to prove any of the allegations that his guilty plea was rendered involuntary because of deficient and counsel's purportedly deficient and prejudicial performance in failing to advise him of the terms and consequences of the guilty plea. "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, 242 (1969); Roddy v. State, 339 S.C. 29, 33-34, 528 S.E.2d 418, 421 (2000). "A defendant's knowing and voluntary waiver of the constitutional rights which accompany a guilty plea may be accomplished by colloquy between the Court and the defendant, between the Court and defendant's counsel, or both." Pittman v. State, 337 S.C. 597, 600, 524 S.E.2d 623, 625 (1999). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984).

This Court finds Applicant's suspect *post-hoc* assertion that "Judge Maddox didn't address me directly" during the plea colloquy was completely lacking in credibility. "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." 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). Therefore, this Court finds that Applicant was apprised that he was pleading guilty to the offense of murder; that the offense carried minimum thirty year prison sentence to a life sentence; and that Applicant did not dispute counsel's assurance that he fully discussed the elements of murder with Applicant to Judge Maddox. **Plea Transcript, p.11; p.9, p.10.** This Court also finds counsel's testimony credible on the matter. Therefore these three allegations are readily denied and dismissed.

Last, this Court finds Applicant's allegation that counsel's performance was deficient and prejudicial for failing to advise him on parole eligibility to be without merit. In contrast, parole

eligibility has been held to be a collateral consequence of sentencing of which a defendant need not be specifically advised before entering a guilty plea. Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983). This Court further finds Applicant's contention that he would have proceeded to trial if had been advised on parole eligibility to be dubious and unavailing. Counsel's testimony and general practice approach on the matter was sound. Therefore, this allegation is summarily denied and dismissed.

D.

Except as discussed above, this Court finds that the Applicant affirmatively abandons the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

CONCLUSION

Based on all the forgoing, 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 for post-conviction relief. 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 intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule

203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.



IT IS THEREFORE ORDERED

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

AND IT IS SO ORDERED this 6 day of Feb., 2015.

CARMEN T. MULLEN
Presiding Judge
Tenth Judicial Circuit

Beaufort, South Carolina

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