

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Sumter County

\_\_\_\_\_  
Brooks P. Goldsmith, Circuit Court Judge

\_\_\_\_\_  
JERON ALONDO COOK,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-000816

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

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## TRANSCRIPT OF RECORD

(Whereupon, the proceedings were commenced at 9:35 a.m.)

THE COURT: Whenever you're ready.

MR. GOURLEY: Thank you, Judge. This is going to be *Jeron Cook v. State of South Carolina*, Docket No. 2014-CP-43-644. He's presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County clerk of court. He was true-bill indicted at the April 2010 term of the Sumter County Grand Jury for assault and battery with intent to kill, murder, burglary in the first degree, possession of a firearm during -- during a commission of a violent crime, and unlawful carrying of a handgun. Mr. Finney represented him.

Applicant proceeded to a jury trial before the Honorable W. Jeffrey Young. And on April 21st, 2010, he was found guilty. Judge Young sentenced him to a 22-year term of imprisonment for voluntary manslaughter, to run consecutively to a 5-year term of imprisonment for possession of a firearm during a violent crime, and a 1-year term of imprisonment for unlawful carrying of a handgun.

A timely notice of appeal was filed, and an *Anders* brief was submitted on applicant's behalf. And the South

1 Carolina Court of Appeals affirmed his conviction and  
2 sentence. Remittitur was issued on September 20th, 2013.

3 Your Honor, he did file an application for  
4 postconviction relief on March 21st, 2013. And that was  
5 Docket No. 2013-CP-43-522. That was dismissed without  
6 prejudice by order by Judge James because he had the  
7 pending appeal at that time.

8 He subsequently filed a second application for  
9 postconviction relief on April 3rd, 2014. And that's the  
10 case were here on today.

11 Your Honor, he has alleged ineffective assistance of  
12 counsel for failure to conduct an investigation and

13 ineffective assistance of appellate counsel for failure to  
14 raise claims requested. Ms. Blanchette has filed an  
15 amendment on his behalf.

16 And, Your Honor, the state filed its return on  
17 November 14th, 2014. And I'll turn it over to Ms.  
18 Blanchette.

19 THE COURT: Ms. Blanchette?

20 MS. BLANCHETTE: Thank you, Your Honor. May it please  
21 the Court: Tricia Blanchette here on behalf of Jeron Cook.  
22 The state mentioned that I filed an amendment. That was  
23 actually filed on February 11th of 2016. I just wanted to  
24 confirm that Your Honor did have a copy of it. It's -- the  
25 amendment itself is two pages, and it encompasses 11

1 issues. And if Your Honor needs it, I do have an extra  
2 copy.

3 THE COURT: Well, let me look. It was filed when?  
4 I'm sorry.

5 MS. BLANCHETTE: February 11th, 2016.

6 MR. GOURLEY: Your Honor, it should be on the front of  
7 your packet. If it's not, it -- it did not get put in. We  
8 always put the amendments ---

9 THE COURT: I have ---

10 MR. GOURLEY: --- at the very front.

11 THE COURT: I have the return.

12 MR. GOURLEY: Yeah. It must not be in there, then.

13 MS. BLANCHETTE: Your Honor, I'm happy to hand this up  
14 to make it ---

15 THE COURT: Thank you.

16 MS. BLANCHETTE: And I apologize. My copier decided  
17 to break yesterday. So some of the copies are a little  
18 funny, but they should be complete.

19 Your Honor, just to make a complete record, there was  
20 also an order authorizing discovery that was issued in this  
21 case on May 4th of 2015. And that was ordered by Judge  
22 James. Two of the -- well, one of the requests that we  
23 were allowed to make as a result of that discovery was we  
24 were attempting to get county-detention jail-call records  
25 and recordings.

1 In response to that, I received an affidavit back in  
2 May of last year, stating that those records are no longer  
3 available. And just to make a complete record, I'd like to  
4 mark that affidavit as Applicant's No. 1 at this time.

5 MR. GOURLEY: And no objection, Your Honor.

6 THE COURT: Without objection.

7 MR. GOURLEY: Thanks.

8 MS. BLANCHETTE: Your Honor, would you like a copy?

9 THE COURT: No. Not -- that's fine.

10 MS. BLANCHETTE: Okay.

11 (Whereupon, Plaintiff's Exhibit 1 was marked and  
12 entered into evidence.)

13 MS. BLANCHETTE: Your Honor, also in response to the  
14 order authorizing discovery, we received a copy of the file  
15 from Solicitor Finney -- from the solicitor's office from  
16 Solicitor Finney as defense counsel; and then, also from  
17 SLED and the sheriff's department. The sheriff's  
18 department provided an affidavit affirming their file, so I  
19 was also going to introduce that at this time, just to make  
20 a complete record. And that would be Applicant's No. 2.

21 THE COURT: It's without objection.

22 (Whereupon, Ms. Blanchette and Mr. Gourley conferred.)

23 (Whereupon, Plaintiff's Exhibit 2 was marked and  
24 entered into evidence.)

25 MS. BLANCHETTE: And the final matter on that

DIRECT EXAMINATION BY MS. BLANCHETTE - QUINCY MCKENZIE 8

1 discovery order -- once again, just to make a complete  
2 record -- was one of the items that we were given  
3 permission to attempt to obtain was the arraignment  
4 transcript. Many efforts were made to find that, including  
5 Judge James going through notes to see if he was the one  
6 who was in the courtroom. And we were not able to locate  
7 that one item that we were authorized to get as part of the  
8 order authorizing discovery.

9 THE COURT: Okay.

10 MS. BLANCHETTE: Your Honor, you have the amendment in  
11 front of you. Unless you'd like for me to do an  
12 introduction, I'm happy to call my first witness.

13 THE COURT: You may.

14 MS. BLANCHETTE: Your Honor, I'd call Quincy McKenzie  
15 to the stand.

16 (Whereupon, the witness came forward.)

17 QUINCY MCKENZIE, having been first duly sworn,  
18 testified as follows:

19 DEPUTY CLERK OF COURT: Please state your full name  
20 and spell your last name for the record.

21 THE WITNESS: Quincy McKenzie. And that's  
22 M-c-K-e-n-z-i-e.

23 DIRECT EXAMINATION

24 BY MS. BLANCHETTE:

25 Q Could you just repeat that, just because if you -- if

DIRECT EXAMINATION BY MS. BLANCHETTE - QUINCY MCKENZIE 9

1 you could speak into the microphone a little bit ---

2 A Quincy McKenzie.

3 Q --- more clearly.

4 A And my last name is M-c-K-e-n-z-i-e.

5 Q Okay. Mr. McKenzie, do you know Jeron Cook sitting  
6 here at the table with me?

7 A Yes, I do.

8 Q Okay. And how is that you know Mr. Cook?

9 A We was friends since we was like -- like 10/11 years  
10 old.

11 Q Okay. Let me take you back to the night of March  
12 18th, 2009. Do you remember hanging out with Mr. Cook that  
13 night?

14 A Yeah. We was actually at a family member's house of  
15 mine. We was playing Madden, the -- the Madden video game.

16 Q Okay. So you were playing video games with him that  
17 night. Do you recall him getting phone calls that night?

18 A Yeah.

19 Q Okay. And do ---

20 A Yeah ---

21 Q --- you know ---

22 A --- I do.

23 Q --- who those phone calls were coming from?

24 MR. GOURLEY: Objection, Your Honor. That would be  
25 hearsay.

DIRECT EXAMINATION BY MS. BLANCHETTE - QUINCY MCKENZIE 10

1 MS. BLANCHETTE: Your Honor, I'll ask the question  
2 differently.

3 THE COURT: Okay.

4 Q As a result of those phone calls, did Mr. Cook ask you  
5 to do anything with him that night?

6 A He just said he had a -- a friend who had a homegirl,  
7 know what I mean, and that he had wanted me to come with  
8 him. But I was, like -- I was, like, nah, because I was,  
9 know what I mean -- know what I mean, kind of skeptical  
10 about this -- I mean, the phone calls.

11 Q Okay. And were those phone calls coming in  
12 repeatedly?

13 A Not repeatedly. But, like, they were coming in.

14 Q Okay. And why did you choose not to go with him that  
15 night?

16 A Just being honest, he told me, know what I mean, that  
17 he had a hour, know what I mean. And I was -- we was  
18 playing the game for a hour then there and all. And I just  
19 told him I wasn't going, know what I mean, because I didn't  
20 feel comfortable.

21 Q So it was your understanding he had an hour to get to  
22 that location, and that time had passed; is that correct?

23 A Yeah. It was about 45 minutes, because I left. And  
24 on -- on the way leaving, we left at the same time, you  
25 might as well say, know what I mean. And he caught a ride.

DIRECT EXAMINATION BY MS. BLANCHETTE - QUINCY MCKENZIE 11

1 And I just went my separate ways. And after -- after we  
2 departed, I don't know what happened after that.

3 Q Okay. And did you tell him that you had some  
4 suspicions or worries and that's why you didn't want to go  
5 with him?

6 A I actually told him not to go.

7 Q Okay. And why did you tell him not to go that night?

8 A Well, I mean, because, you know, being from the urban  
9 neighborhood, you know what I mean, like, when you got a  
10 time limit on things, know what I mean, you -- you -- you  
11 -- you -- you not posed to go past that time limit.  
12 Because sometimes things don't usually go right.

13 Q And did ---

14 A Yeah.

15 Q --- you know what he was going there for that night?

16 A Yeah, know what I mean. He was going to have, know  
17 what I mean -- chill -- chill with some girls.

18 Q Okay. And did you think that he -- did he convey to  
19 you that he was going there to have sexual relations with  
20 anyone?

21 A Yeah, he did.

22 Q Okay. Now, did you ever have any personal  
23 interactions with the women that lived at the house that he  
24 was going to?

25 A Like, I knew them, know what I mean. They were cool.

DIRECT EXAMINATION BY MS. BLANCHETTE - QUINCY MCKENZIE 12

1 Know what I mean, they were cool females, you know what I'm  
2 saying. Like, they're not no, I mean, ugly females, know  
3 what I mean. Like, everybody knew them. They were just  
4 cool.

5 Q Okay. And was there anything else that you knew about  
6 that house?

7 A Not really, know what I'm saying, besides, know what I  
8 mean, that he was going there that night and what was going  
9 on, know what I mean.

10 Q And what was going on at that house?

11 A You know what I mean, like, traffic -- I guess they  
12 were having friends come over, whatnot, you know what I  
13 mean, things people have at their house.

14 Q Okay. And when you say "friends," what do you mean by  
15 that?

16 A Like, people they knew, I guess.

17 Q Okay.

18 A And, like, I just -- I guess he was one of them.

19 Q And leading up to Mr. Cook's trial in this case that  
20 occurred back in 2010, did you ever hear from his defense  
21 attorney, Mr. Finney, at that time or anyone working for  
22 him?

23 A No, I didn't.

24 Q Okay. And if they would've approached you, would you  
25 have been willing to talk to them?

DIRECT EXAMINATION BY MS. BLANCHETTE - QUINCY MCKENZIE 13

1 A Of course.

2 Q Okay. And back six years ago now, would your memory  
3 have been fresher and you would've been able to tell them  
4 more details back then?

5 A Yeah. It would've been fresher. I -- see, I done --  
6 I done -- I done lived in Atlanta and Philadelphia since  
7 then. So, you know, I'm not -- it would've been a whole  
8 lot fresher since then.

9 Q Would you have been able to get them in contact with  
10 other people in the neighborhood that may have had helpful  
11 information in this case?

12 A People we were with that night, I would been able to  
13 get in contact with for him ---

14 Q Okay.

15 A --- you know.

16 Q And were you able to do that now, all these years  
17 later?

18 A Everybody spread out, so, know what I mean, I could  
19 probably try, you know.

20 Q Okay.

21 A I mean ---

22 Q And were we able to get in touch with those people --  
23 were you able to help me get in touch with any of those  
24 people for today?

25 A I possibly could get in contact with one.

DIRECT EXAMINATION BY MS. BLANCHETTE - QUINCY MCKENZIE 14

1 Q But we weren't able to get them here today; is that

2 ---

3 A No. No.

4 Q Okay.

5 A No. I could -- I got -- I got subpoenaed at the -- at

6 the -- like -- like, when I got the subpoena ---

7 Q Uh-huh.

8 A --- to come to court, it was, like, last-minute thing.

9 So, you know, like ---

10 Q But you -- did you get that subpoena last week? Is  
11 that correct?

12 A Yeah.

13 Q Okay.

14 A I actually did.

15 Q Okay. And if you would've -- had been subpoenaed,  
16 like you just mentioned you were for today, would you have  
17 come to the trial of Mr. Cook and testified on his behalf  
18 about what you were aware of from that evening?

19 A Yeah. Of course -- of course I would.

20 Q Okay.

21 MS. BLANCHETTE: Your Honor, if I could beg the  
22 Court's indulgence one ---

23 THE COURT: All right.

24 MS. BLANCHETTE: --- moment.

25 THE COURT: Certainly.

CROSS-EXAMINATION BY MR. GOURLEY - QUINCY MCKENZIE 15

1 (Whereupon, Ms. Blanchette and the applicant  
2 conferred.)

3 MS. BLANCHETTE: Your Honor, I have no further  
4 questions of this witness.

5 THE COURT: Cross-examination?

6 MR. GOURLEY: Your Honor, if I may have just one  
7 second to speak with Ms. Blanchette.

8 (Whereupon, Mr. Gourley and Ms. Blanchette conferred.)

9 CROSS-EXAMINATION

10 BY MR. GOURLEY:

11 Q Mr. McKenzie, you were with Mr. Cook the night that  
12 everything took place?

13 A Yeah.

14 Q Okay. And y'all were just hanging out, chilling,  
15 playing games?

16 A Yeah. I wasn't with him when we left -- when he left,  
17 though.

18 Q Did you -- how close were you with Mr. Cook?

19 A We were -- like, we were kids growing up. Like, he  
20 could come to my parents' house. I could come to his  
21 parents' house. You know, we went to the same school.  
22 He's older than me, though, you know what I mean, like. We  
23 basically grew up in the same area -- you know, played  
24 basketball together, hang out together, you know.

25 Q I got you. Y'all were pretty good friends, fair ---

CROSS-EXAMINATION BY MR. GOURLEY - QUINCY MCKENZIE 16

1 A Yeah.

2 Q --- to say?

3 Okay. Did you ever attend his trial?

4 A No, I didn't.

5 Q Okay. All right. And, Mr. McKenzie, were you  
6 convicted in 2006 of distribution/sale of crack cocaine,  
7 PWID?

8 A Yes, I was.

9 Q Okay. Thank you, Mr. McKenzie.

10 MR. GOURLEY: Judge, that's all I have.

11 MS. BLANCHETTE: Your Honor, I have no further  
12 questions. And as he mentioned, he's here under subpoena.  
13 The -- I asked that he be released, unless there's an  
14 objection.

15 MR. GOURLEY: No objection, Your Honor.

16 THE COURT: Thank you, sir. You may step down, and  
17 you're released from your subpoena.

18 THE WITNESS: All right.

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

20 MS. BLANCHETTE: Your Honor, I would call Barbara  
21 Smith to the stand.

22 (Whereupon, the witness came forward.)

23 BARBARA SMITH, having been first duly sworn,  
24 testified as follows:

25 DEPUTY CLERK OF COURT: Please state your full name

DIRECT EXAMINATION BY MS. BLANCHETTE - BARBARA SMITH 17

1 and spell your last name for the record.

2 THE WITNESS: Smith -- Barbara Blackwell Smith.

3 DEPUTY CLERK OF COURT: Spell your last name, please,  
4 for the record.

5 THE WITNESS: S-m-i-t-h.

6 DEPUTY CLERK OF COURT: Thank you.

7 DIRECT EXAMINATION

8 BY MS. BLANCHETTE:

9 Q Ms. Smith, my name is Tricia Blanchette. And it's my  
10 understanding that you are the victim, William Blackwell's,  
11 sister; is that correct?

12 A Yes.

13 Q And, Ms. Smith, I apologize for having to call you to  
14 the stand, considering we're here about your brother's  
15 death. And I just have a couple questions for you this  
16 morning, okay?

17 A Uh-huh.

18 Q The -- the -- one of the individuals that was in the  
19 home that night was Shamika Weathers. Do you know Shamika  
20 Weathers?

21 A Yes.

22 Q Okay. And did Shamika Weathers originally stay at  
23 your home before she went to stay with your other sister?

24 A Yes.

25 Q Okay. And why was she staying at your home?

DIRECT EXAMINATION BY MS. BLANCHETTE - BARBARA SMITH 18

1 A Because she had nowhere to go.

2 Q Okay. And what occurred that she moved to your  
3 sister's house? How did that happen? Where this crime  
4 occurred, she eventually moved there; is that correct?

5 A To my sister house?

6 Q Yes.

7 A Uh-huh. Yes.

8 Q Okay. And do you know why she moved there?

9 A Because she wanted to stay with my sister and my  
10 brother, I guess.

11 Q Okay. And throughout the trial, they -- it was  
12 alleged that she was your -- your brother's girlfriend.  
13 Were you aware that they were in a boyfriend-girlfriend  
14 relationship?

15 A I know they were seeing each other.

16 Q Okay. Did you approve of that relationship?

17 A It don't matter what I would approve of.

18 Q Okay. Did you have any concerns about the fact that  
19 they were in a relationship?

20 A I mean, no.

21 Q Okay. Were you aware that your brother had -- and was  
22 he -- did he -- was he in a relationship with any other  
23 women at that time or anyone else that would've been  
24 considered his girlfriend?

25 A Yes. He had a girlfriend.

DIRECT EXAMINATION BY MS. BLANCHETTE - BARBARA SMITH 19

1 Q Okay. So at that same time, he had another  
2 girlfriend?

3 A He -- only girlfriend I know is his girlfriend. One  
4 girlfriend, that's the only girlfriend I knew. It ain't no  
5 him and Shamika dated. I knew they was talking.

6 Q Okay. So at trial it was alleged that they were  
7 boyfriend and girlfriend. But you were aware that your  
8 brother actually had a different girlfriend at the time?

9 A Uh-huh.

10 Q Okay. Now, were you in any way involved in getting  
11 Shamika to the trial back in 2010?

12 A Yes.

13 Q Okay. And how were you involved in making sure she  
14 got to the trial?

15 A I was leaving work one day. I was leaving work. I  
16 was working at Columbia Farms, which I was going to go look  
17 for her anyway, when I heard that it was time for court.  
18 And I was leaving work. And me and my sister was on  
19 Garners Ferry.

20 And I saw the girl walking. And I noticed who the  
21 girl was from her walk from the back. And I pull over on  
22 the side of the road and yell her name out. And she turned  
23 around; it was her.

24 Q Okay. And did you help her get to court for the trial  
25 or make sure she got to court?

DIRECT EXAMINATION BY MS. BLANCHETTE - BARBARA SMITH 20

1 A I came -- I asked her to come stay with me. I asked  
2 her to quit her job and come stay with me, because she said  
3 she would lose her job. And I told -- okay. But I needed  
4 her to come stay with me. Yes. She came.

5 Q Okay. So she came and stayed with you before the  
6 trial and you made sure she got to ---

7 A Well, she ---

8 Q --- the trial?

9 A --- came, like, a -- two or three days before the  
10 trial.

11 Q Okay. And did you give her any advice going into the  
12 trial?

13 A Yes.

14 Q Okay. What did you tell her?

15 A Go in there and tell the truth, nothing but the truth.

16 Q Okay. Solicitor Finney is here in the courtroom. At  
17 the time he was Mr. Cook's defense counsel.

18 A Uh-huh.

19 Q Did he or anyone on his behalf ever try to speak with  
20 you about the case?

21 A No.

22 Q Okay. Do you recall reaching out to the family or  
23 friends of Jeron Cook after the case, either via phone or  
24 text message or any type of Internet-media type of message?

25 A No. Me and his -- me and his girlfriend, we always

DIRECT EXAMINATION BY MS. BLANCHETTE - BARBARA SMITH 21

1 was friends. And me and her hug each other and cry after  
2 the trial. Her boyfriend going to prison; my ---

3 Q Uh-huh.

4 A --- brother dead. That's it.

5 Q Okay. Would you have been willing to talk to Mr.  
6 Finney prior to the trial?

7 A I mean, it depends on what he would talk to him about,  
8 because I wasn't at the scene. So I don't know what  
9 happened.

10 Q Okay.

11 MS. BLANCHETTE: Your Honor, if I could beg the  
12 Court's indulgence just one moment.

13 (Whereupon, Ms. Blanchette and the applicant  
14 conferred.)

15 Q Ms. Smith, just one more question: Just to be clear,  
16 you never left any type of voice mail, wanting to find out  
17 Mr. Cook's side of the story, in reaching out to him?

18 A When he first went to jail -- when -- before he even  
19 went to jail, when I went to find out what happened to my  
20 brother, on the day of my brother got killed ---

21 Q Uh-huh.

22 A --- I called that cell phone that was in that --  
23 phone. And he -- I believe he answer it. And when he  
24 answer the phone, I say, "You know that that was T.J.  
25 brother?" Because I know him and my brother is cousins.

CROSS-EXAMINATION BY MR. GOURLEY - BARBARA SMITH 22

1 And I know Mr. Cook. We always was cool.

2 So I say, "You know that was T.J. brother? You know  
3 that was my brother you killed?"

4 Evidently, he didn't know that was my brother and his  
5 cousin's brother. Because he said, "Oh, man," and hang the  
6 phone up.

7 Then when I call back, they didn't answer. And then  
8 it went to voice mail. And I left I message. I just  
9 wanted to know what happened to my brother. Why is my  
10 brother dead? Because my brother don't bother nobody.

11 Yes. I said that several times. I wanted to know  
12 what happened to my brother.

13 Q Okay.

14 MS. BLANCHETTE: Your Honor, I have no further  
15 questions of this witness.

16 THE COURT: Cross-examination?

17 CROSS-EXAMINATION

18 BY MR. GOURLEY:

19 Q Ms. Smith, you -- you got ahold of Mr. Cook shortly  
20 after he shot your brother?

21 A Uh-huh.

22 Q Okay.

23 A Soon as they release my sister from the hospital and  
24 went to my mama apartment ---

25 Q Uh-huh.

1 A --- that same -- that same day when day light came and

2 I ---

3 Q And ---

4 A --- called that cell phone.

5 Q And you asked him, "Why did you shoot my brother?"

6 A I said, "Did you know that that was my brother that  
7 you killed" ---

8 Q Okay.

9 A --- "and that was T.J. brother?" That's what I said.

10 Q And what did he say in response?

11 A It was, like, "Aw, man," like he didn't know. And he  
12 hang the phone up. And then that was that. And then when

13 I called back, no one didn't answer. And, I mean, but I  
14 never talked to him or none of that.

15 But I did -- when my brother first got killed, I  
16 wanted to know why was my brother killed. Because my  
17 brother don't bother nobody. My brother don't harm nobody  
18 or none of that.

19 So I wanted to know the story. I wanted to know what  
20 happened to my brother.

21 Q Certainly. And what -- why did you call that cell  
22 phone again?

23 A I wanted to know did he know that that was my -- when  
24 they told me it was him ---

25 Q Uh-huh.

REDIRECT EXAMINATION BY MS. BLANCHETTE - BARBARA SMITH 24

1 A --- that he was the one who killed my brother ---

2 Q Uh-huh.

3 A --- I wanted to know did he know who that was that he  
4 shot.

5 Q Okay. All right. Thank you, Ms. Smith.

6 MR. GOURLEY: No further questions.

7 MS. BLANCHETTE: Very briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. BLANCHETTE:

10 Q Ms. Smith, I just want to be clear. Now, your sister  
11 was in the house when your brother was shot and killed; is  
12 that correct?

13 MR. GOURLEY: Your Honor ---

14 A Now, this is ---

15 MR. GOURLEY: --- that's outside of cross.

16 A I wasn't there. I don't -- I wasn't there.

17 THE COURT: Hold on just one minute. I was waiting to  
18 response, if any.

19 MS. BLANCHETTE: Oh, I'm sorry. I was just waiting  
20 for my turn. I can rephrase my question, you know.

21 THE COURT: All right.

22 Q When you made that phone call, were you asking Mr.  
23 Cook for his side of the story at all?

24 A Well, actually, I wanted him to talk to me. But I  
25 guess, when he found out -- when I said, "You know that was

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1 T.J. brother" -- him and my brother, his cousin, is close.

2 So I asked him.

3 And I am close with him. I just talked to him and his  
4 girlfriend earlier that day at the time store when they had  
5 they baby in the car. And I walk up to they truck. And I  
6 saw the baby or whatever earlier that day.

7 And I asked him -- I said, "Did you know that that was  
8 T.J. brother? Did you know that was our brother that you  
9 killed?"

10 And he was, like, "Aw, man," and hang the phone up.

11 Q Okay. Were you looking to get his side of the story  
12 in making that phone call?

13 A Yes. I wanted to know ---

14 Q Okay.

15 A --- what happened to my brother.

16 Q And had your sister -- and please, I -- I know I'm  
17 going to say her name wrong. It is Audja? How do you say  
18 her name properly?

19 A Audja.

20 Q Audja? Had she already told you what had happened in  
21 the house when you reached out to Mr. Cook?

22 A No. She told -- she told them at the hospital. When  
23 I got to the hospital, the police and everybody was already  
24 there.

25 Q Okay. So you had heard a version of events from your

REDIRECT EXAMINATION BY MS. BLANCHETTE - BARBARA SMITH 26

1 sister before you reached out to Mr. Cook; is that correct?

2 A Uh-huh. I heard what was -- what happened.

3 Q Okay.

4 A Parts ---

5 Q But you ---

6 A --- of it.

7 Q --- still wanted ---

8 A But I ---

9 Q --- to hear ---

10 A --- didn't talk ---

11 Q --- his side ---

12 A --- to him.

13 Q --- of the story?

14 A I wanted to hear his side of the story. I reach out  
15 on MySpace to Shamika Weathers when they took her. I the  
16 one who end up getting -- talking to her because she  
17 wouldn't talk to me for, like, three weeks. I wanted to  
18 know what happened to my brother. I was trying to figure  
19 out what happened to my brother.

20 Q But your sister was in the house, and she was telling  
21 you what happened?

22 A She didn't tell me what happened.

23 Q Okay.

24 A I didn't talk to my sister. Everybody who already was  
25 there who talked to her at the hospital, they told me what

DIRECT EXAMINATION BY MS. BLANCHETTE - JERON COOK 27

1 happened ---

2 Q Okay.

3 A --- what she told them.

4 MS. BLANCHETTE: Your Honor, I have no further  
5 questions.

6 MR. GOURLEY: Nothing further, Your Honor.

7 THE COURT: Thank you, ma'am. You may step down.

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

9 MS. BLANCHETTE: Your Honor, I'd call Jeron Cook to  
10 the stand.

11 (Whereupon, the witness came forward.)

12 JERON COOK, having been first duly sworn,

13 testified as follows:

14 DEPUTY CLERK OF COURT: Please state your full name  
15 and spell your last name for the record.

16 THE WITNESS: Jeron Cook, C-o-o-k.

17 DIRECT EXAMINATION

18 BY MS. BLANCHETTE:

19 Q Mr. Cook, where are you presently incarcerated?

20 A At Lee County Correctional Facility.

21 Q Okay. And did you file a PCR action that we're here  
22 about today that's docketed at 2014-CP-43-0644?

23 A Yes, ma'am.

24 Q Okay. And by way of that application and the  
25 amendment that I have subsequently filed on your behalf, we

DIRECT EXAMINATION BY MS. BLANCHETTE - JERON COOK 28

1 have 11 different allegations. Do you want to go forward  
2 on those today?

3 A Yes, ma'am.

4 Q Okay. I'm going to take you through some testimony  
5 that will address each of those allegations. I also want  
6 to ask you: What is the relief you're asking the Court to  
7 give you today?

8 A For a new trial.

9 Q All right. Mr. Cook, we've been working together for  
10 well over a year. I've explained to you that there is risk  
11 in asking the Court for that. You're essentially asking  
12 the Court to set aside your current sentence and  
13 convictions. You'd be facing your charges anew as if you  
14 had never been convicted. Knowing that there is risk at  
15 the fact that you could be sentenced to more time than  
16 you're currently serving, do you still want to go forward  
17 today?

18 A Yes, ma'am.

19 Q Okay. Let me just ask you some of the -- some of just  
20 kind of the logistics of your case. You were indicted back  
21 in 2009; is that correct?

22 A Yes, ma'am.

23 Q Okay. And that was Indictment 2009-GS-43-882 out of  
24 Sumter County?

25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. BLANCHETTE - JERON COOK 29

1 Q And you were originally indicted for murder; is that  
2 correct?

3 A Yes.

4 Q And what were you convicted of on the murder charge?

5 A I was found not guilty of the murder but guilty of  
6 voluntary manslaughter.

7 Q And what was the sentence you received?

8 A I received 22 years for the manslaughter ---

9 Q Okay.

10 A --- voluntary.

11 Q And you were originally indicted for burglary-first.  
12 Did the state go forward on that charge?

13 A No.

14 Q Okay. You were also -- this was a multicount  
15 indictment. You were indicted for possession of a firearm  
16 during a violent crime. Were you convicted of that?

17 A Yes, ma'am.

18 Q Okay. And what was the sentence you received on that?

19 A One year -- one -- for the -- for the unlawful  
20 possession; five years for the unlawful possession of a  
21 firearm in the commission of a violent crime.

22 Q Okay. And just to be clear, you had two gun charges.  
23 One was the unlawful carrying of a pistol. And then, the  
24 final charge on that indictment was an assault and battery  
25 with intent to kill. And what was the jury's finding on

DIRECT EXAMINATION BY MS. BLANCHETTE - JERON COOK 30

1 that charge?

2 A Not guilty.

3 Q Okay. Now, who was the victim, as -- as far as the  
4 assault and battery with intent to kill?

5 A Audja Blackwell.

6 Q Okay. And who was the victim on the murder charge  
7 that you were found guilty of voluntary manslaughter?

8 A William Blackwell.

9 Q Okay. And we've been talking a little bit today about  
10 March 18th, 2009. This occurred in Audja Blackwell's home;  
11 is that correct?

12 A Yes.

13 Q And was there one other person in the home that night?

14 A Ms. Weathers -- Shamika Weathers.

15 Q Okay. Now, you went to trial on April 19th through  
16 21st of 2010 here in Sumter with Judge Young; is that  
17 correct?

18 A Yes, ma'am.

19 Q And who represented you?

20 A Ernest Chip Finney.

21 Q Okay. And did -- was a direct appeal filed and  
22 handled on your behalf following your trial?

23 A Yes.

24 Q And who handled that for you?

25 A Mr. Finney.

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1 Q Okay. And then, was that taken over by the office of  
2 appellate defense?

3 A Yes, ma'am.

4 Q Okay. And was that ultimately dismissed on September  
5 4th of 2013, and then you filed -- refiled a second PCR  
6 application?

7 A Yes, ma'am.

8 Q Okay.

9 MS. BLANCHETTE: Your Honor, just a note for the  
10 record, I'll be using the record on appeal cites. That's  
11 what I was provided by the attorney general's office. I  
12 did notice that there are two transcripts in here.

13 And on the first one, it says that Jerry Finney was  
14 present. But I'm quite sure that Mr. Ernest Finney was the  
15 attorney present in both of those proceeding. But I just  
16 wanted to make sure the record was clear on that.

17 THE COURT: Just for the record, the attorney general  
18 nodded in the affirmative, that he agreed with you.

19 MR. GOURLEY: Yes. Yes, Your Honor, I sure do.

20 THE COURT: As did Mr. Finney, I think.

21 MR. FINNEY: That's correct.

22 MS. BLANCHETTE: I double-checked. I didn't think  
23 they both appeared on this case.

24 Q Mr. Cook, I'm just going to jump into our allegations,  
25 kind of go through them one at a time, and ask you a couple

DIRECT EXAMINATION BY MS. BLANCHETTE - JERON COOK 32

1 questions concerning each. You've essentially alleged that  
2 your attorney was ineffective because he didn't conduct a  
3 reason -- reasonable investigation prior to trial. With  
4 that in mind, how many times did you guys meet  
5 approximately when you were in the county facility?

6 A Maybe, at the most, four times.

7 Q Okay. And then, was Mr. Finney actually successful in  
8 getting you bond?

9 A Yes, he was.

10 Q Okay. And do you remember what his argument was in  
11 requesting and receiving that bond for you?

12 A The -- his argument was self-defense.

13 Q Okay. And then, how many times did you all meet once  
14 you got bonded and you were out on the street?

15 A We met, like, once. We went to his office, me and my  
16 parents.

17 Q Okay. And if he needed to meet with you, would you  
18 have made yourself available?

19 A Yes, ma'am.

20 Q Okay.

21 A I would've made myself available.

22 Q During those meetings did he show you and give you a  
23 copy of the discovery, or what was done as far as going  
24 over the discovery?

25 A Well, I didn't get the -- I didn't see the discovery

1 until I was in the county. It was about time to go to  
2 trial. And -- yeah. That was the only time I seen it.

3 Q And did you have a copy of it go over yourself?

4 A No.

5 Q Okay. At first blush what did Mr. Finney tell you he  
6 thought kind of the defense was going other than be in your  
7 case? What did he tell you from the get-go?

8 A Well, when I first met with Mr. Finney and I -- I  
9 explained the -- the story of how the events happened that  
10 night, he told me that I had a good chance for self-  
11 defense. And I replied that at that time, I didn't know  
12 that South Carolina -- I thought South Carolina didn't have

13 a self-defense. He told me we did -- he -- they did and  
14 that's what we was going -- how we was going to attack the  
15 case.

16 Q Okay. So that was the understanding from the very  
17 beginning; is that right?

18 A Yes, ma'am.

19 Q Okay. And you just said you told him his story --  
20 your story. And you ultimately testified at trial; is that  
21 correct?

22 A Yes, ma'am.

23 Q And you stand by the testimony that you gave at your  
24 trial?

25 A Yes, ma'am.

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1 Q All right. So I'm not going to go back through that,  
2 because everybody has a copy of that, okay?

3 A (Nodded head up and down.)

4 Q Now, in telling him your story, did you tell him about  
5 individuals that you were with that night, such as Mr.  
6 McKenzie?

7 A Yes, ma'am. Yes, ma'am.

8 Q Okay.

9 A I told him about other people as well.

10 Q Okay. And was one of those other people your friend,  
11 Bryan?

12 A Yes, ma'am.

13 Q Okay. And did we try to talk him down to get him here  
14 today?

15 A Yes. Me ---

16 Q Okay.

17 A --- and you did.

18 Q And what -- what was the reason that he couldn't be  
19 here today?

20 A Because he stay -- he recently stays in Texas.

21 Q Okay. But when you were going through your story, you  
22 -- did you let Mr. Finney know that there were people that  
23 he needed to talk to that you were with that evening?

24 A Yes, ma'am.

25 Q Did you let him know there were people that would have

1 information about that house and what was going on at that  
2 house?

3 A Yes, ma'am.

4 Q Okay. And did he convey to you something he knew  
5 about what was going on at the house in question?

6 A I mean, one of our first meetings, I guess he -- he  
7 must be have some type of inside source, because the first  
8 thing he said, that the house was under investigation for  
9 drugs and prostitution.

10 Q Okay. Now, do you know what type of independent  
11 investigation he did, if any, or if he hired a private  
12 investigator to look into these things you were discussing?

13 A To my knowledge, a private investigator wasn't even  
14 hired.

15 Q Okay. And Quincy has testified today. You mentioned  
16 your friend, Bryan, that's in Texas. Would you have wanted  
17 individuals called on your behalf at trial to testify as  
18 part of your defense?

19 A Yes, ma'am.

20 Q Okay. Now, shortly before your trial, did Mr. Finney  
21 come to you with a concern about representing you at your  
22 trial?

23 A Well, shortly before my trial, Mr. Finney came and  
24 told me that he wouldn't be able to represent me anymore  
25 and that he would give my parents back half the money and

DIRECT EXAMINATION BY MS. BLANCHETTE - JERON COOK 36

1 saying something about connecting me with a lawyer. I  
2 think it was from Lee County. I can't remember his name,  
3 the lawyer that he was going to set me up with.

4 Q After that meeting were you freaking out a little bit?

5 A Yeah, kind of, sort of. Yeah. I -- I -- I kind of  
6 was -- I was in denial. I didn't really knew what was  
7 going on.

8 Q Did you reach out to anybody after that meeting?

9 A Yeah. I reached out to -- well, I -- well, when he  
10 came back, everything was okay at first. You know, I was  
11 kind of confused. And when he -- his next meeting after  
12 that, he came to me. He was, like, he was going to take my  
13 case and that my case was going to be his last case. And  
14 that's when I kind of got concerned.

15 Q Okay. And did you call somebody to convey those  
16 concerns?

17 A I called my -- my baby's mother, Marcile, and told her  
18 to call my mother on three-way. And I told my mother that  
19 I -- I had a funny feeling about -- I felt like Chip wasn't  
20 on my side anymore.

21 Q Okay. And as part of your PCR, did we attempt to get  
22 those records or get a recording of that phone call?

23 A Yes, ma'am. I ---

24 Q And ---

25 A --- think they told us that after five years, they get

1 rid of the -- the recordings.

2 Q Okay. And if the affidavit is in the record, the  
3 reports the proper time that they keep that.

4 A Uh-huh.

5 Q But we weren't able to get that; is that correct?

6 A No, ma'am, we weren't.

7 Q Okay. And why did you want that recording here for  
8 the Court to hear today?

9 A Because it -- you would've been -- the Court would've  
10 been able to hear me -- the conversation between me and my  
11 mother and my -- my -- my child's mother about letting them  
12 know about the -- about the funny feeling I was having

13 about Chip first -- first saying that he couldn't represent  
14 him and then coming back, saying that I was going to be his  
15 last case.

16 Q Okay. And you were going to be his last case before  
17 what?

18 A I guess before he become solicitor.

19 Q Okay. And your case was called in April of 2010, and  
20 he was official elected as the solicitor in November of  
21 2010; is that correct?

22 A Yes, ma'am.

23 Q Okay. Now, when you went to trial, did you tell the  
24 judge, "Hey, I have some concerns about going forward with  
25 Mr. Finney because he's campaigning for solicitor and he

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1 informed me that that could be a conflict"?

2 A Did I tell the judge that?

3 Q Yeah.

4 A No.

5 Q Did you know if you could tell the judge that?

6 A I didn't know I could've tell the judge that.

7 Q Okay.

8 A But if I did, I would've told him. Instead of telling  
9 my mom, I would've told the judge.

10 Q Okay. And you recall Mr. Finney telling you himself  
11 it was a conflict for him to represent you?

12 A Yes, pretty much.

13 Q After he told you that or conveyed that to you, did he  
14 ever have you sign any type of written waiver, saying that  
15 you wanted to go forward with him as your attorney ---

16 A No.

17 Q --- after he had identified a conflict?

18 A No. No.

19 Q Okay. Now, I want to get back to the defenses in this  
20 case. And you've already said you all talked about self-  
21 defense. Did you talk about any other defenses and go over  
22 what the trial strategy was going to be leading up to  
23 trial?

24 A I mean, when -- when we went to the arraignment, you  
25 know, I -- I can't remember the exact date. But when we

1 went to arraignment -- and that's when Chip was telling --  
2 I asked him what arraignment was. He was, like, "Oh, you  
3 about to get some more charges." And he told me the  
4 charge.

5 He was, like, "You about to get a first-degree  
6 burglary charge, and you about to get two gun charges."  
7 And he -- he told me off the top -- he was, like, "Well,  
8 they going throw out the -- the first-degree-burglary  
9 charge, so you don't got to worry about that."

10 So when we got to the courthouse, they -- they -- like  
11 he said, they charged me with the extra three charges: the  
12 two gun charges and the first-degree-burglary charge. They

13 turned right around; dismissed the first-degree-burglary  
14 charge. And then Chip was asking about the -- the lesser-  
15 included offense of murder, which was voluntary  
16 manslaughter. And that's how that came about.

17 Q Was that the first you'd really heard about voluntary  
18 manslaughter?

19 A Yes. That was the first I heard about it.

20 Q Okay. So I just want to go back to self-defense, and  
21 then we'll hit on voluntary manslaughter a little bit. Did  
22 Mr. Finney explain to you that self-defense was a complete  
23 defense to murder and that, essentially, if you raised it,  
24 it was for the state to have to disprove it? Did you  
25 understand ---

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1 A Yes.

2 Q --- that going into trial?

3 A Yes.

4 Q Okay. Did you go -- understand going into trial, most  
5 importantly, when you took the stand, that the jury could  
6 be charged with voluntary manslaughter and make -- and find  
7 you guilty on that charge?

8 A Yes, I understood that.

9 Q Did you all ever discuss asking the Court to  
10 essentially, what I've heard called, "go murder or broke,"  
11 either you be found guilty of murder or -- or nothing? The  
12 -- the jury have no other options?

13 A No, we never discussed that.

14 Q Okay. Did Mr. Finney ever discuss with you the  
15 dangers of taking the stand and the state using that  
16 opportunity to prove the elements of voluntary manslaughter  
17 and lead to a conviction for voluntary manslaughter?

18 A No. He never told me that it could lead to voluntary  
19 manslaughter. He just said that I needed to take the stand  
20 to prove self-defense.

21 Q Now, you mentioned that he had brought up to you that  
22 they -- he knew about a prostitution-ring investigation.  
23 Was that raised at all as a defense at your trial?

24 A No. I mean, yeah. He -- he -- he spoke on that.

25 Q Uh-huh.

1 A But, you know, they admitted that, you know, it was  
2 sex and staged for money. So he -- he did touch bases.  
3 They admitted that that was taking place.

4 Q Okay. And throughout your trial it was brought up  
5 that the women in that house were contacting you and you  
6 were arranging to essentially provide them with drugs that  
7 day; is that correct?

8 A Yes.

9 Q Okay. And did you all ever look into the defense or  
10 possibility of raising the issue to the jury that this was  
11 some type of setup or robbery, that they were trying to get  
12 you back to the house to rob you?

13 A I mean, we -- we -- it kind of started off that way.  
14 But then, he just kept pushing on the -- like, it was just  
15 a relationship. You know, and we personally -- I didn't  
16 know William and it -- I find it hard to believe that, you  
17 know, if -- if I'm over there to have sex with his so-  
18 called girlfriend, that when he enter the room, he would  
19 allow his girlfriend, who is naked, to exit the room, but  
20 stop me from exiting, but this is his girlfriend.

21 I mean, I would think if I would've walk in on my  
22 girlfriend having sex, I would -- either I'm a leave or  
23 it's going to be a confrontation between both me, my  
24 girlfriend, and the guy, you know. So I didn't think he  
25 prepared well on the self-defense or even -- even leading

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1 up to a robbery taking place.

2 Q And if you were bringing them drugs, they knew that  
3 you would potentially have money on yourself; is that  
4 correct?

5 A I mean, pretty much, yeah.

6 Q Okay. Now, leading up to your trial or even at trial,  
7 was a voluntary-manslaughter plea ever presented to you or  
8 discussed with you?

9 A From my understanding I was currently incarcerated at  
10 Trenton Correctional Facility before this trial took place.  
11 I called Chip one day, when I got -- got in from work. And  
12 he was telling me that they offered -- they offered me --  
13 the solicitor had come at him with a plea. And he was,  
14 like, "Well, I knew you didn't want to take it, so I  
15 already turned it down." And that was that, you know.

16 Q So he informed you -- I just want to make sure I heard  
17 you correct. He informed you that he had turned down a  
18 plea for you to voluntary manslaughter?

19 A Yeah. That's what he said.

20 Q Okay. Did you ever turn down that plea?

21 A No. He said he did.

22 Q And when that plea was turned down, had he explained  
23 to you that the jury could be presented with the option of  
24 finding you guilty of voluntary manslaughter and that your  
25 testimony may support such a conviction?

1 A No. He never told me that.

2 Q If you would have known that, is the plea something  
3 you wanted -- would've wanted to further discuss with him?

4 A Yeah. If I knew -- if I knew that my testimony  
5 could've actually ended up being a voluntary manslaughter,  
6 yeah. We could've probably worked out a deal.

7 Q Okay. And just to be clear, you all did not discuss  
8 that and you didn't make a choice as to whether to accept  
9 or turn down any type of plea offer?

10 A No. We never -- we never discussed it or anything.  
11 He told me that it -- it was already done, once he -- once  
12 I called.

13 Q Now, we've already touched on your friend, Bryan, and  
14 Quincy that testified here today. But in the amendment  
15 we've alleged that counsel was ineffective for failing to  
16 utilize additional witnesses and failing to fully cross-  
17 examine and impeach the state's witnesses. You've already  
18 touched on the fact that you wanted him to go further about  
19 the prostitution issue with the witnesses; is that correct?

20 A Yes, ma'am.

21 Q Okay. Did you also want him to go further into this  
22 issue you mentioned about the setup or it being a robbery?

23 A Yes, ma'am.

24 Q Okay. And throughout the trial when you read the  
25 transcript, you -- Mr. Finney asked questions about it

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1 being some type of cover-up. What was discussed as far as  
2 that, as there being some type of cover-up in this case?

3 A I mean, he -- he didn't -- I mean, at -- he -- at  
4 first, it seemed like he was all for me because he was,  
5 like, the things weren't adding up, you know, about, I  
6 guess, with the girls' statements and from the way I was  
7 telling him the story. And, I mean, I just didn't know way  
8 -- way things went wrong at the end -- towards the end when  
9 it was time to go to trial.

10 Q Okay. Now, specifically, on page 88 of the -- of the  
11 record on appeal, Shamika Weathers testified that you were  
12 the one kept calling her. Would you have wanted Quincy to  
13 testify about the fact that you were receiving calls from  
14 them?

15 A Yes.

16 Q Okay. And then, she also denied, in her -- in her  
17 testimony, that she took -- or she had sex for money with  
18 anyone but you. Would you have wanted him to further  
19 explore that issue?

20 A Yes. Because I told -- I told him that -- you know,  
21 when we talked about it, I told him that they was having  
22 sex with multiple people.

23 Q Okay. And throughout her testimony and the victim's  
24 sister's testimony, they claim that William, the victim,  
25 was her boyfriend and they were in this boyfriend-

1 girlfriend relationship. Was it ever brought up that Mr.  
2 Blackwell had another girlfriend at the time?

3 A No. The -- I mean, they said he had a baby mother.  
4 They didn't touch on -- bases whether they were together.

5 Q Okay. And Barbara, his sister, was called to the  
6 stand today and testified about that. Would you have  
7 wanted him to look into that issue and potentially call her  
8 on that issue?

9 A Yeah. Because it was -- when I -- I told him that  
10 Barbara had left a voice mail over -- on my phone at the  
11 time -- shortly after -- I think it maybe might -- might've  
12 been the next day after the incident took place. And I

13 told him that Barbara had left a voice mail on my phone,  
14 saying that they didn't -- they didn't believe Audja's  
15 story and that she wanted to hear my side of the story.

16 But I never contacted them back. But I told Mr.  
17 Finney that. And, I mean, he never -- he never -- he never  
18 looked into it.

19 Q And did you want him to look into it?

20 A Yeah.

21 Q Okay. And why do you think that would've been helpful  
22 to your case?

23 A Because I think it would've showed that it was cover-  
24 up; that -- that it was a robbery gone bad; that -- that --  
25 that my life was in danger.

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1 Q Is there anything else about either Barbara or Quincy  
2 or any other witnesses that you would want to call that you  
3 want to tell the Court today?

4 A I mean, no, not really.

5 Q Okay.

6 A No, ma'am.

7 Q Now, had you had a prior arrest with one of the  
8 officers involved in this case?

9 A David Florence -- David Florence. I was wrongly  
10 convicted of -- I think it was carjacking and ---

11 Q Okay.

12 A --- some ---

13 Q And were you convicted or just arrested?

14 A I was arrested.

15 Q Okay. And did you let Mr. Finney know that you had  
16 had that prior interaction with this officer that  
17 testified?

18 A Yes.

19 Q Okay. And did he explore that issue at all at trial?

20 A No.

21 Q Okay. Would you have wanted him to explore that issue  
22 with the officer?

23 A Yeah. Because I honestly feel like the officer  
24 probably had a vendetta against me.

25 Q Now, in -- in your transcript in the very beginning on

1 page 51 -- and do you have a copy there with you?

2 A No. It's at the table.

3 Q Okay.

4 MS. BLANCHETTE: Your Honor, do you mind if ---

5 THE COURT: Certainly.

6 A You said 51?

7 Q Yeah. Look at page 51 and let me make sure that's  
8 right with the record-on-appeal cite.

9 A All right. You talking about court remarks?

10 Q Yes. During the Court's remarks. Lines 8 through 10,  
11 he says (As read): "After hearing the evidence, you will  
12 deliberate and render a true and just verdict under the

13 oath that you just took as jurors."

14 Do his comments there to you -- he says "a true and  
15 just verdict." Does he say for all parties, or does he  
16 say, you know, we need a true and just verdict for the  
17 defendant?

18 A He just -- it's -- he just say for all parties. He  
19 didn't say for the defendant.

20 Q Okay. And is that something you would've wanted your  
21 attorney to object to?

22 A Of course.

23 Q Okay.

24 MS. BLANCHETTE: And, Your Honor, we have a copy of  
25 the *State v. Daniels* case that is also included in the

DIRECT EXAMINATION BY MS. BLANCHETTE - JERON COOK 48

1 amendment.

2 Q Now, let's turn to kind of the close of your case. It  
3 appears that there was some -- some type of off-the-record,  
4 in-chambers meeting regarding the jury charges that would  
5 be given. Did you ever hear any discussion of whether or  
6 not voluntary manslaughter would be given in your case?

7 A I think that's when they might be came about, too,  
8 when they were talking about it. Because when I went back  
9 to reading the transcript, it -- it's not anywhere in  
10 there. So that's when it came about.

11 Q Okay. And did -- as far as you know and as far as the  
12 record reflects, did your attorney ever object or argue  
13 that you did not want the jury to be charged with voluntary  
14 manslaughter?

15 A No, he never objected.

16 Q Okay. If he would've given you the option, would you  
17 have wanted the jury to be able to deliberate on voluntary  
18 manslaughter?

19 A No. I would've wanted it to be a -- all or nothing,  
20 because, I mean, the -- one of the last conversations of  
21 the meeting that we had, you know, I asked him what were my  
22 chances. He told me that he was pretty sure that he could  
23 -- he could win on the murder, but he didn't know how he  
24 was going to get past the voluntary manslaughter.

25 And I'm, like, "Well, you was the one -- you was the

1 one pushing for voluntary manslaughter."

2 Q Okay. I'm going to cite to the transcript here, but  
3 I'll also summarize for you. And please let me know if you  
4 don't follow this question.

5 During his closing argument on page 358, Mr. Finney  
6 begins talking about how this was a case where you were  
7 defending yourself. But then, he also argues about how you  
8 did not have the intent for murder.

9 Jumping forward to page 373 -- specifically, lines 19  
10 through 25 -- he explains to the jury that (As read):  
11 "Self-defense is a complete defense to murder, and the  
12 state has to disprove it."

13 Did he ever -- and he goes on to explain if it's not  
14 disproven, then you should essentially walk.

15 A Yeah.

16 Q But that wasn't the case here, right? You were found  
17 guilty of voluntary manslaughter?

18 A Yes.

19 Q Okay. Did he ever argue, as far as you know --  
20 essentially make that same argument to the Court that self-  
21 defense is a complete defense to murder; the state needed  
22 to disprove it; and ask the Court to not charge on  
23 voluntary manslaughter?

24 A No, he never did that.

25 Q Would you have wanted him to do that?

DIRECT EXAMINATION BY MS. BLANCHETTE - JERON COOK 50

1 A Of course.

2 Q Did he ever ask the Court to send the jury a verdict  
3 form that would ask if the state had disproven self-  
4 defense?

5 A Yes.

6 Q Did -- and -- sorry. You may not have followed that  
7 question.

8 A Oh. Say that again?

9 Q Did you ever hear him ask the Court to make the jury  
10 make a finding on self-defense before they can move on to  
11 voluntary manslaughter?

12 A Oh. No.

13 Q Okay. Would you have wanted him to do that?

14 A Yes.

15 Q Okay. Now, at the close of your case, Judge Young  
16 indicates that he would give Mr. Finney ten days to file a  
17 motion. And at that point, did Mr. Finney just go ahead  
18 and proceed with the motion for a new trial?

19 A Yes. I -- yes, he did. Well, I told him about the --  
20 the direct appeal. But I didn't know anything about the --  
21 he didn't never tell me anything about the -- the  
22 reconsideration.

23 Q Okay. But he went forward with the motion; he didn't  
24 take the time the Court said he would give him and then  
25 file a motion?

1 A I mean, he actually was late on it. He actually ran  
2 out of time and had to put in another appeal.

3 Q Okay. So that was -- that was in filing your appeal,  
4 there were some issues.

5 A Yeah.

6 Q But -- and -- and let me know if you didn't follow --  
7 if you don't follow my question.

8 A Okay.

9 Q At the close of your trial ---

10 A Okay.

11 Q --- the Court informs Mr. Finney that he'd give him  
12 ten days if he wanted to file any type of written motion.

13 But he decides, it appears, to go forward and just do a  
14 motion for a new trial at that point. Would you have  
15 wanted him to use that ten days, submit a written motion,  
16 and make arguments to the Court ---

17 A Oh, yes.

18 Q --- asking him to reconsider?

19 A Yes, ma'am. Certainly.

20 Q Okay. And are you alleging today that he was  
21 ineffective for not using that time period to file some  
22 type of written motion on your behalf?

23 A Yes, ma'am. I feel ---

24 Q Okay.

25 A --- he was ineffective for that.

DIRECT EXAMINATION BY MS. BLANCHETTE - JERON COOK 52

1 Q You mentioned the appeal. And by way of your  
2 amendment, we've alleged that your attorney was ineffective  
3 for not raising all meritorious issues on appeal. Do you  
4 recall that this was actually an *Anders* case, where they  
5 submitted an *Anders* brief?

6 A Yes. That's what -- that's ---

7 Q Okay.

8 A --- right.

9 Q And it wasn't specific in our amendment. But are you  
10 alleging today that one of the issues that should've been  
11 raised was Mr. Finney's denial of his motion to sequestra  
12 (phonetic) -- sequester -- I'm sorry -- Ms. Blackwell and  
13 Ms. Weathers?

14 A Yes, ma'am.

15 Q Is that an issue you would've wanted raised on appeal?

16 A Yes, ma'am.

17 Q Okay.

18 MS. BLANCHETTE: And, Your Honor, that comes up in the  
19 transcript on page 30.

20 Q Mr. Cook, I just want to go back and be really clear.  
21 One of the issues that we have alleged is that your  
22 attorney was ineffective due to continuing to represent you  
23 after he advised you it was a conflict of interest. Is  
24 there anything else on that point that you would like to  
25 testify about today, anything I didn't ask you?

1 A You pretty much summed it up: that, you know, I --  
2 pretty much that he did -- he -- he -- well, once he came  
3 back and said that he was going to take my case and it was  
4 the last -- you know, I was his last case, that's when I  
5 felt that things wasn't going to be as good as he was  
6 talking they were posed to be at the beginning.

7 Because at the beginning, you know, everything was --  
8 it was all good. It was: "Oh, it's self-defense. You got  
9 a good case."

10 And we go for the bond hearing. And he's -- he's  
11 talking self-defense. And I get a bond, and then things go  
12 -- go south.

13 Q Were you aware of kind of what the message of his  
14 campaign for solicitor was, what was being put out to the  
15 public, as far as what type of solicitor he would be?

16 A I -- I -- I actually -- I asked him -- I asked him --  
17 I was, like, "Why are you going from being a paid attorney  
18 to being the solicitor?"

19 And he told me that the county was corrupted or  
20 whatever; he was going to make a change. He -- that's what  
21 he told me. Because, you know, at the time when -- you  
22 know, I kind of was, like, "Well, you -- right now you  
23 keeping people out of jail, but now you going to actually  
24 putting people behind bars." So I -- I did asked him, and  
25 he -- that's what he told me.

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1 Q Okay. And, Mr. Cook, I just want to be clear. It's  
2 not just something where you've been sitting in prison and  
3 you say, "Hey, wait. My defense attorney is now the  
4 solicitor. That doesn't add up." This is something that  
5 he brought to your attention prior to your trial as a  
6 conflict; is that correct?

7 A Yes, ma'am.

8 Q And you never waived that or did any type of voluntary  
9 agreement to go forward despite that fact?

10 A No, ma'am.

11 Q Okay. And is it your allegation today that his  
12 interest in becoming the solicitor and his interest --  
13 essentially, in trying to represent a third party, the  
14 public -- that was in conflict in representing you at your  
15 trial?

16 A Yes, ma'am.

17 Q Now, Mr. Cook, we have prepared quite a bit. We've  
18 met a lot at the prison, preparing for today. I know that  
19 you have gone over your records. We received all the files  
20 in discovery. We've gone over those together.

21 I have tried to hit on every one of the issues and ask  
22 you the questions to elicit the testimony to support those  
23 issues. But is there anything else you'd like to tell the  
24 Court today that I failed to ask you?

25 A That's it. Yeah.

1 Q You have nothing further?

2 A No, ma'am.

3 MS. BLANCHETTE: Then, I have nothing further, Your  
4 Honor. Thank you.

5 THE COURT: Thank you, ma'am. Cross-examination?

6 MR. GOURLEY: Thank you, Judge.

7 CROSS-EXAMINATION

8 BY MR. GOURLEY:

9 Q All right, Mr. Cook. You testified that you met with  
10 Mr. Finney about four times?

11 A Yes. Before I went to trial.

12 Q Before you went to trial? And when ---

13 A When ---

14 Q --- did you ---

15 A --- I was ---

16 Q --- get out?

17 A When I was -- she asked did -- how many times did we  
18 meet when I was in the county.

19 Q Okay. You ---

20 A Yeah.

21 Q --- met with him in -- in county for four times?

22 A Like, four times.

23 Q And then, when you got out -- when'd you get out on  
24 bond?

25 A I'm not exactly sure what was the date that I ---

CROSS-EXAMINATION BY MR. GOURLEY - JERON COOK

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1 Q That's fine.

2 A --- got out on bond. What -- what -- well, the  
3 initial -- the initial time that we met in the county was,  
4 like, once. And when I got out on bond, we met maybe twice  
5 when I was out on bond. And I end up going to prison for  
6 CGS nonviolent. And I end up coming back to the county,  
7 because my trial was coming up for this case we're talking  
8 about now. And we met, like, four times on that one.

9 Q Why did you -- why did your bond get revoked?

10 A The bond didn't get -- well, because I came to prison.

11 Q Okay. And why'd you come to prison?

12 A Oh. For drug charges.

13 Q And when'd you pick those up?

14 A I think between 2006 -- when did I catch the drug  
15 charges?

16 Q Yeah.

17 A Like, I think 2006.

18 Q Okay. And when did this even occur?

19 A 2009.

20 Q Okay. So those drug charges were prior to this?

21 A Yes.

22 Q Okay. So you met him one time in county; got out on  
23 bond; met him twice while you were out on bond; went back  
24 to county and met him one more time after that?

25 A Like, four more times.

1 Q Four more times?

2 A Before we went to trial, like, a little before --  
3 before the trial went.

4 Q And you said you got discovery the second time you  
5 were in county?

6 A No. I didn't -- he had the discovery in the county.  
7 I didn't get my discovery until I came to prison on this  
8 charge right here.

9 Q Okay. So you never viewed or received a copy of  
10 discovery at all prior to your trial?

11 A No. When -- when he come to meet with me, he'll have  
12 the discovery.

13 Q Okay. But he had a copy of the discovery ---

14 A Yeah. He ---

15 Q --- and y'all reviewed it?

16 A Yeah.

17 Q He just never provided you an actual copy ---

18 A Yeah.

19 Q --- of discovery? Got you.

20 Mr. Cook, there's no disputing that you shot Mr.  
21 Blackwell, right?

22 A No. Yes ---

23 Q Okay.

24 A --- I did.

25 Q Okay. And -- and your defense was self-defense. You

1 shot him in self-defense, correct?

2 A Yes, I did.

3 Q That's the only defense, in your opinion, that you  
4 had?

5 A Yes.

6 Q Okay. And if I -- I think I understood you correctly  
7 on direct. But you're saying that you should've raised  
8 some kind of claim that it should be murder or nothing?

9 A Yes. That's -- I mean, that's actually how the case  
10 started off ---

11 Q Okay.

12 A --- was the -- that the state was charging me with me.  
13 Chip, after I told him what happened, after we sat down and  
14 we had a conference about what happened, he told me that  
15 that's grounds for self-defense. And I -- from my  
16 understanding, he had to bring the evidence to a judge.  
17 And -- and that's what -- that what it was.

18 Q Okay. And in order to raise a self-defense claim -- a  
19 viable self-defense claim, you needed to testify to tell  
20 your side of the story, correct?

21 A That's what he told me.

22 Q Okay. Did you and Mr. Finney ever at all have any  
23 discussions about potential voluntary-manslaughter charge  
24 prior to trial?

25 A No. I mean, only time was when he said -- like I --

1     like I said, when we called him -- when I called him while  
2     I was already incarcerated for the drug charges ---

3     Q     Uh-huh.

4     A     --- he told me that they offered me a plea. And I  
5     think it was something about manslaughter. And he said  
6     that he already turned it down.

7     Q     And you told him -- what was your response to that?

8     A     I mean, I was, like -- I mean, basically, I was, like,  
9     cool. I figured he's my -- he's my attorney; he know what  
10    he doing. I mean, because, like I said, from the beginning  
11    it was the state was charging me with murder and we was  
12    fighting self-defense.

13    Q     Okay. You stated that solicitor -- or Mr. Finney told  
14    you that he didn't know how to pass the voluntary  
15    manslaughter. What'd you mean by that?

16    A     That was maybe, like, a week before trial. And ---

17    Q     So y'all did have discussions about voluntary  
18    manslaughter before trial, then?

19    A     I told you that he said something over the phone.  
20    That's what -- no. I told you that -- that the voluntary  
21    manslaughter first came up at the arraignment. Remember my  
22    -- you ain't heard ---

23    Q     Yeah.

24    A     --- my testimony ---

25    Q     I heard you say that.

CROSS-EXAMINATION BY MR. GOURLEY - JERON COOK

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1 A --- about the arraignment?

2 Q Okay. So y'all -- y'all were aware of a voluntary-  
3 manslaughter charge being a potential charge, then?

4 A Yeah. That's when he -- he argued that implemented --  
5 he -- he wanted to implement it.

6 Q Okay.

7 MR. GOURLEY: Beg the Court's indulgence, Your Honor.

8 THE COURT: All right, sir.

9 Q All right. You testified earlier that you would want  
10 Solicitor Finney to call some witnesses on your behalf to  
11 come in and discuss -- I guess, including Mr. McKenzie --  
12 or McKinney -- to discuss the fact that Ms. Weathers and  
13 Ms. Blackwell were calling you are -- to set up the  
14 prostitution, correct?

15 A Yes.

16 Q Okay. And do you have a copy of the transcript?

17 A Yes.

18 Q Let's turn to page 107 on the record on appeal,  
19 please, sir.

20 A 107?

21 Q Yes, sir.

22 MR. GOURLEY: And there's -- Judge, this is going to  
23 be the cross-examination of Ms. Weathers.

24 Q We're going to start at line 18, please, sir.

25 A Line 18?

1 Q Is this not Solicitor Finney cross-examining Ms.  
2 Weathers about the fact that Audja Blackwell had a cell  
3 phone and was calling you to set up a time to meet?

4 A Yeah. That's him -- that's Finney.

5 Q So that was before the jury, the fact that they were  
6 the one soliciting you to come over to have sex, correct?

7 A Yes.

8 Q Okay. And you also testified a little bit earlier ---  
9 MR. GOURLEY: Beg the Court's indulgence, Your Honor.

10 Q --- that you would've liked somebody to come in and  
11 testify that you had a girlfriend or a baby mama in another  
12 county, correct?

13 A That -- who -- that William did?

14 Q That ---

15 A Or me?

16 Q That William did. Not you. I apologize. That the  
17 victim had another girlfriend at the time?

18 A Yeah. He -- repeat your question again?

19 Q You stated on direct that you would've liked Mr.  
20 Finney to call some kind of witness to testify that Mr.  
21 Blackwell had another baby mama in another county, correct?

22 A Not some kind of way. That's his sister. Yeah.  
23 Barbara.

24 Q Right. Not Barbara, Mr. Blackwell had another  
25 girlfriend, correct?

## CROSS-EXAMINATION BY MR. GOURLEY - JERON COOK

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1 A I mean -- I mean, that's what they say. They say he  
2 had another girlfriend. And ---

3 Q And ---

4 A --- you asked me did I wanted to Finney to question  
5 them about that.

6 Q Right.

7 A And I said yeah.

8 Q You did?

9 A Yeah.

10 Q You do?

11 A (Nodded head up and down.)

12 Q Correct?

13 A Yeah. Yeah.

14 Q All right. Well, let's turn to page 105, line 23.

15 A 105, line 23?

16 Q And this is at the point Solicitor Finney is cross-  
17 examining Ms. Weathers about the fact that his legal  
18 residence was in Manning, correct?

19 A Yes.

20 Q And going on to page 106, that he was staying with a  
21 female, correct?

22 A Yes.

23 Q So that testimony that Mr. Blackwell had another  
24 female in Manning was before the jury, correct?

25 A Yes.

1 Q Okay.

2 A Yes.

3 MR. GOURLEY: Beg the Court's indulgence, Your Honor.

4 Q And is it your understanding that self-defense only  
5 applies to murder? Is that what you believe occurs?

6 A I mean, no. Self-defense could apply to assault and  
7 battery with intent to kill, right, I guess?

8 Q Self-defense applies to all the charges that you were  
9 facing?

10 A Oh. You talking about in trial? Yeah. They said  
11 self-defense was the perfect defense.

12 Q Right.

13 A Perfect defense.

14 Q And so your testimony was that you felt Solicitor  
15 Finney should've somehow told the judge that -- or asked  
16 the jury that they didn't agree with the self-defense on  
17 the murder? Is that what I understood you to say?

18 A No. In actuality I got acquitted of the murder. I'm  
19 talking about the voluntary manslaughter.

20 Q Right. So obviously, the jury didn't buy your self-  
21 defense claim if they convicted you on voluntary  
22 manslaughter, right?

23 MS. BLANCHETTE: Your Honor, I object. That calls for  
24 speculation.

25 MR. GOURLEY: I don't think that's speculation at all,

1 Your Honor. I think that's fact.

2 THE COURT: Overruled.

3 Q Is that correct, Mr. Cook?

4 A Repeat your question?

5 Q The jury did not buy your self-defense claim if they  
6 convicted you of voluntary manslaughter, right?

7 A I guess you could say that.

8 Q Okay.

9 MR. GOURLEY: Beg the Court's indulgence, Your Honor.

10 Q And your testimony here today is that you feel Mr.  
11 Finney had a conflict of interest because he, at some point  
12 in time in the course of your representation, was running  
13 for solicitor?

14 A Yes.

15 Q And he came and told you that he may have a potential  
16 conflict of interest because of that?

17 A I mean, he said that he -- he -- he don't think he can  
18 represent me ---

19 Q Okay.

20 A --- and that he would give back half the money and  
21 prefer [sic] me to another lawyer.

22 Q Okay. Did he ever give back half the money?

23 A No. I don't -- no. Because he came -- the next visit  
24 was, well, he came back and said this was going to be his  
25 last case; he was taking the case.

1 Q Okay. And what did you say?

2 A And, you know, at the time, I just thought, Okay.

3 Let's do it.

4 Q It ---

5 A I mean ---

6 Q --- was what?

7 A Let's do it. I thought, Okay. Let's do it.

8 Q So you were -- you were okay with Solicitor Finney  
9 continuing to represent him at that point in time ---

10 A I mean ---

11 Q --- represent you?

12 A Well, I mean, kind of sort of. But at the same time,

13 he came back; he was my lawyer. He said that this was  
14 going to be his last case. But I felt some type of way.  
15 That's why I called my mother and ---

16 Q Okay.

17 A --- told her that I felt that he wasn't for me  
18 anymore.

19 Q And ---

20 A I told ---

21 Q --- and ---

22 A --- her I had a funny feeling that he was going to  
23 sell me out.

24 Q And why do you feel he wasn't for you anymore?

25 A Because, for one, he's really for head solicitor of

1 the county.

2 Q Okay.

3 A For two, he came to me and told me that he couldn't  
4 represent me anymore.

5 Q Okay.

6 A But he didn't -- he never gave me a reason why. He  
7 just said that, "I don't think I can handle your case."

8 Q That you what?

9 A He -- he didn't give me a reason why. He just came  
10 and said he don't think he can handle my case anymore.

11 Q Okay. And then, he obviously came back to you and  
12 said, "I'm good to go; I can continue to represent you"?

13 A Yes.

14 Q And ---

15 A And ---

16 Q --- you felt that was good?

17 A Not really. Because I -- like I told you, I contacted  
18 my mother after the meeting -- of meeting ---

19 Q Okay.

20 A --- after the meeting. I felt uncomfortable.

21 Q Did you ever express that feeling to Solicitor Finney?

22 A I mean, no. I told my mother. And ---

23 Q Okay. And this -- I guess, when was this that he came  
24 and told you about his potential conflict?

25 A I don't remember the exact date. But it was -- it had

1 to been, like, within the two weeks before I went to trial,  
2 because we -- we was working on the trial.

3 Q Okay. And you, again, never raised it to the judge;  
4 never told anybody but your mother ---

5 A Yeah.

6 Q --- and your ---

7 A You know ---

8 Q --- girlfriend, I guess?

9 A Yeah. I never -- I didn't know that. I didn't  
10 understand if it was a problem. I didn't even know I could  
11 even talk to the judge on a situation like that.

12 Q Okay.

13 MR. GOURLEY: Your Honor, that's all the questions I  
14 have.

15 Q Thank you, Mr. Cook.

16 THE COURT: Redirect?

17 MS. BLANCHETTE: Nothing, Your Honor.

18 THE COURT: Thank you, sir. You may step down.

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

20 THE COURT: You may call your next witness.

21 MS. BLANCHETTE: Your Honor, I'd call Barbara Cook to  
22 the stand.

23 (Whereupon, the witness came forward.)

24 BARBARA COOK, having been first duly sworn,  
25 testified as follows:

DIRECT EXAMINATION BY MS. BLANCHETTE - BARBARA COOK 68

1 DEPUTY CLERK OF COURT: Please state your full name  
2 and spell your last name for the record.

3 THE WITNESS: Barbara Ingram Cook, C-o-o-k.

4 DIRECT EXAMINATION

5 BY MS. BLANCHETTE:

6 Q And, Mrs. Cook, how is it that you know Jeron Cook,  
7 the applicant, in this case?

8 A He's my son.

9 Q Okay. And leading up to his trial that we've been  
10 talking about today, did you actively communicate with him  
11 about his case and what was going on?

12 A A few times. Uh-huh.

13 Q Okay. And he has testified today about calling you  
14 via three-way from the detention center, where he expressed  
15 some concerns about Mr. Finney's representation. Do you  
16 remember receiving that phone call?

17 A Yes. I did.

18 Q Okay. And do you remember what the concerns were that  
19 were conveyed to you?

20 A Well, after talking to him -- and let -- but at the  
21 time, you know, I was upset. And from talking to him,  
22 after I got off the phone, I kind of thought about the same  
23 reason he's up here today saying.

24 Q And what is that, Mrs. Cook?

25 A That he probably wouldn't be represented fairly.

1 Q Okay.

2 A Uh-huh.

3 Q And was it conveyed to you that there was some type of  
4 conflict, since Mr. Finney was -- was campaigning to become  
5 the solicitor of ---

6 A Yes.

7 Q --- this county?

8 A Uh-huh.

9 Q Did you have the opportunity to discuss that further  
10 with Mr. Finney?

11 A We never really discussed it. When went into the  
12 office, he did told us that he was running for solicitor.

13 Q Okay.

14 A Uh-huh.

15 MS. BLANCHETTE: Your Honor, if I could beg the  
16 Court's indulgence one moment?

17 THE COURT: Certainly.

18 (Whereupon, Ms. Blanchette and the applicant  
19 conferred.)

20 MS. BLANCHETTE: Your Honor, I have no further  
21 questions.

22 THE COURT: Cross-examination?

23 CROSS-EXAMINATION

24 BY MR. GOURLEY:

25 Q Ms. Cook, you said you went into Solicitor Finney's

CROSS-EXAMINATION BY MR. GOURLEY - BARBARA COOK 70

1 office and he advised you that he was running for  
2 solicitor?

3 A Yes.

4 Q And what did you tell him at that point?

5 A What did I tell him?

6 Q Yes, ma'am.

7 A We congratulated him.

8 Q Okay. And you never at any point in time said, "Oh,  
9 well, since you're running for solicitor, I don't want you  
10 representing my son"?

11 A No, I didn't.

12 Q Okay. Why not?

13 A Because we had already gave him -- him money to take  
14 the case.

15 Q Okay. And you didn't feel that his running for  
16 solicitor in any way created any kind of conflict of  
17 interest at that time? It's only now that you feel that  
18 there was a conflict ---

19 A No.

20 Q --- of interest?

21 A That he was willing to go along with the case. But he  
22 said, if he couldn't take the case, he was going to turn it  
23 over to his brother.

24 Q Okay. But he ended up feeling like he could go along  
25 with the case, obviously?

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1 A He did. Yes.

2 Q Okay. I have no further questions. Thank you, Ms.

3 Cook.

4 MS. BLANCHETTE: I have nothing further, Your Honor.

5 THE COURT: Thank you, ma'am. You may step down.

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

7 THE COURT: Call your next ---

8 MS. BLANCHETTE: Your Honor, I'd call Solicitor Ernest  
9 Finney to the stand.

10 (Whereupon, the witness came forward.)

11 ERNEST A. FINNEY, III, having been first duly  
12 sworn, testified as follows:

13 DEPUTY CLERK OF COURT: Please state your full name  
14 and spell your last name for the record.

15 THE WITNESS: Ernest A. Finney, III; F-i-n-n-e-y.

16 DIRECT EXAMINATION

17 BY MS. BLANCHETTE:

18 Q And, Solicitor Finney, we've already called you by  
19 several names today. What would you prefer that I call  
20 you?

21 A Just Attorney Finney, I guess, would be fine.

22 Q Okay. Attorney Finney, do you recall your  
23 representation of Mr. Cook that we've been talking about  
24 here today?

25 A I do.

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1 Q Okay. And I'm just going to jump into some of the  
2 issues that we discussed during his testimony and with  
3 these other witnesses. Could you explain to us what type  
4 of independent investigation you took -- undertook in this  
5 case and if you hired a private investigator?

6 A Best of my recollection is that I was hired by the  
7 family shortly after Mr. Cook was arrested. And that  
8 would've been in the spring of 2009. I know he went to  
9 jail. We -- I represented him as far as the bond hearing.

10 And we began getting the documents from law  
11 enforcement that would've helped us find out what they had  
12 on their side. And then, of course, I talked to Mr. Cook  
13 several times about what brought him into the house that  
14 night.

15 As far as an independent investigation, I was hired by  
16 the family to do what I thought was in his best interests.  
17 I did not hire any independent investigators. As far as I  
18 knew, the family was set back financially by having to hire  
19 an attorney. I don't think I was the -- the cheapest guy  
20 in town, but I certainly wasn't the most expensive guy in  
21 town.

22 And at that point I probably had 25 years as a  
23 criminal defense lawyer. So I knew how to investigate a  
24 case and put it together.

25 Q And since you brought up the issue of money, did you

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1     ever say to them, "I need X amount of dollars for an  
2     investigator," and they informed you they didn't have it?

3     A     I don't remember.

4     Q     Okay. Do you recall if there were any pleas offered  
5     in this case?

6     A     I don't remember specifically. I would think that  
7     there might've been an offer made. Mr. Harry Connor was  
8     the assistant solicitor at the time. He and I had numerous  
9     discussions about the case.

10           I don't -- I cannot swear that an offer was made about  
11     this situation. I think probably an offer for voluntary  
12     might've been made. But I -- it -- it certainly would have

13     been a -- a -- a high number. Thirty years probably was  
14     put out. I -- but I don't have any recollection of that.

15           And I certainly did not make any decision for my  
16     client relative to an offer. If the offer was turned down,  
17     it was because Mr. Jeron Cook and I talked about it and he  
18     didn't want to take it.

19     Q     And we've talked a lot today about this being a self-  
20     defense case. And I'll get into that little bit more with  
21     you in a minute. Was the sole strategy self-defense, or  
22     was there ever a time where you were advising your client  
23     it may be good to try to work out a guilty plea in this  
24     case?

25     A     I'm always open to a reasonable resolution. I -- for

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1     example, the -- the number one problem I think we had in  
2     this case is that the deceased, Mr. Blackwell, did not have  
3     a gun. And I don't believe there was any forensic evidence  
4     that he ever held a gun.

5             I do remember -- or it looks like, from the  
6     transcript, I asked Audja Blackwell several times about why  
7     she felt she had to get in the car and leave the house that  
8     night. And it -- it resonated with me that I was probably  
9     trying to say that she was taking a gun that she had found  
10    in her brother's hand away from the crime scene. But there  
11    was no proof that he had a gun. None of the women inside  
12    the house that night testified that he was -- Mr. Blackwell  
13    was threatening with a gun.

14            So there was a -- there was an opportunity, obviously,  
15    for the jury to say that my guy shouldn't have shot because  
16    he wasn't faced with deadly force. But my guy testified he  
17    thought the other man had a gun. It was a dark room. It  
18    was a highly emotional situation. And -- and we thought  
19    that self-defense would prevail.

20            MS. BLANCHETTE: If I could beg the Court's  
21    indulgence?

22            THE COURT: All right.

23            (Whereupon, Ms. Blanchette and the applicant  
24    conferred.)

25            MS. BLANCHETTE: Your Honor, may I approach the

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1 witness?

2 THE COURT: Certainly.

3 Q Mr. Finney, you turned over your defense-counsel file  
4 as well as the solicitor's file to me. And that was  
5 contained in the defense-counsel file. Do you recognize  
6 those notes?

7 A Those are my -- that's my handwriting. Looks like  
8 trial notes that I would've made during the trial.

9 Q Okay. And do you see on the right-hand side there, it  
10 looks like you have Justin Yelton, the officer's, kind of  
11 testimony summarized. And then, it says -- what's -- what  
12 do you have written off to the right-hand side there?

13 A It says (As read): "This is cover-up."

14 Q And is that what you were just referring to, as far as  
15 her leaving in the vehicle?

16 A I -- I'm just referring to the fact that, in my review  
17 of the transcript, I asked several questions of her as to  
18 why she had to leave the house in a car. There was an  
19 issue about whether or not there was a child in the house  
20 that night. And also, there was an issue about her leaving  
21 kind of quickly that night.

22 I -- as a matter of fact, I think she might've left  
23 the -- the -- the -- the young lady that was having sex  
24 with Mr. Cook that night -- she might've left her at the  
25 house.

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1 Q And do you recall that when you were -- when you  
2 cross-examined Mr. Yelton -- because he was the officer  
3 that first interacted with Ms. Blackwell -- that he brings  
4 up that there was a child in the car. And do you recall  
5 questioning him about not having a report and that  
6 information just ---

7 A Yes.

8 Q --- coming out?

9 A I -- I've -- I've reviewed that in the transcript.

10 Q Okay. So was that information you knew before trial,  
11 or did you just kind of stumble upon this cover-up concern  
12 as the trial was somewhat evolving?

13 A I don't remember there being a -- a lot of detail  
14 about a cover-up. I've heard questions this morning about  
15 a setup or a robbery. And I have -- I have -- I have no  
16 recollection of that ever being discussed.

17 Q Okay. And I'll take that back. Thank you.

18 And just to make sure we're clear on the record, what  
19 was the primary defense strategy in this case?

20 A Well, the primary defense strategy was to show that  
21 Mr. Cook acted within the bounds of self-defense to protect  
22 himself from an assault that he thought, from a unknown man  
23 that was not -- you know, it -- it was a -- a dangerous  
24 situation, so to speak.

25 MS. BLANCHETTE: Your Honor, may I approach the

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1 witness?

2 THE COURT: Certainly, you may.

3 Q Mr. Finney, do you recall representing Mr. Cook at his  
4 preliminary hearing?

5 A Not specifically.

6 Q I will hand you a copy of the transcript. If you  
7 could flip to -- at the bottom of the page, it says pages  
8 14 through 19. It's towards the end. And that page 19 is  
9 very tiny in the right-hand corner. It gives your argument  
10 you made to the Court. I'll give you a chance to look over  
11 that.

12 A I've read it.

13 Q Okay. And what, essentially, is your argument there?  
14 Were you trying to run to self-defense or just dismissal  
15 based upon probable cause?

16 A It -- at this point it was -- it seems like that there  
17 was a lack of showing of malice or premeditation. Those  
18 were the two main elements of murder.

19 Q Okay. And so essentially, are you arguing there, this  
20 is more likely a voluntary-manslaughter case, not a murder  
21 case?

22 A No. Just that I wanted the -- the charge to be  
23 dismissed for lack of probable cause because the elements  
24 of the murder statute weren't met.

25 Q Okay.

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1 MS. BLANCHETTE: Your Honor, at this time I would move  
2 this transcript in as Applicant's No. 3.

3 THE COURT: Without ---

4 MR. GOURLEY: I don't have any objection, Judge.

5 THE COURT: Without objection.

6 MS. BLANCHETTE: Your Honor, would you like a copy?

7 THE COURT: No, thanks.

8 (Whereupon, Plaintiff's Exhibit 3 was marked and  
9 entered into evidence.)

10 Q During his testimony Mr. Cook testified that you had  
11 brought up the issue that the home may be under  
12 investigation for a prostitution ring. Do you remember  
13 discussing that with him?

14 A I don't remember that at all.

15 Q Okay. Do you remember investigating that at all?

16 A No. My recollection is Mr. Cook was very up-front  
17 with me, when we began our relationship, that he had known  
18 Audja Blackwell for a while; that I believe he told me and  
19 maybe testified that he had had sexual relations with her;  
20 and -- and that this was a -- kind of a regular course of  
21 business that he would have relations with her and that  
22 this new girl kind of came into the picture and that she  
23 also was amenable to having sex for money.

24 Q Going into trial, did you advise -- what did you  
25 advise Mr. Cook, as far as self-defense and kind of the

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1 parameters of that and how it applied to the charges he was  
2 facing?

3 A I think probably my focus would've been on having him  
4 -- I felt very strongly that he was our only witness.  
5 There were four people in the house. One was dead, and the  
6 two ladies weren't necessarily on his side.

7 That -- there was a big question about whether Mr.  
8 Blackwell was high on marijuana where -- that he was upset  
9 that there -- his girlfriend was having sex with another  
10 man and whether or not he was armed and that I wanted my  
11 client to be as clear as possible that he was in a bad  
12 situation of being in somebody else's house -- invited at

13 that point -- having sex with a -- a young lady and that he  
14 found himself backed into a corner. And I wanted him to  
15 express to the judge and the jury that he had no other  
16 option available to him except to fire his weapon to  
17 protect himself and get out of that house. And that's  
18 exactly what he did.

19 Q Did you convey to him any concerns or discuss with him  
20 that by putting him on the stand -- and in cross-  
21 examination how they did here -- the state could argue that  
22 the case -- or his testimony, essentially -- met the  
23 elements of voluntary manslaughter?

24 A I think that as a concerned attorney, I was willing to  
25 take that chance. Because I felt strongly enough about our

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1 defense. I felt strongly enough about the preparation that  
2 I had done with my client. And I thought that the  
3 voluntary manslaughter was not an issue prior to the call  
4 of the case.

5 In other words, there may have been an offer for my  
6 client to plead to voluntary. But my client had turned it  
7 down. And I don't remember that being the case. There is  
8 nothing in the file that I have seen and probably that  
9 you've seen to show that there was ever a written  
10 communication about an offer to plead.

11 So we had prepared the case as a murder case. And we  
12 were going to fight it as a case where he wasn't acting  
13 maliciously, didn't know this guy, had no beef with him,  
14 and was only acting in self-defense. The voluntary came  
15 up, I believe, as a result of the state wanting to have a  
16 middle ground for the jury to consider.

17 Q And did you at any time object or have any discussions  
18 regarding the jury being charged with voluntary in this  
19 case?

20 A I think that -- I don't -- I don't remember. It --  
21 nothing appears in the record. And my recollection is if  
22 we had a charge conference with the judge, we'd always put  
23 -- already put up our case. My client had already  
24 testified.

25 And I thought he'd done a very good job. I don't

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1 think he had been weakened by his testimony. And I thought  
2 that having the voluntary would not -- it -- it would not  
3 hurt us to have it in there.

4 Q And ---

5 A And that's what I argued to the jury.

6 Q And in your years of practice, had you ever tried a  
7 murder case where the jury was just solely charged with  
8 murder, where it was murder or nothing?

9 A I -- I think, yes.

10 Q Okay. So ---

11 A I think ---

12 Q --- you were ---

13 A --- I think that would've been based on the fact that  
14 the judge did not find -- for example, I think I've tried  
15 murder cases before where the defendant did not testify.  
16 And therefore, there wasn't any reason legally for the  
17 judge to charge the jury voluntary manslaughter.

18 Q Do you recall at any time asking the Court or having  
19 any type of conference about the fact that self-defense is  
20 a complete defense -- defense and it's for the state to  
21 disprove, as you said very clearly in your closing  
22 argument? Did you ever ask him to draft a verdict form  
23 where the jury would clearly indicate whether or not they  
24 believed that -- or they found that the state had disproved  
25 self-defense ---

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1 A No, I ---

2 Q --- and then ---

3 A --- did not.

4 Q --- move on to the other charges?

5 A I did not.

6 Q Okay. And is there any reason that you did not do  
7 that?

8 A It wasn't my -- it wasn't something that I was aware  
9 that we could do. Quite frankly, I've never drafted a  
10 special-finding form for the jury. I did not think Judge  
11 Young would agree to that.

12 Q And do you recall in this case, there was an issue --  
13 you had essentially raised some concerns and voiced your  
14 objection to the transferred-intent instruction being given  
15 and the confusion as far as the ABWIK charge, which he  
16 ultimately wasn't found guilty of, so there'd be no  
17 prejudice there, but that the jury came back and had  
18 questions about the transferred intent -- that transferred  
19 intent was an issue in the jury deliberations in this case?

20 A I -- I have read the transcript in preparation for  
21 today. And I -- I read my argument to the Court. But I  
22 don't remember reading anything about the jury having a  
23 question about transferred intent.

24 MS. BLANCHETTE: Your Honor, if I could beg the  
25 Court's indulgence one moment?

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1 THE COURT: All right.

2 Q And if I could direct your attention to page 415 of  
3 the -- I have the record on appeal. It's -- 415 is the  
4 large number; 395 is the transcript number.

5 And do you see there on page -- or line 16, where Mr.  
6 Connor says it appears that they have a question about the  
7 transferred intent and you're all discussing jury questions  
8 that had come back?

9 A Yes. It appears that starting on 414, the judge has  
10 said that the jury had an inquiry. And they do talk about  
11 the voluntary manslaughter and does it transfer to the  
12 assault and battery. And I said that I respectfully asked

13 the Court, down at the bottom of 414, not to charge the  
14 transferred intent.

15 And I -- I'm -- I'll try to answer your question.  
16 That's -- I'm kind of reading this for the first time.

17 Q That's all right. Please take your time. And I may  
18 need to ask you better questions. So please let me know.

19 A Please rephrase the question, then.

20 Q Okay. I will be happy to. Now that you've had a  
21 chance to review it, you would agree that the jury came  
22 back with some questions about transferred intent?

23 A I agree.

24 Q Okay. And you asked the Court not to reinstruct them  
25 on transferred intent and raised some concerns about the

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1 voluntary-manslaughter charge regarding it.

2 A Yes.

3 Q Now, my question is this: If you did not think, as I  
4 am reading it -- and please clarify me if I'm wrong -- you  
5 did not think transferred intent should be charged on  
6 voluntary manslaughter, why was it proper for it to be  
7 charged when they were looking at a murder charge? What  
8 kind of is the difference to you there?

9 A Well, I -- I don't know that it makes a difference to  
10 me. I think the judge decided that based on the testimony  
11 he heard from Mr. Cook, the jury could decide that he acted  
12 out of sudden heat and passion to take the life of another  
13 upon sufficient legal provocation. And so the charge was  
14 made for the jury to consider that. I -- I didn't -- I  
15 didn't agree with it. I didn't ask for it.

16 But I was willing to take it because I had a -- a  
17 better defense, I thought, than I wasn't looking to have my  
18 client -- the -- you know, say -- I wasn't -- I wasn't  
19 looking for my -- for the jury to settle in the middle.  
20 But obviously, looking back now, it was a better result to  
21 have the -- the -- the voluntary manslaughter in there from  
22 -- from my standpoint as an -- an attorney. Because I  
23 didn't want them to consider the murder at all. And they  
24 -- you know, and it -- they didn't.

25 Q Does it makes sense to you how the jury, then, could

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1 find him not guilty of the voluntary manslaughter, when the  
2 judge went ahead and gave the transferred-intent charge and  
3 made it applicable to the voluntary manslaughter?

4 A I don't ---

5 MR. GOURLEY: Judge ---

6 A --- understand.

7 MR. GOURLEY: Judge, I'm going to object. (A), that  
8 calls for speculation; but (B), Solicitor Finney did object  
9 to the transferred-intent charge, whether it was to murder  
10 or voluntary, on page 350, Your Honor. So I would object  
11 to this line of questioning as well.

12 THE COURT: All right. Overruled. Go ahead.

13 A You said something about the jury finding him not  
14 guilty of voluntary.

15 Q Correct. And -- no. I'm sorry. In this case they  
16 found him not guilty of the assault and battery with intent  
17 to kill. Do you ---

18 A Correct.

19 Q --- agree?

20 And you were objecting because you did not want a  
21 transferred-intent charge given that would -- would  
22 transfer the intent, I guess, for the voluntary  
23 manslaughter to the assault and battery with intent to  
24 kill; is that correct?

25 A Well ---

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1 Q Am I ---

2 A --- actually ---

3 Q --- summarizing your argument correctly?

4 A Actually, I think a judge felt that the transferred  
5 intent went to the murder; that if he intended to kill Mr.  
6 Blackwell but, in fact, shot Ms. Blackwell in -- in that  
7 process, that -- that they could find him guilty of the  
8 assault and battery, based on that, the transferred intent  
9 from the murder. And that's what I was objecting to.

10 MS. BLANCHETTE: And, Your Honor, if I could just beg  
11 the Court's indulgence ---

12 THE COURT: All right.

13 MS. BLANCHETTE: --- and then I will move on.

14 Q Mr. Finney, if I could direct your attention to page  
15 415, the Court's comments beginning at line 18. And I  
16 believe you -- he's stating the jury's question here, that  
17 it is -- "Yes." It says: "As to the charge of voluntary  
18 manslaughter, does it transfer to the assault and battery?"

19 So I take that to mean that the jury's question is:  
20 Does transferred intent apply to voluntary manslaughter.  
21 Is that what you take ---

22 A The way ---

23 Q --- that to mean?

24 A --- I read this, he's reading what the jury wrote.

25 Q Uh-huh.

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1 A Not what he believed the jury understood.

2 Q Okay.

3 A I believe this is what the jury wrote down.

4 Q And he says: "The way I'm seeing this is they had may  
5 thought that transferred intent applied to the murder,"  
6 which was essentially your argument, did ---

7 A Yeah.

8 Q --- that transferred intent should only apply to the  
9 murder.

10 And then, if you could flip over to the bottom of page  
11 -- and I'm sorry. I may be using the transcript cites  
12 instead. It's 418, line 20. The Court says: "He thinks

13 it's a valid charge." He's going to recharge on  
14 transferred intent as it is here, because it doesn't say  
15 whether it's murder or manslaughter.

16 So he left it to the jury that it could be applied to  
17 either charge; is that correct?

18 A I believe he did say that, over my objection.

19 Q Okay.

20 A Top of 419.

21 Q But yet the jury found him guilty of voluntary  
22 manslaughter, and they found him not guilty of the assault  
23 and battery with intent to kill; is that correct?

24 A Right.

25 Q Can you reconcile that in your mind?

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1     A     I -- I -- I can say this: The jury did not think that  
2     my client tried to murder Mr. Blackwell. And they did  
3     think that he tried to kill or harm Audja Blacwell in the  
4     act of murdering or -- or attempting to murder Mr.  
5     Blackwell.

6             So it's kind of consistent in the fact that they  
7     thought that he probably did something he shouldn't have  
8     done, which is why they charged him -- or found him guilty  
9     of voluntary manslaughter, but that it -- it did not rise  
10    to the level of premeditated or maliciousness and,  
11    therefore, they didn't hold him responsible for the murder  
12    of Mr. Blackwell and they didn't hold him, Mr. Cook,  
13    responsible for injuring Mrs. Blackwell.

14    Q     So you're saying, if the jury didn't believe that he  
15    had the intent to murder ---

16    A     Right.

17    Q     --- didn't the voluntary manslaughter just essentially  
18    kind of give them a way out, instead of Mr. Cook just being  
19    found not guilty of murder?

20    A     Well, again, Judge Young thought that there was enough  
21    evidence to submit that to the jury based on what Mr. Cook  
22    testified happened in that house that night. And the state  
23    wanted that position. I did not want that position, but I  
24    was willing to accept it.

25             I don't see where I objected to it. So I was willing

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1 to accept that position because I thought I had a good  
2 defense.

3 Q And what Judge Young had found and what the state  
4 asked for, did you see that anywhere reflected in the  
5 transcript or was that something you all discussed in  
6 chambers?

7 A All I can tell you is we -- we had a -- a -- the --  
8 the first time I can remember voluntary manslaughter being  
9 brought up in this trial was at the time of the charge  
10 conference. And -- and I believe that means that the state  
11 wanted it and ---

12 Q But ---

13 A --- got it.

14 Q --- that charge conference is only reflected with some  
15 -- you come back on the record and you voice some charges  
16 that you wanted. But the issue of voluntary manslaughter  
17 actually isn't discussed. Would you agree with that?

18 A I agree with that.

19 Q So if you had objected, that wasn't properly preserved  
20 to be raised on appeal in this case?

21 A I would say that would be true, except that I may not  
22 have objected because I didn't mind having the -- the  
23 voluntary in there.

24 Q While we're talking about objections, I had asked Mr.  
25 Cook in this -- in the judge's opening remarks, he says

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1 that it's the jury's duty to render a true and just  
2 verdict. Are you familiar with *State v. Daniels*, where  
3 they discuss similar comments made by the Court that could  
4 amount to burden-shifting?

5 A I am now. I wasn't at the -- I can't say that I was  
6 at the time. And my reading of the -- what the judge says,  
7 I thought, was in line with his usual -- most judges' usual  
8 instructions to the jury.

9 Q Okay. And we touched on it, but I just want to make  
10 sure we're clear. Did you know about Quincy McKenzie that  
11 testified today or any other potential witnesses as part of  
12 the preparation you did in this case?

13 A I've never heard that name before today.

14 Q Okay. When Mr. Cook, I assume -- Mr. Cook testified  
15 he told you his story, and you put him on the stand to tell  
16 his story. So you all went over his story; is ---

17 A Many ---

18 Q --- that correct?

19 A --- times.

20 Q And did you ever ask him, "Were there other  
21 individuals you were with that night?" or ask him about  
22 looking into people that were with him that night?

23 A I -- I -- I would have asked him if we had any  
24 witnesses that he wanted me to call or go and interview. I  
25 -- I can't say -- just based on what I've heard today in

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1 court, I can't say that Mr. Quincy would've been a good  
2 witness. Mr. Quincy testified this morning that Jeron  
3 caught a ride away from his house. And in trial Jeron  
4 testified that he drove away from his house and parked the  
5 car a block or so away and walked to the Blackwell house.

6 Q But do you have any notes or specific recollection of  
7 speaking to Mr. McKenzie ---

8 A I did ---

9 Q --- and making ---

10 A --- not.

11 Q --- and then making a decision not to call him?

12 A I -- I've never heard of Mr. McKenzie. Mr. Cook ---

13 Q Okay.

14 A --- never told me about that.

15 Q And then, the victim's sister, Barbara, testified  
16 today. Do you recall Mr. Cook telling you that she had  
17 reached out to him?

18 A I remember Mr. Cook saying that a phone call was made  
19 to his cell phone and that he never called her back. I  
20 don't know -- I -- I don't know that he knew who was  
21 calling. But at the -- yes. I -- I was aware of that.

22 Q And is that something you looked into? And if not,  
23 why?

24 A I -- I didn't think it was important to find out what  
25 happened after the shooting, as far as the victim's sister

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1     wanting to talk to him or threaten him or get him to  
2     explain. I mean, far -- as far as I knew, she might've  
3     been working for the police. But we concentrated on what  
4     was going on with my client at the time he decided to take  
5     the phone call from Ms. Blackwell and go over to the house.

6             And I think we put in as much information as we could.  
7     We only called one witness, although his mother and father  
8     were at the trial and they had talked to me many times. We  
9     didn't call them as witnesses because they weren't part of  
10    the action that evening.

11    Q     Now, at the close of the trial, the judge offered to  
12    give you ten days to file a posttrial motion or proceed at  
13    that time. You chose to proceed at that time. Why did you  
14    not take the ten days to prepare some type of written  
15    motion and have a subsequent hearing in this case?

16    A     I think it was my standard. I have learned how to  
17    make a motion. I knew what facts I needed to bring up.

18             I was shocked at the jury's response to the case.  
19    Because if you read the transcript, the way the clerk read  
20    the -- the verdict, I believe he said "not guilty" twice.  
21    I thought we were leaving the courthouse and going to my  
22    office to have a big celebration.

23             I had no idea that one of the verdicts was going to be  
24    guilty of voluntary manslaughter. Once they found him not  
25    guilty of the murder and not guilty of the assault and

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1 battery, I really thought we were on our way out.

2 And so I thought that we had accomplished a lot. We  
3 did not get the -- the -- the -- the case won the way we  
4 wanted to. But the -- the --- the motion at that point was  
5 to basically the lesser-included charge. And I didn't  
6 think I needed ten days to formulate anything.

7 I -- I now realize I could have filed for a  
8 reconsideration. But when a jury comes back with a lesser-  
9 included, and based on the testimony that we had heard from  
10 the -- the -- the defendant and the witnesses, I thought  
11 that the motion covered what we had and that we were going  
12 to go ahead then and talk about his right to appeal and --  
13 and get that ready to go.

14 Q We may have already addressed this, but just the  
15 comments you were making about when the jury came back and  
16 you heard the two not guilties, was it just strange to you  
17 that they would find him not guilty of the murder and not  
18 guilty of the assault and battery with intent to kill, but  
19 yet guilty of the voluntary manslaughter?

20 A Well, it was disappointing. Again, now that I'm  
21 looking back at a record and reading it, I can understand  
22 where, technically, the judge the judge had the right to  
23 charge it. The state wanted it.

24 And it -- it -- I think that the -- I think there were  
25 a couple of situations. Mr. Cook had to testify about

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1 self-defense. Mr. Cook, in testifying about self-defense,  
2 took a little bit of shine off of his case because he was  
3 already convicted of some other charges that the state  
4 brought out. Mr. Cook left the scene after the shooting;  
5 didn't stay; didn't call 911; didn't call his mom for help.

6 There were things that came out that didn't make the  
7 case a perfect self-defense case. But by and large, we had  
8 to play the cards that we had. And we did. And I think we  
9 were very effective, because we avoided murder and assault  
10 and battery with intent to kill.

11 Q Now, let me ask you about this conflict issue that was  
12 raised in the amendment and that both Mr. Cook and mother  
13 testified for. You said that you began representing Mr.  
14 Cook in early 2009. We have the preliminary hearing that  
15 gives us the date of April 2009. But you were already  
16 representing him at that point, I assume?

17 A Yes, ma'am.

18 Q Do you remember when you began running for solicitor?  
19 I know you were elected in November of 2010. But do you  
20 remember when you started your campaign?

21 A Yes, ma'am. The -- the prior solicitor announced in  
22 the newspaper, I think in February of 2010, that he was  
23 going to not seek reelection. And I would say that in the  
24 two weeks following that newspaper, I made the decision  
25 with my family that I was going to seek the position. That

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1 would have been the third time that I would've run for the  
2 office of solicitor, the other times being in late '96 and  
3 in 1990.

4 By the time of the trial in April, I probably had  
5 filed for the position of the June primary. I -- I  
6 would've filed to run in the June primary in March of 2010,  
7 which would've been about a month before this trial.

8 But probably other than filing the papers in March to  
9 run as a Democrat, I hadn't done much more. I hadn't  
10 ordered any signs, any bumper stickers, or anything like  
11 that.

12 Q And what was the ultimate message that you gave to the

13 public, or what was, you know -- kind of what was the  
14 message of your campaign before you were elected solicitor?

15 A That I was an experienced trial lawyer; that I was a  
16 long -- longstanding resident of the community; had  
17 practiced law in the community for a long time; and that I  
18 would be the most experienced person to take over the job  
19 of solicitor.

20 Q Did you ever remember making promises about being  
21 tough on crime or convictions or anything of that nature?

22 A Generally. I don't think specifically. I think my --  
23 my -- my platform was to make improvements to the office,  
24 to make sure that the office ran efficiently, and that we  
25 paid attention to our victims, to work with law enforcement

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1 to make the criminal justice system as fair as possible.  
2 I'm not somebody that believes that just because somebody  
3 is arrested, that they are guilty.

4 Q Attorney Finney, you heard Mr. Cook's testimony and  
5 his mother's testimony. Do you recall coming to him and  
6 discussing with him the fact that you were running for  
7 solicitor and it could be a conflict and that you were  
8 provide some type of refund and that there was another  
9 attorney, either in Bishopville or Lee, that would be  
10 assisting with the case?

11 A No. Never.

12 Q Did you ever discuss with him the fact that you were  
13 running for solicitor at the time that you were  
14 representing him and at the time of your -- at his trial?

15 A At some point I assume that it came up. But it  
16 would've been -- and I have some information; you may have  
17 it as well. There was a -- a move by the state to bring up  
18 some pending drug charges and weapons charges that were out  
19 there before he got arrested for the shooting. And that --  
20 that caused us to come before the judge and plead guilty to  
21 some drug charges and weapons charges. And that caused  
22 Jeron to go to prison.

23 I don't exactly -- I -- the plea sheets are part of  
24 his PCR application, I think. Maybe they -- they are not.  
25 But they -- they're in the state's file, certainly.

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1 But anyway, I don't -- I didn't make up mind to run  
2 for solicitor until late February of 2010. His trial was  
3 in April of 2010. By the time I -- I announced my  
4 candidacy, I was fully into representing him and -- and  
5 getting the file ready.

6 Because it was a murder case. It wasn't a voluntary-  
7 manslaughter case. It wasn't -- it was a murder case with  
8 a good self-defense ---

9 Q So your testimony today that in contrast to what him  
10 and his mother said, you never raised an -- a concern to  
11 him about running for solicitor and there being a conflict?

12 A Never.

13 Q Would you agree, if you had, that under Rule 1.7, we  
14 have a duty as attorneys to make sure that we get an  
15 informed written consent from our client if we raise -- if  
16 we identify any type of conflict?

17 A I would agree.

18 Q Okay. And -- and I can show you this too. I'm going  
19 to show you Rule 1.7. It's actually Comment No. 1. And  
20 I'll let you look at that for a second. I have it  
21 highlighted up here for you.

22 A All right.

23 Q Would you agree that conflicts don't just exist in  
24 representing codefendants or clients; it can also be as a  
25 result of our own interests or interests we have from third

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1 parties, such as the public?

2 A I would agree.

3 Q Okay. Attorney Finney, by way of the amendment, we  
4 have alleged ineffective assistance of appellate counsel.

5 I -- I understand that you weren't his appellate counsel in  
6 this case. But I just wanted to ask you about one of the  
7 objections that you had made.

8 A All right.

9 Q You objected at the beginning of trial, page 30,  
10 asking that Ms. Blackwell and Ms. Weathers be sequestered.  
11 You didn't want them essentially to hear each other's  
12 testimony, and that was denied. Is that an issue that you  
13 were -- were you making that objection and preserving that  
14 with anticipation that that would be raised on appeal?

15 A I -- I was only concerned at that time that they were  
16 very important witnesses. And I didn't want them to hear  
17 each other testify. And I thought it would be better for  
18 the jury if they didn't.

19 Obviously, I think the judge's motivation was that  
20 they were both considered to be victims or within the scope  
21 of that protection. And he allowed them to stay.

22 Q And were you making that motion or objection because  
23 you found it prejudicial for them to be able to hear each  
24 other's testimony, as they were the key witnesses in this  
25 case?

CROSS-EXAMINATION BY MR. GOURLEY - ERNEST FINNEY, III 99

1 A I don't remember at this point whether or not we had  
2 written statements from both witnesses. I believe we did.  
3 So I knew that we could keep them, generally speaking, to  
4 those written statements.

5 But as a matter of just protection, my clients -- my  
6 witnesses, if I had any, weren't going to be allowed to  
7 stay in the court. And I didn't want them to have that  
8 benefit over me.

9 MS. BLANCHETTE: Your Honor, if I could beg the  
10 Court's indulgence ---

11 THE COURT: Certainly.

12 MS. BLANCHETTE: --- one moment?

13 (Whereupon, Ms. Blanchette and the applicant  
14 conferred.)

15 MS. BLANCHETTE: Just one more moment, Your Honor.

16 (Off the record briefly.)

17 MS. BLANCHETTE: Your Honor, I have no further  
18 questions of this witness.

19 THE COURT: Cross-examination?

20 CROSS-EXAMINATION

21 BY MR. GOURLEY:

22 Q Solicitor Finney, in a -- or Attorney Finney, in  
23 reviewing this case and with 25 years of experience as a  
24 criminal defense attorney, what was, in your opinion, the  
25 best strategy as to how to defend this case?

CROSS-EXAMINATION BY MR. GOURLEY - ERNEST FINNEY, III 100

1 A Well, my -- my client felt very strongly that he had  
2 been put in a situation that he could not protect himself  
3 or guarantee his protection unless he struck first --  
4 struck the first blow. And my job was to show the jury and  
5 the judge that he was acting within his -- a -- a  
6 reasonable expectation of -- of -- of a person.

7 He was in a room with the door closed with the lights  
8 off, having relations with a woman who had invited him over  
9 there. And all of a sudden, the whole world changed. And  
10 we -- I thought we did a very good job of presenting that  
11 to the jury. And I thought the witnesses that the state  
12 had didn't do really anything to take that away from us.

13 Q And that all meaning you were trying to raise a self-  
14 defense claim?

15 A Yes, sir.

16 Q And in order to present the best self-defense claim  
17 possible, you had to present Mr. Cook's testimony?

18 A I did.

19 Q And did y'all have a discussion about the fact that he  
20 was going to have to testify?

21 A Yes.

22 Q Okay. Did you anticipate or expect that a potential  
23 voluntary-manslaughter charge could result as -- as a  
24 result of Mr. Cook testifying?

25 A I -- I -- I knew that it could.

CROSS-EXAMINATION BY MR. GOURLEY - ERNEST FINNEY, III 101

1 Q Okay. Did you have any issue with the voluntary-  
2 manslaughter charge?

3 A I -- I -- I was willing to accept the voluntary-  
4 manslaughter charge because I realized that we had some  
5 problems with the fact that he did not report the crime or  
6 the incident to law enforcement or to anybody, actually,  
7 after -- after leaving the house. I had realized that he  
8 had a really good reason for having the weapon with him in  
9 ---

10 Q Uh-huh.

11 A --- the house. It wasn't so much the -- for self-  
12 protection. It was that he didn't want to leave the gun in  
13 the car because he had taken the car and parked it a block  
14 or two away from the house and walked.

15 And I don't believe that, you know, we had any  
16 problems with what he was doing. He was acting lawfully.  
17 And -- and only when met with a dangerous situation did he  
18 feel like he needed to strike first.

19 Q Okay. Did you see any basis to object to the  
20 voluntary-manslaughter charge?

21 A No. Not once he testified. And the first time that  
22 we -- I believe the first time that voluntary manslaughter  
23 was brought up was at the charge conference off the record  
24 with the judge, when the state asked for it.

25 Q And again, just to be clear, Mr. Cook had to testify

CROSS-EXAMINATION BY MR. GOURLEY - ERNEST FINNEY, III 102

1 to present the self-defense claim?

2 A That's correct.

3 Q Okay. Now, Mr. Cook has alleged that you failed to  
4 conduct a reasonable investigation. And -- and I know you  
5 testified earlier on direct that you did not hire an  
6 investigator. What type of investigation did -- did you do  
7 in this case?

8 A We took all the law enforcement information,  
9 witnesses' statements. I talked with my client. I talked  
10 with his family. I went to the preliminary hearing, asked  
11 questions, and got as much information as I could there.

12 And we got discovery, in terms of prior record of the  
13 ladies in the house, any kind of background information we  
14 could on what kind of people they were and -- and why they  
15 were in the house that night. We found out -- we looked at  
16 numerous photographs of the crime scene. I -- I'm -- I'm  
17 not mistaken. We went to the crime scene and actually  
18 walked into the bedroom where everything was going on.

19 Q Okay. Mr. Cook has also alleged that you failed to  
20 call -- or look into additional witnesses. I know Mr.  
21 McKenzie was the only witness that testified today. Having  
22 heard his testimony today, would you have called him at  
23 trial?

24 A I would not have thought it was important to know that  
25 they were playing video games. The calls were not only

CROSS-EXAMINATION BY MR. GOURLEY - ERNEST FINNEY, III 103

1 testified to by my client, but they were also affirmed by  
2 the state's witnesses. Both ladies testified that they  
3 made calls to him that night and knew he was coming over  
4 and invited him over.

5 Q And also, Solicitor Finney, it's been discussed on  
6 direct, I believe with Mr. Cook, that there was maybe some  
7 kind of implication that this was a robbery or some kind of  
8 drug deal gone bad. Do you recall any testimony whatsoever  
9 about Mr. Cook potentially bringing drugs or going over  
10 there to get drugs or ---

11 A No, sir.

12 Q --- robbing them?

13 A No, sir.

14 Q Okay.

15 A I don't -- I don't -- I don't ever remember Mr. Cook  
16 telling me that he thought it was a setup for robbery.

17 Q Right.

18 A And I certainly don't believe Mr. Cook took any drugs  
19 over there.

20 Q And I understand Mr. Cook was indicted with burglary  
21 in the first degree and the state ultimately dismissed that  
22 indictment?

23 A I believe that's correct.

24 Q Okay. There was no question that Mr. Cook went over  
25 there to have sex with the victim's sister and Ms.

CROSS-EXAMINATION BY MR. GOURLEY - ERNEST FINNEY, III 104

1 Weathers, correct -- or ---

2 A At least ---

3 Q --- just ---

4 A --- one of ---

5 Q --- Ms. Weathers?

6 A --- them. Yes.

7 Q Yeah. The ---

8 A The -- I think it was the younger woman who was 17 at  
9 the time.

10 Q Okay. And Ms. Audja testified that she actually  
11 invited him in, unlocked the door, and he went into the  
12 actually victim's bedroom with Ms. Weathers, correct?

13 A That's correct.

14 Q Okay.

15 MR. GOURLEY: Beg the Court's indulgence, Your Honor.

16 (Off the record briefly.)

17 Q Solicitor Finney, regarding the conflict of interest  
18 -- and I believe you clarified on direct -- but you didn't  
19 feel there was any kind of conflict of interest?

20 A No, I did not. I -- I -- you know, I can understand  
21 Mr. Cook's -- well, first of all, Mr. Cook, in his PCR  
22 application that was filed in April of 2014, didn't allege  
23 anything about any conflicts. So that's something that has  
24 come up recently.

25 And I can understand it if I was running against the

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1 sitting solicitor and I thought that my candidacy was going  
2 to have some kind of, you know, political war tones. But  
3 the seat was open.

4 And I was running -- I had to run in the Democratic  
5 primary and be successful there. And then I had to run in  
6 the general election against a Republican opponent and be  
7 successful there. So at -- in April of 2010, I had no idea  
8 whether I was going to be the solicitor or not. I just  
9 wanted to have the people, for the third time, review my  
10 record and -- and -- and -- and vote on it.

11 Q Okay. And again, your running for solicitor at that  
12 time, did that in any way affect your representation of Mr.

13 Cook?

14 A Not at all.

15 Q Had Mr. Cook or Mr. Cook's mother brought to their --  
16 to your attention that they had an issue with you  
17 representing Mr. Cook and running for solicitor at the same  
18 time, what would you have done?

19 A Well, if they had an issue with it, I would have  
20 assured them that I -- I had a long way to go before I  
21 could claim to be the solicitor. And -- but if they had a  
22 big problem with it, we could have -- I would've -- I  
23 would've given them their money back and let them take the  
24 case somewhere else.

25 Q Okay. Mr. Cook has alleged also that there was some

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1 kind of voluntary-manslaughter plea offer. And I know you  
2 don't have any specific recollection. But in reviewing for  
3 this case and when reviewing your file, did you see any  
4 sort of written document, any type of document whatsoever,  
5 showing any kind of plea offer?

6 A No.

7 Q Is it your practice to object plea -- object [sic]  
8 plea offers without discussing those with your client?

9 A Never.

10 Q Have you ever rejected a plea offer for your client?

11 A No, sir. Not without discussing it first.

12 Q Okay. Solicitor Finney, during cross-examination,  
13 were you able to elicit that the victim, Mr. Blackwell, did  
14 have a -- I guess we're going to term it baby mama in  
15 another county?

16 A I believe, yes, that it was down in Manning, South  
17 Carolina. He was actually living in Manning, South  
18 Carolina.

19 Q And you were also able to elicit from Ms. Weathers  
20 and, I believe, Ms. Blackwell that they were the ones  
21 actively trying to, I guess, recruit Mr. Cook to the house  
22 that night, right?

23 A That's correct.

24 Q Now, would it be more powerful, in your opinion, for  
25 that evidence to come from the state witnesses or to

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1 present an additional witness in defense to corroborate Mr.  
2 Cook's statements?

3 A Well, I -- I wanted the jury to hear from my client  
4 because I -- I genuinely thought he had a good defense and  
5 that he was a good fella who found himself in a bad  
6 position.

7 Q Right. Well, I guess what I'm getting at: There was  
8 never a question that Ms. Blackwell and Ms. Weathers was  
9 attempting to lure Mr. Cook over to the house, correct?

10 A Correct.

11 Q Okay. And there was never any question that Mr.  
12 Blackwell had another girlfriend or baby mama in another

13 county, correct?

14 A Correct.

15 Q Okay. So Attorney Finney, would you have ever wanted  
16 to bring out the fact that your client was arrested and --  
17 previously -- I believe Mr. Cook testified that he had some  
18 kind of carjacking arrest that was ultimately dismissed.  
19 Was that something that you would've wanted to bring out in  
20 front of the jury?

21 A No, sir.

22 Q Why not?

23 A I -- I think it goes to his credibility and his  
24 character. And apparently, it was a dismissed charge. So  
25 it wouldn't have been proper for it to be coming in before

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1 the jury anyway.

2 Q Mr. Cook has also alleged that you failed to object to  
3 the judge charging, you know, the -- the jury should find a  
4 true and just verdict. In your experience has that charge  
5 typically been given?

6 A Yes, sir.

7 Q And you didn't see any basis to object?

8 A I did not.

9 Q And the judge also charged that they should find the  
10 defendant guilty beyond a reasonable doubt, correct?

11 A That's correct.

12 Q Solicitor Finney, self-defense is a complete defense,  
13 correct?

14 A Correct.

15 Q And that applies whether Mr. Cook was charged with  
16 murder, voluntary murder, ABWIK, or any other -- other  
17 charges, correct?

18 A Yes, sir.

19 Q So it -- logically speaking, this jury did not buy the  
20 self-defense strategy that y'all proposed, correct?

21 A As to the lesser charge of voluntary manslaughter.

22 Q All right. In your practice and in your experience,  
23 have you ever seen or requested a judge to put on a verdict  
24 form that they do not agree with the self-defense charge?

25 A No, sir. I've ---

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- 1 Q Is that ---
- 2 A --- never ---
- 3 Q --- not just ---
- 4 A --- done that.
- 5 Q --- assumed when they convict a person?
- 6 A That's correct.
- 7 Q Regarding the motion following the conviction, you've
- 8 got 25 years of experience, correct?
- 9 A Yes, sir.
- 10 Q Were you prepared to argue a motion for a new trial?
- 11 A I was.
- 12 Q Did you feel it was -- if you felt it was necessary to
- 13 have an additional time within that ten-day time period to
- 14 file a paper motion, would you have done so?
- 15 A I would have.
- 16 Q And again, just regarding the issue of sequestration,
- 17 both Ms. Blackwell and Ms. Weathers were victims, correct?
- 18 A Correct.
- 19 Q Okay. And typically, victims are allowed to sit in
- 20 the courtroom?
- 21 A Correct.
- 22 Q Regardless of whether they're going to be testifying
- 23 or not?
- 24 A Yes, sir.
- 25 MR. GOURLEY: Beg the Court's indulgence, Your Honor.

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1 THE COURT: All right, sir.

2 (Off the record briefly.)

3 MR. GOURLEY: Your Honor, I don't have anything  
4 further.

5 Q Thank you ---

6 THE COURT: Redirect?

7 Q --- Attorney Finney.

8 MS. BLANCHETTE: Beg the Court's indulgence one  
9 moment.

10 (Off the record briefly.)

11 MS. BLANCHETTE: Your Honor, I have no further  
12 questions.

13 THE COURT: Thank you. You may step down.

14 THE WITNESS: Thank you, sir.

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

16 THE COURT: Next ---

17 MS. BLANCHETTE: Your Honor ---

18 THE COURT: --- witness?

19 MS. BLANCHETTE: --- that concludes the witnesses I  
20 intend to call. I do have several cases to hand up and  
21 just a very brief argument. But I assume Your Honor may  
22 want that after the state presents their case.

23 MR. GOURLEY: Your Honor, we don't have a case. We  
24 would rest.

25 THE COURT: The state rests.

1 MS. BLANCHETTE: I'll take you don't have a case.

2 MR. GOURLEY: Sorry, Judge.

3 THE COURT: Did you want to hand some cases up?

4 MS. BLANCHETTE: Yes, Your Honor. I have a copy of  
5 *State v. Daniels*, but it's also cited to in the amendment.  
6 If you'd like that, I have it.

7 I also wanted to make just a very brief argument ---

8 THE COURT: Sure.

9 MS. BLANCHETTE: --- regarding overwhelming evidence  
10 of guilt. And I have a copy of every case I intended to  
11 reference. I just anticipate, as it is in most orders  
12 denying PCR, there's usually a paragraph or two thrown in

13 there about overwhelming evidence of guilt, which  
14 essentially defeats a case on appeal. So I just wanted to  
15 address it if the Court would let me at this point put a  
16 couple cases in the record and make a brief argument.

17 But would -- it would be our argument that a finding  
18 of overwhelming evidence of guilt would not be proper in  
19 this case. I have a copy of *Ford v. State*, which is a 1993  
20 case found at 314 S.C. 245. In there, an overwhelming-  
21 evidence-of-guilt discussion came into play, but it dealt  
22 with an alibi charge and whether or not an alibi charge  
23 should've been given. So the Court weighed the  
24 overwhelming evidence of guilt against the prejudice in the  
25 prejudice analysis there.

1           In *Harris v. State*, which was a 2008 case, found at  
2       377 S.C. 66 -- and I have a copy for all these -- of all  
3       these for the state as well -- the lower court was reversed  
4       for finding counsel ineffective for failing to obtain a  
5       first trial transcript to impeach witnesses. And that was  
6       defeated due to overwhelming evidence of guilt.

7           In *Battle v. State*, which is also 2008 case, at 382  
8       S.C. 197, the Court found that prejudice doesn't  
9       automatically result from the failure to request a charge.

10          In *Jackson v. State*, which was a 2003 case found at  
11       355 S.C. 568, there, the Court -- the appellate Court  
12       looked at an overwhelming-evidence-of-guilt analysis in  
13       determining prejudice stemming from the failure to give a  
14       self-defense instruction.

15          In *Jeter v. State*, which was a 1999 -- sorry -- 1991  
16       case, overwhelming evidence of guilt came into play dealing  
17       with bad-act evidence.

18          In this case, obviously, Mr. Cook got up; he  
19       testified. And we have put in the record today that  
20       essentially by testifying, it may have been ineffective  
21       assistance of counsel because it essentially met the  
22       elements, then, of voluntary manslaughter.

23          I would just ask this Court to not construe that,  
24       then, as overwhelming evidence of guilt that defeats our  
25       claims in this case. Why I have cited to these cases --

1 and interestingly, in a appellate argument I recently did,  
2 I looked at all the state cases, all the 4th Circuit cases,  
3 and it -- most of the overwhelming-evidence-of-guilt cases  
4 deal with whether or not a jury charge should have been  
5 given. And that has to do with alibi and self-defense,  
6 finding no prejudice because there was overwhelming  
7 evidence of guilt.

8 I will submit those cases to the Court. But I would  
9 say that analysis is not applicable here as to the claims  
10 that we -- we are raising. And I would just urge the Court  
11 to not throw the blanket over all our claims that there's  
12 overwhelming evidence of guilt in this case, based upon his

13 testimony. I'd ask the Court to consider each of the  
14 claims and do the proper prejudice analysis that's set  
15 forth in *Strickland*. And I have a copy of each of those,  
16 as well as the *Daniels* decision.

17 If Your Honor has any questions regarding anything  
18 that was presented today, I'd be happy to answer those.  
19 But I have not prepared some type of detailed argument to  
20 go over every issue. Your Honor always listens intently,  
21 so I knew if you had any questions, I'll be happy to answer  
22 those.

23 THE COURT: All right. Thank you. I'm good.

24 MR. GOURLEY: Your Honor, just very briefly, let's  
25 just take these one at a time. Regarding overwhelming

1 evidence, I think surely there is overwhelming evidence.  
2 Mr. Cook testified at trial; admitted his guilt -- or  
3 admitted to shooting the defendant [sic]. He also  
4 testified here today to admitting to shooting the  
5 defendant. The jury found him guilty.

6 But regarding the allegations, ineffective assistance  
7 of trial counsel for failure to conduct a reasonable  
8 investigation, Your Honor, I have seen no evidence here  
9 presented today, outside of may one witness, to come in to  
10 testify as to what Mr. Finney should have done.

11 I certainly think Mr. -- Mr. Finney was not deficient  
12 whatsoever. He's got 25 years of experience. He went  
13 through the state's evidence, visited the crime scene,  
14 talked to the witnesses, reviewed the statements. I  
15 certainly don't think there was any deficiency on his part.

16 Regarding prejudice, Your Honor, they have to present  
17 some kind of evidence in order to meet their burden.  
18 There's been no evidence presented, other than one witness,  
19 who we'll get to in just a minute. So, Your Honor, for  
20 that reason, I believe there is no deficiency, no  
21 prejudice, regarding of their overwhelming-evidence  
22 analysis.

23 Regarding ineffective assistance of trial counsel for  
24 failure to discuss and inform the applicant of all  
25 available defenses, I'm not sure what other defense Mr.

1     Finney should've raised. I haven't heard one here today.  
2     I think Mr. Finney, with 25 years of experience, reviewed  
3     the case; determined that self-defense was the best defense  
4     to raise. I didn't hear any disagreement from PCR counsel  
5     or Mr. Cook that the self-defense wasn't the most viable  
6     defense to raise.

7             I certainly agree with Mr. Finney that that was the  
8     most viable defense to raise. I would submit to the Court  
9     that he was not deficient in doing so.

10            Furthermore, Your Honor, there would be no prejudice  
11     for raising a self-defense claim. Of course, I guess what  
12     Ms. Blanchette is arguing that Mr. Finney should not have

13     presented Mr. Cook's testimony. Of course, Solicitor  
14     Finney testified that he had to present Mr. Cook's  
15     testimony in order to create a viable self-defense claim.  
16     Again, Your Honor, that would fall, again, under trial  
17     strategy, one, but also there's just nothing else there to  
18     present, nor has this Court been presented with any other  
19     viable defenses that would have been successful at trial.  
20     Your Honor, so for -- for those reasons, I would ask that  
21     that allegation be denied.

22            Ineffective assistance of trial counsel for failure to  
23     discuss the implications -- again, Your Honor, Solicitor  
24     Finney testified that they were presenting the self-  
25     defense. Mr. Cook had to testify. Mr. Cook's testimony

1     resulted in the voluntary-manslaughter charge. Your Honor,  
2     I think, if you read that testimony, there is no question  
3     that voluntary manslaughter should've been charged.

4             Whether or not Mr. Finney objected to it, it was a  
5     proper charge. I haven't heard that being disputed here  
6     today. The only dispute here is that Mr. Cook shouldn't  
7     have testified and, therefore, voluntary wouldn't have been  
8     charged. Again, Your Honor, that falls back on the fact  
9     that Mr. Cook had to testify to present the only viable  
10    defense in this case, which was self-defense.

11            Your Honor, in Allegation No. 4, the failure to  
12    utilize additional witnesses, as Your Honor knows,  
13    *Bannister v. State* requires that witnesses be present here  
14    to testify. I would submit to the Court, the only witness  
15    here to testify that Mr. Finney may not have looked into  
16    was Mr. McKinney [sic]. Certainly, Mr. McKinney's  
17    testimony may or may not be credible. He had a prior drug  
18    conviction.

19            As Mr. Finney pointed out on the stand, his story did  
20    not add -- add up with Mr. Cook's story. So, Your Honor,  
21    for those reasons, I would submit that his utilization at  
22    trial would not have beneficial to Mr. Cook at all.

23            Any additional testimony that Mr. McKinney stated  
24    merely corroborated what Mr. Cook said, but also  
25    corroborated what the state's witnesses said. It was never

1 in dispute that Ms. Cook -- or Ms. Audja or Ms. Weathers  
2 was calling Mr. Cook to get him over there to come to the  
3 house to have sex -- sex. Ms. Weathers even testified that  
4 she was selling herself for sex. Mr. Cook was there for  
5 the purpose -- purpose of having sex. That wasn't in  
6 dispute, Your Honor.

7 In regard to allegation of *State v. Daniels* with the  
8 improper jury instruction, Your Honor, that *State v.*  
9 *Daniels* did come out. The Court has cautioned circuit-  
10 court judge to not use that language anymore. But again,  
11 Your Honor, I would submit, there's no prejudice because  
12 the jury -- or the judge charged the jury multiple times to

13 find the defendant guilty beyond a reasonable doubt -- or  
14 that the state had to prove their case beyond a reasonable  
15 doubt.

16 Ineffective assistance of counsel for failure to fully  
17 cross-examine and impeach, Your Honor, I would submit to  
18 the Court that Solicitor Finney did fully cross-examine  
19 everybody. I've heard no testimony or evidence presented  
20 to this court that what Solicitor Finney should have done  
21 to cross-examine these witnesses. Mr. Cook did not bring  
22 these witnesses in to cross-examine them to show what  
23 could've -- what more could've been elicited. And for that  
24 -- for that reason, Your Honor, I would ask that you deny  
25 that claim.

1           Ineffective assistance of trial counsel for failure to  
2       object to the jury being charged on voluntary manslaughter,  
3       Your Honor, even if Mr. Finney had objected to voluntary  
4       manslaughter, the elements were clearly met, based off of  
5       Mr. Cook's testimony. He testified that he went into the  
6       bedroom; heard a knock on the door that turned out to be  
7       the victim in this case. The victim walks into the house;  
8       stands in the doorway. Mr. Cook is then trying to follow  
9       Ms. Weathers out of the doorway.

10           The victim stands in Mr. Cook's way. Blocks the  
11       doorway from -- from Mr. Cook getting -- from exiting the  
12       room. Begins to cuss Mr. Cook out. Mr. Cook advises him  
13       to calm down, calm down. A altercation occurs -- verbal  
14       altercation occurs, at which point the victim takes off his  
15       jacket, throws it on the ground. Mr. Cook's own testimony  
16       was that the victim reached for a gun -- or what he thought  
17       was a gun in his back pocket, at which point Mr. Cook shot  
18       and fired.

19           I would submit to the Court that the -- Mr. Cook's  
20       testimony alone adequately supported a voluntary-  
21       manslaughter charge and any objection would've been  
22       meritless at that point in time.

23           Regarding ineffective assistance of counsel for  
24       failure to -- failure to utilize the time -- ten-day time  
25       period, Your Honor, Mr. Finney is an experienced attorney

1 who knows the proper motions to make. I have not heard any  
2 arguments or motions that could've been made, had Mr.  
3 Finney utilized that ten-day time period. It's just a  
4 meritless allegation that you should've taken a couple more  
5 days to think about your argument and make it. There's  
6 been no evidence presented as to what arguments should've  
7 been made or what could've -- you know, could've been made  
8 within that ten-day time period or if those arguments  
9 would've been successful.

10 Regarding the conflict of interest, Your Honor, I  
11 would cite to *Jackson v. State* on that; that defendant has  
12 to show that a potential conflict actually materialized and

13 to -- and realized a conflict adversely affecting his  
14 counsel's performance. Mr. Finney that there was -- he was  
15 not in any whatsoever affected by his running for solicitor  
16 office.

17 I would also note to the Court, when I asked Mr. Cook  
18 about his response to Mr. Finney advising him that he was  
19 running for solicitor, he initially said, "Good," and then  
20 changed his tune a little bit and said, "Well, I -- I had a  
21 bad feeling about it."

22 Mr. Cook's mom also testified, when asked -- when  
23 advised that he was running for solicitor, they said,  
24 "Congratulations." So at no point in time did Mr. Cook or  
25 Ms. Cook advise Solicitor Finney that they didn't want him

1 representing the case anymore.

2 Mr. Finney testified that he had no conflict of  
3 interest and he adequately, fully prepared and represented  
4 Mr. Cook to the best of his abilities.

5 The "ineffective assistance of appellate counsel"  
6 claim, Your Honor, I would just submit to the Court that it  
7 was -- objection to sequestration. The victims can stay in  
8 the courtroom regardless of whether or not they're --  
9 they're witnesses. Mr. Finney objected. But again, Your  
10 Honor, I -- I would submit to the Court that there's been  
11 no case law or arguments made to present to this Court  
12 today that would justify the Court of Appeals overturning  
13 this case on the fact that the victims got to stay in the  
14 courtroom after a sequestration order was in place.

15 And for those reasons, Your Honor, excluding  
16 overwhelming evidence, which I certainly think overwhelming  
17 evidence is applicable in each and every one of these  
18 allegations, but excluding that, on the face, Your Honor, I  
19 would ask that you deny this application, as Mr. Cook has  
20 not presented any credible evidence or arguments to show  
21 deficiency and prejudice. Thank you.

22 THE COURT: Do you wish to respond in any way?

23 MS. BLANCHETTE: Respectfully, Your Honor, obviously,  
24 I disagree.

25 THE COURT: Well, yeah.

1 MS. BLANCHETTE: I just want to hit on kind of the  
2 main theme of this case and the argument that we want Your  
3 Honor to consider. Mr. Cook and both his mother have  
4 testified that it was conveyed to them that it was a  
5 conflict and another attorney could come on board. I  
6 understand that Mr. Finney did not testify to that, so  
7 that's something for this Court to weigh.

8 But based upon Rule 1.7, it's our position that once  
9 an attorney identifies a conflict, that conflict has to be  
10 voluntarily waived with written consent. And so it is our  
11 position that Mr. Finney, per my client and his mother,  
12 identified the conflict. So the case law saying that the

13 conflict has to come to fruition, I'd say that's not  
14 applicable here. Once he's identified the conflict, it has  
15 to be waived with written consent -- written voluntarily  
16 consent by my client. And that did not occur in this case.

17 It's our position that there was a conflict. And that  
18 conflict permeated throughout this case.

19 My client has also testified that he was informed by  
20 his counsel that there was a 20-year plea offer on the --  
21 or I believe he said a 20-year plea offer that was turned  
22 down. I know Mr. Finney has testified otherwise.

23 But it just raises the question that I'd like Your  
24 Honor to consider. Mr. Finney gave differing testimony  
25 that this wasn't a voluntary-manslaughter case to him; it

1 came up for the first time during the charging conference.  
2 Then he said at one point pretrial, it was a concern.

3 I'm not sure when it became a concern, based upon his  
4 testimony today. And I don't mean that disrespectfully. I  
5 just think he gave several different answers as to when  
6 voluntary manslaughter came into place.

7 But what he did know what was Mr. Cook intended to  
8 testify to. And he full know -- he full well knew what the  
9 elements of voluntary manslaughter was. So it just begs  
10 the question -- and I started by saying this is the  
11 question. It begs the question: Why did he not pursue a  
12 voluntary-manslaughter charge? And when did that come on  
13 the radar -- radar for him that that was going to be a  
14 problem in this case?

15 It's -- I know it's a great thing to have him be found  
16 not guilty. And he said they were almost somewhat  
17 celebrating when he was found not guilty on the murder  
18 charge. But he was found guilty on a voluntary-  
19 manslaughter charge. And he's serving a 27-year sentence.  
20 That's very close to the minimum on that murder charge.

21 So -- and he said they were celebrating. Essentially,  
22 they stopped once they heard the voluntary-manslaughter  
23 conviction.

24 It just -- I don't feel that he has answered today  
25 when the issue came up of we're going to have a problem

1 getting past the voluntary manslaughter and here's what  
2 we're going to do to address it. We don't have any type of  
3 objection on the record to the charge being given.

4 I understand, if the Court finds there's evidence in  
5 the record, it's proper for him to give the charge. But  
6 that discussion is not in this record. It didn't get to  
7 the appellate court whether on not a voluntary-manslaughter  
8 charge should have been given in this case.

9 And here, the jury essentially finds him not guilty of  
10 the murder and not guilty of the ABWIK. So we are asking  
11 this Court to find that it was very critical to this case  
12 that Mr. Finney both didn't discuss and strategize

13 regarding this issue of voluntary manslaughter and discuss  
14 and preserve it on the record.

15 And we are alleging that he's ineffective. And it  
16 would be our position that the conflict that Mr. Cook has  
17 testified under oath that Mr. Finney raised to him played a  
18 part in his performance at trial.

19 He is a seasoned attorney. He full well knew, when he  
20 put Mr. Cook on the stand, that it could reach those  
21 elements of voluntary manslaughter. And I just feel that  
22 he hasn't answered today when that issue came up, how it  
23 was addressed with Mr. Cook, and what was the strategy to  
24 get around a voluntary-manslaughter conviction in this  
25 case.

1           And if he knew that was a problem, why was he not  
2     advocating for a guilty plea, where it'd be my position his  
3     attorney -- or his client would most likely get credit for  
4     the fact that he didn't go forward with trial.

5           Your Honor, we also have the issue of failure to call  
6     witnesses. We've called witnesses today that we are  
7     capable of finding in 2016. I'd just ask that you weigh  
8     their testimony accordingly.

9           But the primary contentions in this case, I would  
10    submit, revolve around this issue of the voluntary  
11    manslaughter and the issue of the conflict. And I'd just  
12    ask that the Court consider each and every issue but make a  
13    finding under *Strickland* that we have shown ineffective  
14    assistance of counsel in this case and that there was  
15    prejudice resulting, which I would submit is clear from the  
16    conviction and sentence he received in this case.

17           THE COURT: Thank you.

18           MR. GOURLEY: Your Honor, not to go tit for tat, but  
19    the conflict of interest, Your Honor, there's been nothing  
20    alleged or shown that state how this conflict affected Mr.  
21    Finney's representation of Mr. Cook. Number two, the  
22    voluntary-manslaughter charge, Your Honor, I would submit  
23    to the Court, that was a proper charge.

24           But again, the self-defense claim is a complete  
25    defense. It would encompass the voluntary-manslaughter

1 charge if the jury determined that Mr. Cook acted in self-  
2 defense. Obviously, the jury did not determine that Mr.  
3 Cook acted self-defense and gave him the voluntary-  
4 manslaughter charge.

5 I would submit to the Court that Mr. Finney's strategy  
6 in combating the voluntary-manslaughter charge, whenever it  
7 arose, was encompassed by the ultimate trial strategy of --  
8 of preparing and presenting a self-defense claim.

9 And for those reasons, Your Honor, I would ask that  
10 you deny this application.

11 THE COURT: Let me ask this question, Ms. Blanchette:  
12 Is -- is this a case of an actual conflict of interest or  
13 an appearance?

14 MS. BLANCHETTE: Well, Your Honor, going into today, I  
15 knew the testimony of my client and I knew the testimony of  
16 his mother. I did not know Mr. Finney's position. When  
17 Mr. Finney testified that he never said that, what I'd say  
18 we have here is -- I would ask that you consider my  
19 client's testimony, his mother's testimony that was  
20 conveyed to him. So it's an actual conflict of interest in  
21 this case.

22 I -- not recently, but I handled the *Jordan* case,  
23 where we got into a lot of technicalities. And that's been  
24 a published decision. And then, there's been a more recent  
25 published decision, I believe, out of the Court of Appeals

1 dealing with conflicts.

2 Mr. Finney says he did not convey it to him. You  
3 know, that's in contrast to what my client's saying. But  
4 it'd been my position that once it was conveyed -- once he  
5 is told there is a conflict, that has to be waived. And  
6 going forward, Mr. Finney going forward without addressing  
7 that is -- is clearly ineffective assistance.

8 THE COURT: Well, wouldn't it have to be an actual  
9 conflict for it to -- for the requirement to be ---

10 MS. BLANCHETTE: And, Your Honor, I assume you're  
11 referring to *State v. Gregory*. And I have a copy of that,  
12 where it says in order to prove a per-se Sixth Amendment  
13 violation, the defendant must show that counsel acted under  
14 an actual conflict of interest. And then, we have to  
15 provide, essentially, proof of that and how that came to be  
16 in the case.

17 What we have here is my client testifying, along with  
18 his mother, that he was informed there was a conflict and  
19 then being confused when his attorney came back and  
20 everything was normal. I would say that once Mr. Finney,  
21 which it has been refuted by him, says there's a conflict,  
22 that's in conflict.

23 It's not the -- the analysis that we see in *Gregory*.  
24 It's not the analysis we see in *Michigan v. Jackson*. And  
25 I'll be honest. I had about ten cases to hand up to you.

1 But when his testimony differed from my client's  
2 testimony, I just have to stand on my client's testimony at  
3 this point: that it was conveyed to him; it was not  
4 waived. And one, I'd say that is a Sixth Amendment  
5 violation and that is ineffective assistance of counsel as  
6 a result of the Sixth Amendment violation. But it doesn't  
7 fit into the body of case law that we have on conflict of  
8 interest in this state.

9 THE COURT: Okay. Mr. Gourley, let me ask you this  
10 question.

11 MR. GOURLEY: Yes, sir.

12 THE COURT: Ms. Blanchette, in the event there's an  
13 order issued adverse to her client's application, is asking  
14 for there not to be an overwhelming-evidence-of-guilt  
15 finding. But now, the overwhelming evidence of guilt that  
16 you were talking about a moment ago was his admission that  
17 he -- that he shot somebody.

18 MR. GOURLEY: Yes, sir.

19 THE COURT: But he wasn't -- it's not -- where is the  
20 overwhelming evidence of guilt that he was guilty of  
21 involuntary manslaughter?

22 MR. GOURLEY: Of voluntary manslaughter, Your Honor?

23 THE COURT: Voluntary manslaughter. I'm sorry.

24 MR. GOURLEY: The -- his testimony, Your Honor.

25 Furthermore, the -- the physical evidence, the fact that

1 GSRs were done on both Audja Blackwell, the victim in this  
2 case. There was no GSR found on either one of those,  
3 proving that there was never a gun in the victim's hand or  
4 Audja Blackwell's hands, as Mr. Finney was trying to allege  
5 during the trial that maybe Audja took the gun and fled  
6 down the scene.

7 The bullets found at the scene -- there was five  
8 bullets found -- the fact that the victim was shot; the  
9 fact that Mr. Cook admits to shooting the victim.  
10 Obviously, the jury felt that he was -- went in there.  
11 There was a heat of passion. There was a confrontation.  
12 There was an argument.

13 Mr. Cook feared for his life, according as to what Mr.  
14 Finney was arguing. But there was obviously an altercation  
15 and he shot the victim in response to that altercation.  
16 And I would submit to the Court that the physical evidence  
17 presented during the trial, coupled with Mr. Cook's  
18 admission in trial -- and again, admission here today at  
19 the PCR hearing -- certainly presents and overwhelming-  
20 evidence argument that could be made if Your Honor  
21 determines that there was no prejudice ever -- or that the  
22 -- Mr. Cook presented some kind of allegation that showed  
23 both deficiency and prejudice.

24 Your Honor, the overwhelming evidence negates the  
25 prejudice prong in the *Strickland* analysis. But again,

1 Your Honor, regardless of the overwhelming evidence, I  
2 still don't think Mr. Cook has presented any credible  
3 evidence or arguments to even show (a) that Mr. -- Mr.  
4 Finney was deficient; but (b) that he was somehow  
5 prejudiced.

6 But again, Your Honor, I think the physical evidence  
7 presented throughout the trial, the testimony of the  
8 state's witnesses, the circumstantial evidence presented,  
9 coupled with Mr. Cook's testimony, adequately supports a  
10 finding of overwhelming evidence of guilt.

11 THE COURT: All right, Ms. Blanchette. I -- I agree  
12 with the argument and positions taken today by the state,  
13 as it relates to the application for postconviction relief.  
14 I'm going to deny the application. I'm going to ask Mr.  
15 Gourley if he'd prepare an order, but include in the order  
16 that the Court does not find that there was an actual  
17 conflict of interest and, therefore -- well, I don't find  
18 there was an actual conflict of interest that would've  
19 required him to obtain a written waiver.

20 MR. GOURLEY: Thank you, Your Honor. I will do so.

21 MS. BLANCHETTE: Thank you, Your Honor.

22 (Whereupon, the proceedings were concluded at 11:58  
23 a.m.)

24 --- END OF TRANSCRIPT OF RECORD ---

25

**CERTIFICATE**

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED  
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,  
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL  
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY  
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND  
COMPLETE TRANSCRIPT OF RECORD IN THE HEARING OF THE  
CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT  
COURT FOR SUMTER COUNTY, SOUTH CAROLINA, ON THE 16TH  
DAY OF MARCH, 2016.

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



---

MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

AUGUST 28, 2017

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS

COUNTY OF SUMTER )

C/A NO.: 2014-CP-43-0644

Jeron Cook )

Plaintiff, )

vs. )

State of South Carolina, )

Defendant, )

AFFIDAVIT OF  
Theresa Ray-Lee

COMES NOW, the Affiant, who, being duly sworn, testifies as follows:

I am employed by Sumter County at the Sumter-Lee Regional Detention Center ("SLRDC"). I am a Captain on the SLRDC staff and I have worked there for 25 years. As a part of my duties, I am responsible for keeping the records at the SLRDC. I have reviewed the subpoena submitted in this case by Attorney Tricia A. Blanchette, dated May 8, 2015, seeking... "the applicant's phone records and/or recordings ... from the Sumter County Detention Center for the dates of February to April 2010."

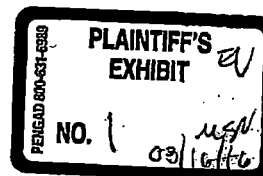
The SLRDC telephone system recordings are retained only for a period of between 90 and 100 days. The dates requested, February to April 2010, are beyond the retention period. Consequently, the SLRDC does not have any records that can be provided in response to the subpoena.

And the Affiant sayeth no more!

Sworn to before me this 21<sup>st</sup>  
day of May, 2015.

Theresa Ray-Lee  
Theresa Ray-Lee

Daryl F. McPherson  
Notary Public for South Carolina

My commission expires: Feb 2, 2015



JOHNATHAN W. BRYAN  
COUNTY ATTORNEY  
Telephone: (803)774-3877  
Fax: (803)436-2108

**Sumter County**  
**Sumter, South Carolina**

ADMINISTRATION BUILDING  
13 East Canal Street  
Sumter, South Carolina 29150-4925

May 21, 2014

Tricia Blanchette, Esq.  
Law Office of Tricia A. Blanchette  
P. O. Box 12725  
Columbia, SC 29211

Re: Jeron Cook v. State  
Docket No.: 2014-CP-0644

Dear Ms. Blanchette:

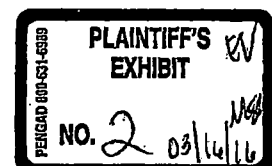
Please find enclosed the original affidavit signed by Capt. Theresa Ray-Lee.

Please let me know if you need any additional information concerning this matter from Sumter County.

Sincerely,

Johnathan W. Bryan

Cc: Mr. Gary M. Mixon, Sumter County Administrator  
Enclosure



STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS

COUNTY OF SUMTER ) C/A NO.: 2014-CP-43-0644

Jeron Cook )

Plaintiff, )

vs. )

State of South Carolina, )

Defendant, )

AFFIDAVIT OF  
Theresa Ray-Lee

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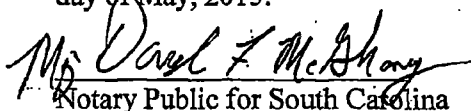
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And the Affiant sayeth no more!

Sworn to before me this 21<sup>st</sup>  
day of May, 2015.

  
Theresa Ray-Lee

  
Notary Public for South Carolina

My commission expires: February 2, 2017

STATE OF SOUTH CAROLINA )  
 ) IN THE MAGISTRATE'S COURT  
 COUNTY OF SUMTER )

IN RE: STATE V. JERON A. COOK

Preliminary hearing held before the Honorable  
 Kathy C. Ward, Magistrate for Sumter County at  
 her Chambers, Sumter, South Carolina, commencing at  
 2:30 P.M. on April 28, 2009 and taken by Doris Tompkins  
 Brown, Certified Verbatim Reporter and Notary Public in  
 and for the State of South Carolina.

APPEARANCES

FOR THE DEFENDANT:

Ernest A. Finney, III  
 Post Office Box 836  
 Sumter, South Carolina

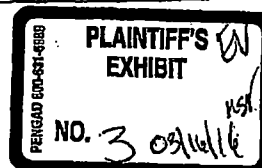
COMPRESSED TRANSCRIPT AND WORD INDEX

*Doris Tompkins Brown*

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Preliminary Hearing held before  
the Honorable Kathy C. Ward

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April 28, 2009

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| <p>Page 2</p> <p>1 THE COURT: This Preliminary Hearing is for<br/>2 Mr. Jeron Cook. Mr. Cook is present with his<br/>3 counsel, Attorney Chip Finney. Mr. Cook is<br/>4 charged with Warrant Number N-192786 with one<br/>5 count of murder, under N-192787 with one count<br/>6 of assault and battery with intent to kill. Mr.<br/>7 Finney, do you waive reading of the Warrants?<br/>8 MR. FINNEY: I do, Your Honor.<br/>9 THE COURT: All right, Mr. Florence.<br/>10 (Officer Florence, having been duly sworn, testifies as<br/>11 follows:)<br/>12 OFFICER FLORENCE: Are you ready, Mr.<br/>13 Finney?<br/>14 MR. FINNEY: Yes, sir.<br/>15 OFFICER FLORENCE: On 3-18-09 at<br/>16 approximately 12:40, 12:40 to 12:45 A.M., Law<br/>17 Enforcement received a call from Ms. Weathers<br/>18 stating that an unknown black male she did not<br/>19 know his name other than a street name, "Hood,"<br/>20 was at the residence and shot William Blackwell<br/>21 several times and also shot a -- Audrey Blackwell<br/>22 as well at that residence. Law Enforcement<br/>23 circulated the area and responded to the scene<br/>24 and processed the scene and took the witness,<br/>25 Weathers, to the Law Enforcement Center where she</p>                               | <p>Page 5</p> <p>1 file). Yes, sir.<br/>2 Q. That information you were seeking, as a result of<br/>3 what you found at the house, ---<br/>4 A. Yes, sir.<br/>5 Q. -- that led you to believe that Mr. Cook was with Ms.<br/>6 Weathers?<br/>7 A. That's right.<br/>8 Q. Okay. And she is a resident of Sumter?<br/>9 A. No, sir. She was -- we found out later that she<br/>10 was from Columbia and that she had been listed as<br/>11 a runaway from Columbia during that time but was<br/>12 residing at that residence at that particular<br/>13 time.<br/>14 Q. And approximately, is she seventeen or eighteen<br/>15 years old?<br/>16 A. I believe she's sixteen, if I recall correctly.<br/>17 Q. All right. Let me, now, just for my records,<br/>18 please, sir, you believe Ms. Weathers or Ms.<br/>19 Audrey Blackwell called the police? You believe<br/>20 one of those ladies called the police?<br/>21 A. That is correct.<br/>22 Q. And so, at the time of the shooting, there were four<br/>23 people at the house?<br/>24 A. Yes, sir.<br/>25 Q. Two men and two women?</p>                            |
| <p>Page 3</p> <p>1 gave a written statement to Law Enforcement.<br/>2 She did not know Mr. Cook's name at that time,<br/>3 only as Hood. And upon further investigation,<br/>4 we were able to make the determination that Mr.<br/>5 Hood or Hood was Jeron Cook. I obtained a six<br/>6 person lineup with Mr. Cook's photograph in that<br/>7 lineup, and Ms. Weathers immediately picked Mr.<br/>8 Cook out as the person who did the shooting, and<br/>9 later that morning, I made contact with Ms.<br/>10 Blackwell, the other victim who was shot in the<br/>11 buttocks, and she looked at a similar lineup as<br/>12 well and immediately picked out Jeron Cook as the<br/>13 person who did the shooting. She also gave Law<br/>14 Enforcement a statement identifying Mr. Cook as<br/>15 well. We followed up. Mr. Cook was turned in<br/>16 or turned himself with the help of his mother,<br/>17 I believe it was, and he was charged at that<br/>18 time.<br/>19 THE COURT: Anything further, Detective<br/>20 Florence?<br/>21 OFFICER FLORENCE: Other than the fact that<br/>22 Mr. Blackwell is deceased and it was determined<br/>23 through the autopsy that Mr. Blackwell -- the<br/>24 cause of his death was a shooting.<br/>25 THE COURT: Mr. Finney.</p> | <p>Page 6</p> <p>1 A. There were two men, two women at the time of the<br/>2 shooting, and then there was a small child who<br/>3 passed away.<br/>4 Q. All right. Who did the child belong to?<br/>5 A. It belonged to Ms. Blackwell.<br/>6 Q. Ms. Audrey?<br/>7 A. Correct.<br/>8 Q. All right. Now, when you got to the scene, you did go<br/>9 to the scene?<br/>10 A. Yes, sir. I did not go until -- once I got to<br/>11 the scene, they assigned us, and I took my<br/>12 assignment as taking Ms. Weathers to do an<br/>13 interview with her at the Law Enforcement Center.<br/>14 Q. All right. And you drew up a six person lineup, you<br/>15 said?<br/>16 A. Yes, sir.<br/>17 Q. You obtained that a few hours later?<br/>18 A. Yes, sir.<br/>19 Q. And she was still at the Police Station when you<br/>20 showed her the lineup?<br/>21 A. That's correct.<br/>22 Q. And the lineup was obtained based on information you<br/>23 received from her saying that Mr. Hood or Mr. Jeron<br/>24 Cook was the man at the house?<br/>25 A. No, sir. We obtained the lineup based on</p>                          |
| <p>Page 4</p> <p>1 MR. FINNEY: Thank you, Your Honor. If it<br/>2 please the Court.<br/>3 EXAMINATION BY MR. FINNEY:<br/>4 Q. Detective Florence, Ms. Weathers called the<br/>5 police; was she the ---<br/>6 A. According to -- Law Enforcement arrived at the<br/>7 scene; I think Ms. Blackwell initially called,<br/>8 and they made contact with Ms. Weathers and she<br/>9 stated that at the scene.<br/>10 Q. She was at the scene, 23 Patricia Drive?<br/>11 A. That is correct.<br/>12 Q. Is she the owner or a resident there?<br/>13 A. She was a resident there.<br/>14 Q. Okay. So, she was asleep at the time of the shooting<br/>15 or what?<br/>16 A. No. No, she was not.<br/>17 Q. What was she doing at the time of the shooting?<br/>18 A. She was at the residence with Mr. Cook.<br/>19 Q. Okay. So, you are familiar with the information<br/>20 contained in an Affidavit which you provided to<br/>21 the Court seeking a Search Warrant?<br/>22 A. (Witness pauses).<br/>23 Q. Let me show it to you.<br/>24 A. Just a second. I do so many Search Warrants,<br/>25 it's hard to keep up with them. (Witness reviews</p>                                                                                                                               | <p>Page 7</p> <p>1 information that I had contact with Mr. Cook in<br/>2 the past and the fact that his name popped up<br/>3 with me when the name "Hood" was mentioned, but<br/>4 I was not positive at the time.<br/>5 Q. I see. Okay. So, your information, after you had<br/>6 this lady at the Police Station for an hour, two<br/>7 hours, three hours, she didn't know this fellow and<br/>8 didn't know his name other than Hood?<br/>9 A. That's correct.<br/>10 Q. Never seen him before?<br/>11 A. Yes, sir. She had seen him before.<br/>12 Q. She had?<br/>13 A. Yes, sir.<br/>14 Q. Okay. And you were at the Law Enforcement with Ms.<br/>15 Weathers; you were not talking to Ms. Blackwell?<br/>16 A. No, sir.<br/>17 Q. But later, you talked to Ms. Blackwell, and she also<br/>18 picked out Mr. Cook of the lineup?<br/>19 A. That is correct.<br/>20 Q. Did she know him?<br/>21 A. Did she know him -- she know him as Hood.<br/>22 Q. She didn't know his name?<br/>23 A. No, sir.<br/>24 Q. And Ms. Weathers lived at Patricia Drive; did Ms.<br/>25 Audrey Blackwell live at Patricia Drive?</p> |

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1 A. Yes, sir.  
2 Q. And did it strike it as unusual that this man was in  
3 their house and they didn't know him?  
4 A. No, sir. Names are -- it's common for people to know  
5 people by their street names and not by their real  
6 names.  
7 Q. All right.  
8 A. That's very common.  
9 Q. All right. Now, there was an officer at the  
10 scene of the crime because there was a body  
11 there?  
12 A. Yes, sir.  
13 Q. And so, you all processed the scene?  
14 A. That's right. The crime scene.  
15 Q. Can you tell the Judge what information you learned at  
16 the crime scene that linked Mr. Cook there?  
17 A. Based on the information that we received, we  
18 processed the crime scene, and there were some items  
19 that were taken from the crime scene.  
20 Q. And those are the items in the Affidavit?  
21 A. Yes, sir. They were identified as being the  
22 suspect's personal property.  
23 Q. All right. Have you been able to link those  
24 things to him?  
25 A. They have been sent to SLED to do ---

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1 Q. Are you are awaiting the results?  
2 A. -- a Search Warrant ---  
3 Q. Are you are awaiting results?  
4 A. That's right.  
5 Q. All right. Were swabs taken from Ms. Weathers?  
6 A. No, sir.  
7 Q. All right. How long after the ID of Mr. Cook by Ms.  
8 Audrey, how long was it before he was arrested?  
9 Roughly. Two or three days?  
10 A. Something on that order. Yes, sir.  
11 Q. All right.  
12 A. He was arrested on the 19th, and ---  
13 Q. On the 19th?  
14 A. I think that's correct.  
15 Q. I have the shooting happening on the 18th, according  
16 to the Affidavit and the Warrant.  
17 A. That's right. You're right. And Ms. -- did you  
18 want to know about Ms. Blackwell's statement or  
19 Ms. Weathers?  
20 Q. Well, which one did you get first? Ms. Weathers?  
21 A. I got Ms. Weathers' statement first.  
22 Q. All right. She gave a statement at Law Enforcement?  
23 A. That's right.  
24 Q. A few hours after the incident?  
25 A. It was on 3-18 at 5 A.M.

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1 Q. All right. What did she say relative to Mr. Cook  
2 being the person who did the shooting?  
3 A. She didn't say anything relative to him other  
4 than she identified him as Hood; we later through  
5 our investigation identified him as Jeron Cook,  
6 and a six person lineup was obtained at that  
7 time. And it was showed to Ms. Weathers at that  
8 time, and she immediately picked him up of the  
9 lineup ---  
10 Q. All right.  
11 A. -- as the individual who did the shooting.  
12 Q. Okay. So, when I asked the question the first  
13 time, if Hood is Mr. Cook ---  
14 A. Yes, sir.  
15 Q. -- I'm not going to argue that point. What did she  
16 say Mr. Cook did or Hood did in the house that night?  
17 A. She said that he came over and he had been  
18 talking with her by phone, and he wanted to have  
19 sex with her and they were in the bedroom and  
20 they had had sex, or were in the process of  
21 having it -- I understood they had sex -- and  
22 that when Ms. Weathers' boyfriend came home with  
23 Mr. Blackwell, he came in the residence and  
24 wanted to know what was going on at that time.  
25 Q. And so, there was an argument?

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1 A. No, sir. The understanding I got was that there  
2 was no argument; there were a couple words  
3 exchanged. There were no hostile words at all.  
4 He wanted to know what was going on, and at that  
5 time, that Mr. Cook was attempting to put his  
6 clothes on and the only thing, information that  
7 I received as far as any type of action was that  
8 Mr. Blackwell began to take his jacket off, and  
9 that's when Mr. Hood pulled out the weapon and  
10 started firing.  
11 Q. And where was the weapon, according to the witness?  
12 A. In his pants.  
13 Q. In Mr. Cook's pants?  
14 A. Yes, sir.  
15 Q. And so, the testimony was, Blackwood -- excuse me  
16 -- Blackwell came home after 12:30 midnight?  
17 A. Yes, sir.  
18 Q. Wanted to know what was -- is this his home?  
19 A. Yes, sir.  
20 Q. Does he live there?  
21 A. Yes, sir.  
22 Q. He wanted to know what was going on in his home?  
23 A. Yes, sir.  
24 Q. He began taking off his jacket while Mr. Cook was  
25 trying to put on his pants?

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1 A. Yes, sir.  
2 Q. And as a result of whatever, Mr. Cook fired how many  
3 times?  
4 A. He fired several times.  
5 Q. How do you know that?  
6 A. Well, we made a determination based on the times  
7 that he was shot; he was shot one time in the  
8 back, one time in the arm, and the other victim  
9 was shot in the buttocks. There were possibly  
10 five shots fired.  
11 Q. How do you know that? That's what I'm asking. Were  
12 there shell-cases?  
13 A. Shell-cases.  
14 Q. All right. How many shell-cases did you find?  
15 A. I don't recall. I think it was five.  
16 Q. And do you know what kind of weapon was used?  
17 A. No, sir.  
18 Q. I apologize. You said there was one wound in the back  
19 and one wound in the gentleman's ---  
20 A. In the general area of the arm.  
21 Q. Arm. And then the lady was shot in the buttocks?  
22 A. Yes, sir.  
23 Q. One time?  
24 A. Yes, sir.  
25 Q. By you think five shell-cases?

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1 A. Yes, sir.  
2 Q. Were found?  
3 A. Yes, sir.  
4 Q. Unknown caliber?  
5 A. Unknown calibers. It was probably listed; I just  
6 don't recall at this time, sir.  
7 Q. Was the weapon ever recovered?  
8 A. No, sir.  
9 Q. Ms. Blackwell's statement was taken later on  
10 after she was released from the hospital?  
11 A. That's correct.  
12 Q. She came down to Law Enforcement?  
13 A. No, sir. I went to her mother's residence and  
14 made contact with her and took a statement there.  
15 Q. All right. And would you please summarize her  
16 statement as far as what the shooter and Mr. Blackwell  
17 were doing when the gun fired?  
18 A. Well, basically, what I told you, that he walks  
19 into the house and goes through and then there's  
20 -- says a couple of words to Ms. Williams -- I  
21 don't know exactly what the extent of the  
22 conversation was.  
23 Q. Williams?  
24 A. I mean Weathers.  
25 Q. Weathers. Okay.

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| <p>Page 14</p> <p>1 A. And goes into a room; Mr. Cook was in a room. He<br/>2 stands at the door and Ms. Blackwell stands at<br/>3 the door and says, "What's going on here," or<br/>4 "what's up here," and he starts taking his jacket<br/>5 off, and that's when the shots are fired.<br/>6 Q. All right. Now, Mr. Cook didn't have any other means<br/>7 of leaving that room besides the door that Mr.<br/>8 Blackwell was standing in?<br/>9 A. Well, the windows was there, but I don't think<br/>10 they were open at the time.<br/>11 Q. All right. And this was in December or January?<br/>12 A. January.<br/>13 Q. January?<br/>14 A. No. March.<br/>15 Q. No. March. March.<br/>16 A. Right.<br/>17 Q. All right. And from what you testified to, Mr.<br/>18 Cook was in a room with Ms. Weathers?<br/>19 A. Yes, sir.<br/>20 Q. Mr. Blackwell was at the door?<br/>21 A. Yes, sir.<br/>22 Q. Where was Ms. Blackwell?<br/>23 A. Ms. Blackwell was outside of the door in the<br/>24 hallway or right there outside of the front<br/>25 portion of the bedroom.</p>                                                                                   | <p>Page 17</p> <p>1 A. I don't recall at this time.<br/>2 Q. All right.<br/>3 A. I did check the record, but I didn't bring that with<br/>4 me.<br/>5 Q. What was your information as to why Mr. Cook was<br/>6 there and how many times he had been there<br/>7 before?<br/>8 A. The information I had, he had been -- the<br/>9 understanding I got, he had been there a couple of<br/>10 times before and had seen Ms. Weathers on one other<br/>11 occasion, and he had called her on this occasion<br/>12 wanting her to quote, unquote, hook up.<br/>13 Q. And were you able to verify anything like that<br/>14 with cell phone records or anything?<br/>15 A. No, sir.<br/>16 THE COURT: No, it wasn't verifiable<br/>17 or no, you just hadn't done so at this<br/>18 point?<br/>19 OFFICER FLORENCE: No, I hadn't done<br/>20 so.<br/>21 Q. And do you know how Mr. Cook got to the house; was<br/>22 there a vehicle?<br/>23 A. No, sir. No vehicle was found.<br/>24 Q. Do you know whether the women said he came in a<br/>25 vehicle?</p>                                                                                                                                                                                                          |
| <p>Page 15</p> <p>1 Q. Did she tell you that she saw Mr. Cook pull a gun and<br/>2 shoot?<br/>3 A. Yes, sir.<br/>4 Q. She saw that?<br/>5 A. She saw that?<br/>6 Q. Okay.<br/>7 THE COURT: All right. I just want<br/>8 to make sure I understand here. Mr. Blackwell,<br/>9 the deceased victim, was the boyfriend of Ms.<br/>10 Weathers, who was one of the witnesses?<br/>11 OFFICER FLORENCE: That's correct.<br/>12 THE COURT: What is the relationship between<br/>13 Ms. Blackwell and the one who was shot; was she<br/>14 a sister?<br/>15 OFFICER FLORENCE: Of Mr. Blackwell.<br/>16 THE COURT: So, Mr. Blackwell, the deceased<br/>17 victim, came to his home?<br/>18 OFFICER FLORENCE: Came to his home.<br/>19 THE COURT: Found his girlfriend and a<br/>20 person who you described as Hood?<br/>21 OFFICER FLORENCE: Right.<br/>22 THE COURT: All right.<br/>23 OFFICER FLORENCE: Yes, ma'am.<br/>24 THE COURT: All right. Thank you.<br/>25 EXAMINATION BY MR. FINNEY CONTINUED:</p>                                                                                                                                                             | <p>Page 18</p> <p>1 A. She said that he called and they opened the door<br/>2 for him. I did not see a vehicle.<br/>3 Q. All right. Mr. Cook turned himself in a few days<br/>4 later?<br/>5 A. Yes, sir.<br/>6 Q. Did he give a statement?<br/>7 A. No, sir.<br/>8 Q. I just wanted to clear this up.<br/>9 A. Yes, sir.<br/>10 Q. Ms. Audrey Blackwell lived in the house?<br/>11 A. Yes, sir.<br/>12 Q. For years; had she been there a long time?<br/>13 A. I don't know exactly how long, but it had a<br/>14 while.<br/>15 Q. All right. And Mr. Blackwell was not home at the time<br/>16 that Mr. Cook got there?<br/>17 A. No, sir, he wasn't.<br/>18 Q. And Ms. Cook and Ms. Weathers were there, and they let<br/>19 him in?<br/>20 A. Yes, sir.<br/>21 Q. And how long had he been there? Have you been<br/>22 able to determine how long he had been there<br/>23 before Mr. Blackwell got there?<br/>24 A. We made a determination of approximately thirty<br/>25 minutes, something in that area.</p>                                                                                                                                                                                                                                             |
| <p>Page 16</p> <p>1 Q. Was Mr. Blackwell tested for gunshot residue; was a<br/>2 GSR Kit done on him?<br/>3 A. I believe it was, sir. I don't have the results.<br/>4 Q. Those would have been sent to SLED?<br/>5 A. Yes, sir.<br/>6 Q. All right. Do you know if either of the women in the<br/>7 house were tested for GSR?<br/>8 A. Ms. Weathers was tested for GSR at the Law<br/>9 Enforcement Center, and we weren't able to make<br/>10 contact with Ms. -- with her at that time, but I<br/>11 believe that she was later tested at the<br/>12 hospital.<br/>13 Q. All right. Were there any next-door neighbors,<br/>14 anybody else in the neighborhood, who gave a<br/>15 statement about seeing somebody come in and<br/>16 hearing an argument, anything?<br/>17 A. No, sir.<br/>18 Q. Okay. Mr. Cook, does he have a prior record?<br/>19 A. I think he does; I don't know the extent of it.<br/>20 From what I recall, it was nothing major as far<br/>21 as the violent crime type incidents.<br/>22 Q. And do you know whether Mr. Blackwell, the deceased,<br/>23 had a history?<br/>24 A. No, sir. I don't know.<br/>25 Q. You don't know?</p> | <p>Page 19</p> <p>1 Q. All right.<br/>2 MR. FINNEY: Your Honor, I would<br/>3 just make a motion for the record, please,<br/>4 I don't have any other questions of the<br/>5 investigator because I know some of the<br/>6 information he has is still at SLED. But<br/>7 I don't believe there has been a showing of<br/>8 probable cause on the charge of murder. Even if<br/>9 you believe, Your Honor, that a weapon was used<br/>10 in this matter and there is evidence of that, it<br/>11 does not purport to raise itself to the<br/>12 standard of premeditated or malicious actions<br/>13 on the part of a man who apparently was<br/>14 invited or let into a residence late at<br/>15 night, found himself in a room with a woman<br/>16 who suddenly, the situation changed because<br/>17 of the appearance of a man. There is no<br/>18 testimony that the deceased knew my client.<br/>19 And a death resulted, a tragic death, but<br/>20 not a crime. And for that reason, I ask<br/>21 the Court to consider dismissing this case<br/>22 and having it re-filed at some other point.<br/>23 THE COURT: Your motion, Mr. Finney, is<br/>24 noted, and denied. I am going to find probable<br/>25 charge of murder and as to the charge of</p> |

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1 assault and battery with intent to kill.  
2 MR. FINNEY: Thank you, Your Honor.  
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STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

Jeron Alondo Cook, # 337103,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE THIRD JUDICIAL CIRCUIT

2014-CP-43-644

**RECEIVED**

APR 06 2017

S.C. SUPREME COURT

**ORDER OF DISMISSAL**

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on April 3, 2014. Respondent made its return on November 14, 2014. An evidentiary hearing into the matter was convened on March 16, 2016, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Tricia Blanchette, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

# I. PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. Applicant was true bill indicted at the April 2010 term of the Sumter County Grand Jury for Assault and Battery with Intent to Kill, Murder, Burglary – First Degree, Possession of Firearm During Commission of a Violent Crime, Unlawful Carrying of a Handgun (2009-GS-43-882). Ernest Finney, Esquire represented Applicant. Applicant proceeded to a jury trial before the Honorable W. Jeffrey Young. On April 21, 2010, Applicant was found guilty of voluntary manslaughter, possession of a weapon during the commission of a violent crime, and unlawful carrying of a handgun. He was acquitted on the charges of assault and battery with

intent to kill and murder. Judge Young sentenced Applicant to a twenty-two year term of imprisonment for Voluntary Manslaughter to run consecutively to a five year term of imprisonment for Possession of a Firearm During Violent Crime and a one year term of imprisonment for Unlawful Carrying of a Handgun.

A timely Notice of Appeal was filed and an Anders<sup>1</sup> brief was submitted on Applicant's behalf. The South Carolina Court of Appeals affirmed Applicant's conviction. State v. Jeron Cook, Op. No. 13-UP-349 (Ct. App. filed September 4, 2013). The Remittitur was issued on September 20, 2013.

Applicant filed his first Application for post-conviction relief on March 21, 2013 (2012-CP-43-522). Respondent made its Return and Motion to Dismiss without Prejudice July 31, 2013. In an Order of Dismissal without Prejudice signed August 5, 2013 and filed August 8, 2013, the Honorable George C. James, Jr., denied and dismissed this application without prejudice until Applicant's pending Appeal in the South Carolina Court of Appeals could reach its conclusion.

Applicant subsequently filed the current application for post-conviction relief on April 3, 2014. An Order was issued by the Honorable George C. James, Jr., on April 27, 2015, authorizing discovery.

## II. ALLEGATIONS

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

1. Ineffective Assistance of Counsel
  - a. Failure to conduct investigation of case facts.
2. Ineffective Assistance of Appellate Counsel
  - a. Failure to raise claims requested.

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<sup>1</sup> Anders v. California, 386 U.S. 738 (1967).

Applicant filed an amended application on February 10, 2016 alleging he was being held unlawfully based on the following allegations:

1. Ineffective assistance of trial counsel for failure to conduct a reasonable investigation prior to trial.
2. Ineffective assistance of trial counsel for failure to discuss and inform Applicant of all available defenses and reach an informed trial strategy with Applicant prior to trial.
3. Ineffective assistance of trial counsel for failure to discuss the implications (i.e. establishing the elements of manslaughter) his testimony could result in at trial.
4. Ineffective assistance of trial counsel for failure to utilize additional witnesses at trial to corroborate Defendant's testimony, support the defense argument, or establish additional defenses and/or reasonable doubt.
5. Ineffective assistance of counsel for failure to object to the Court's opening comments to the jury regarding a true and just verdict. Transcript p. 51, Ins. 8-10.
6. Ineffective assistance of counsel for failure to fully cross-examine and impeach the State's witnesses.
7. Ineffective assistance of trial counsel for failure to object to the jury being charged on voluntary manslaughter and/or failure to preserve the matter for appeal.
8. Ineffective assistance of trial counsel for failure to utilize the ten day time period offered by the court to file a post trial motion and for electing to only proceed with a motion for a new trial immediately after sentencing.
9. Ineffective assistance of trial counsel due to a conflict of interest: Prior to trial Applicant was advised by counsel that it would present a conflict for him to proceed with representing Applicant due to his campaign for Solicitor that resulted in his election later that year, yet he continued with representation without Applicant waiving the conflict.
10. Pursuant to Rule 15(b), SCRPC, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.
11. Ineffective assistance of appellate counsel for failure to raise all meritorious issues on appeal.

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

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Specifically, this Court finds Trial Counsel's testimony credible and

Applicant's testimony not credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

#### INEFFECTIVE ASSISTANCE OF COUNSEL

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

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

**1. Ineffective assistance of trial counsel for failure to investigate.**

This Court finds that Applicant's allegation that Trial Counsel was ineffective for failing to conduct a reasonable investigation prior to trial is meritless.

"[C]riminal 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." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Wiggins v. Smith, 539 U.S. 510, 521-22 (2003).

This Court finds that it is clear from the testimony presented that Trial Counsel did undertake a reasonable investigation and was not ineffective in his trial preparation. This Court finds Trial Counsel's actions fell well within the reasonable professional norms. Applicant has failed to present credible evidence to meet his burden of proving that Trial Counsel failed to investigate any specific witnesses or information, and has further failed to prove that Applicant was prejudiced by this inaction. Therefore, this allegation must be denied and dismissed with prejudice.

**2. Ineffective assistance of trial counsel for failure to discuss defenses and strategy.**

This Court finds that Applicant's allegation that Trial Counsel was ineffective for failing to discuss available defenses and reach an informed trial strategy with Applicant prior to trial is meritless.

To establish counsel was inadequately prepared, Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998). Applicant has failed to present a meritorious defense or strategy that should have been asserted and would have been successful at trial. Therefore, this Court finds Applicant has failed to meet his burden in proving prejudice, and this allegation is denied and dismissed with prejudice.

**3. Ineffective assistance of trial counsel for failure to discuss implications of Applicant's testimony.**

This Court finds Applicant's allegation that Trial Counsel was ineffective for failing to discuss implications of Applicant's testimony at trial meritless. Trial Counsel discussed with Applicant his right to testify and his right to remain silent at trial. Furthermore, the trial court clearly and thoroughly explained to Applicant his Fifth Amendment rights and the potential consequences of taking the stand at trial. Trial Transcript, pp. 273-280. It is clear from the record that it was Applicant's decision to testify at trial, and he was fully informed of the implications of that decision. Furthermore, Applicant has shown no prejudice from his choice to take the stand. He has failed to prove that he would have been found not guilty if he had not testified. Therefore, this allegation is denied and dismissed with prejudice.

**4. Ineffective assistance of trial counsel for failure to present additional witnesses.**

This Court finds that Applicant has failed to present testimony of credible witnesses that should have been called to testify by Trial Counsel that would have changed the outcome of the

trial. This Court finds that Trial Counsel was reasonable in his choices of which witnesses to use at trial and which witnesses not to use, and Trial Counsel was not ineffective. Because Applicant has failed to meet his burden of proof, this allegation is denied and dismissed with prejudice.

**5. Ineffective assistance of trial counsel for failing to object to improper jury comments.**

This Court finds Applicant's allegation that Trial Counsel was ineffective for failing to object to the trial court's opening comments to the jury regarding a "true and just verdict" meritless.

"Jury instructions on reasonable doubt which charge the jury to 'seek the truth' are disfavored because they '[run] the risk of unconstitutionally shifting the burden of proof to a defendant.'" State v. Aleksey, 343 S.C. 20, 26-27, 538 S.E.2d 248, 251 (2000) (citing State v. Needs, 333 S.C. 134, 155, 508 S.E.2d 857, 867-68 (1998)). "However, jury instructions should be considered as a whole, and if as a whole they are free from error, any isolated portions which may be misleading do not constitute reversible error." Id. (citing State v. Smith, 315 S.C. 547, 446 S.E.2d 411 (1994)). "The standard for review of an ambiguous jury instruction is whether there is a reasonable likelihood that the jury applied the challenged instruction in a way that violates the Constitution," Id. (citing Estelle v. McGuire, 502 U.S. 62, 112 S.Ct. 475 (1991); Boyde v. California, 494 U.S. 370, 110 S.Ct. 1190 (1990)).

This Court finds Trial Counsel's actions fell well within the reasonable professional norms. The trial court's comments to the jury regarding a true and just verdict were common, standard language that most courts use. Trial Counsel testified that he saw no reason to object to these comments at the time, and this Court agrees with his decision not to object. Furthermore, Applicant can show no prejudice from these comments, because the trial court clearly explained



the State's burden of proof and Applicant's presumption of innocence, and any objection to these comments would not have changed the outcome of the trial.

Applicant has failed to meet his burden in proving that Trial Counsel was ineffective and that he was prejudiced by Trial Counsel's actions, and this allegation must be denied and dismissed with prejudice.

**6. Ineffective assistance of counsel for failing to adequately cross-examine witnesses.**

This Court finds Applicant's allegation that Trial Counsel was ineffective for failing to properly cross-examine the State's witnesses is meritless. This Court finds Trial Counsel's representation was well within reasonable professional norms.

Here, Trial Counsel's cross-examination and argument that he advanced at trial fully set forth enough information so that the jury could properly assess the witness' credibility and Trial Counsel could demonstrate the supposed lack of it. See, e.g., Fugate v. Head, 261 F.3d 1206, 1219 (11th Cir. 2001) ("The decision as to whether to cross-examine a witness is a tactical one well within the discretion of a defense attorney...Absent a showing of a single specific instance where cross-examination arguably could have affected the outcome of either the guilt or sentencing phase of the trial, a[n] [applicant] is unable to show prejudice necessary to satisfy the second prong of Strickland") (citations and internal quotation marks omitted); Delaware v. Fensterer, 474 U.S. 15, 20 (1985) (per curiam) ("the Confrontation Clause guarantees an *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish") (emphasis in original); Mills v. Singletary, 161 F.3d 1273, 1288 (11th Cir. 1998) (defendant's Sixth Amendment right to confront witnesses is satisfied where the cross-examination permitted exposes the jury to facts sufficient

to evaluate the witness' credibility and "enables defense counsel to establish a record from which he can properly argue why the witness is less than reliable").

This Court finds that Trial Counsel's strategic decisions of how to cross-examine witnesses were proper and reasonable. Furthermore, Applicant has failed to show exactly what information should have been elicited if the witnesses were properly cross-examined and how they would have changed the outcome of the trial. "The applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice." Glover v. State, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). This Court cannot speculate as to what testimony could have been elicited upon a different strategy of cross-examination, and thus Applicant cannot meet his burden of proving prejudice.

Because Applicant has failed to meet either prong of the Strickland test, this allegation must be denied and dismissed with prejudice.

**7. Ineffective assistance of trial counsel for failure to object to voluntary manslaughter jury charge.**

This Court finds this allegation to be meritless. This Court finds that Trial Counsel acted reasonably in his representation and was not ineffective for failing to object to this jury charge. Applicant has failed to meet his burden in proving that Trial Counsel was ineffective in this inaction or that it prejudiced him at trial, and thus, this allegation is denied and dismissed with prejudice.

**8. Ineffective assistance of trial counsel for failure to file post-trial motions.**

This Court finds Applicant's allegation that Trial Counsel was ineffective for failing to file additional post-trial motions meritless. Trial Counsel filed a timely motion for a new trial, as well as a timely notice of appeal on Applicant's behalf. This Court finds that Trial Counsel acted reasonably and appropriately and did all that was expected of him in his post-trial representation.

Applicant has failed to show what Trial Counsel should have done beyond these actions that would have been successful in overturning the conviction or changing the outcome of the trial. Therefore, this allegation is denied and dismissed with prejudice.

**9. Ineffective assistance of trial counsel due to a conflict of interest.**

This Court finds Applicant's allegation that Trial Counsel had a conflict of interest with his representation of Applicant while he ran for Solicitor and that Applicant did not waive the conflict of interest is meritless.

"An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendant's." Staggs v. State, 372 S.C. 549, 551, 643 S.E.2d 690, 692 (2007). The South Carolina Supreme Court has further stated that a conflict of interest occurs when "a defense attorney places himself in a situation inherently conducive to divided loyalties." Lomax v. State, 379 S.C. 93, 101, 665 S.E.2d 164, 168 (2008).

Until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for a claim of ineffective assistance of counsel arising from multiple representation. Langford v. State, 310 S.C. 357, 359, 426 S.E.2d 793, 795 (1993) (citing Cuyler v. Sullivan, 446 U.S. 335, 350 (1980); see also Burger v. Kemp, 483 U.S. 776, 783 (1987)). "The mere possibility defense counsel may have a conflict of interest is insufficient to impugn a criminal conviction." State v. Gregory, 364 S.C. 150, 152-53, 612 S.E.2d 449, 450 (2005). A defendant need not demonstrate prejudice if there is an actual conflict of interest." Id., 364 S.C. at 153, 612 S.E.2d at 450.

At the evidentiary hearing, Trial Counsel testified that, in an overabundance of caution, he disclosed to Applicant and his family that he would be running an election for the position of Solicitor. He stated that Applicant did not express any concern about a conflict of interest. This

Court finds that Applicant has failed to prove that an actual conflict of interest existed or that he did not waive his conflict. Therefore, this allegation is denied and dismissed with prejudice.

INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

Applicant alleges ineffective assistance of appellate counsel for failing to raise all meritorious issues on appeal. This allegation is meritless and must be denied.

A defendant is entitled to effective assistance of appellate counsel. Tisdale v. State, 357 S.C. 474, 476, 594 S.E.2d 166, 167 (2004) (citing Southerland v. State, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999)). Although appellate counsel is required to provide effective assistance of counsel, "appellate counsel is *not* required to raise every nonfrivolous issue that is presented by the record." Id. (citing Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990) (emphasis supplied)). "For judges to second-guess reasonable professional judgments and impose on ... counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very goal of vigorous and effective advocacy...." Jones v. Barnes, 463 U.S. 745, 754, 103 S.Ct. 3308, 3308 (1983).

This Court finds that Applicant has failed to present credible evidence on his claim for ineffective assistance of appellate counsel, and thus has failed to meet his burden of proof. Therefore, this allegation is denied and dismissed with prejudice.

ALL OTHER ALLEGATIONS

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

#### IV. CONCLUSION

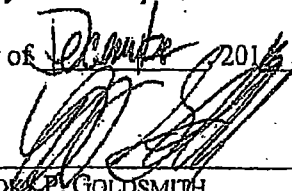
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

#### IT IS THEREFORE ORDERED:

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

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

  
 BROOK P. GOLDSMITH  
 Presiding Judge  
 Third Judicial Circuit

  
 \_\_\_\_\_, South Carolina

RECORDED

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF SUMTER ) 2017 JAN 18 AM 6:03  
JERON A. COOK, 337103, ) DOCKET NO.: 2014-CP-43-0644  
Applicant, ) JAMES C. CAMPBELL  
) CLERK OF COURT  
) SUMTER COUNTY, S.C.  
v. ) MOTION PURSUANT TO RULE  
) 59(a) & (e), SCRCF  
STATE OF SOUTH CAROLINA, )  
Respondent, )

This matter comes before the Court by way of an Application for Post Conviction Relief filed on April 3, 2014. The State submitted a Return on November 14, 2014. By way of an Amendment filed February 11, 2016, Applicant made the following claims of ineffective assistance of trial and appellate counsel:

1. Ineffective assistance of trial counsel for failure to conduct a reasonable investigation prior to trial.
2. Ineffective assistance of trial counsel for failure to discuss and inform Applicant of all available defenses and reach an informed trial strategy with Applicant prior to trial.
3. Ineffective assistance of trial counsel for failure to discuss the implications (i.e. establishing the elements of manslaughter) his testimony could result in at trial.
4. Ineffective assistance of trial counsel for failure to utilize additional witnesses at trial to corroborate Defendant's testimony, support the defense argument, or establish additional defenses and/or reasonable doubt.
5. Ineffective assistance of counsel for failure to object to the Court's opening comments to the jury regarding a true and just verdict. Transcript p. 51, lns. 8-10. See State v. Daniels, 401 S.C. 251, 737 S.E.2d 473 (2012).
6. Ineffective assistance of counsel for failure to fully cross-examine and impeach the State's witnesses.
7. Ineffective assistance of trial counsel for failure to object to the jury being charged on voluntary manslaughter and/or failure to preserve the matter for appeal.

8. Ineffective assistance of trial counsel for failure to utilize the ten day time period offered by the court to file a post trial motion and for electing to only proceed with a motion for a new trial immediately after sentencing.
9. Ineffective assistance of trial counsel due to a conflict of interest: Prior to trial Applicant was advised by counsel that it would present a conflict for him to proceed with representing Applicant due to his campaign for Solicitor that resulted in his election later that year, yet he continued with representation without Applicant waiving the conflict.
10. Pursuant to Rule 15(b), SCRCP, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.
11. Ineffective assistance of appellate counsel for failure to raise all meritorious issues on appeal.

An evidentiary hearing was conducted at the Sumter County Courthouse in front of the Honorable Brooks P. Goldsmith on March 16, 2016. Applicant was present and represented by Tricia A. Blanchette, Esquire. Respondent was represented by Daniel Gourley, Assistant Attorney General. After the hearing, the Court requested that Respondent submit a proposed Order. An Order of Dismissal was signed by the Honorable Brooks P. Goldsmith on December 27, 2016. Applicant, through counsel, received a copy of the signed Order on January 10, 2017, from which this Motion timely follows.

In Marlar v. State, 375 S.C. 407, 653 S.E.2d 266 (2007), the South Carolina Supreme Court made it clear that a post-conviction relief judge must make specific findings of fact and state expressly the conclusions of law relating to each issue presented. See also S.C. Code Ann. § 17-27-80. Therefore, Applicant would respectfully request that this Court ensure that specific findings of fact and conclusions of law are entered and that the arguments and testimony of each witness is properly addressed. Applicant would further request that this Court obtain and review the full evidentiary

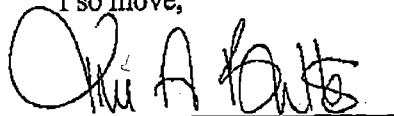
hearing transcript, reconsider the standing Order of Dismissal, and/or rehear Applicant's case pursuant to Rule 59(a) and (e), SCRCF.

In support of this argument, Applicant would submit the following specific matters:

1. The standing Order of Dismissal fails to address the testimony offered by Applicant on each issue raised.
2. The standing Order of Dismissal fails to address the testimony of Quincy McKenzie, Barbara Smith and Barbara Cook and make findings related to their testimony.
3. The standing Order of Dismissal fails to address the argument made regarding the lack of overwhelming evidence of guilt and requesting that the Court make a finding regarding the lack of overwhelming evidence of guilt.

For the above stated reasons and in consideration of the testimony and evidence offered at the evidentiary hearing, Applicant would respectfully request that this Court obtain and review the full evidentiary hearing transcript and hold a motion hearing to allow Applicant, through counsel, to address this Court regarding the standing Order of Dismissal. Applicant would further request that this Court reconsider the standing Order of Dismissal and direct the entry of a new judgment or alter the standing Order of Dismissal to ensure that all arguments are fully addressed by this Court prior to appeal.

I so move,



Tricia A. Blanchette  
Attorney for Applicant  
Post Office Box 2147  
Leesville, South Carolina 29070

January 16, 2017  
Columbia, SC

STATE OF SOUTH CAROLINA )  
 COUNTY OF SUMTER )

IN THE COURT OF COMMON PLEAS  
 THIRD JUDICIAL CIRCUIT

Jeron A .Cook, #337103, )  
 Applicant, )

2014-CP-43-0644

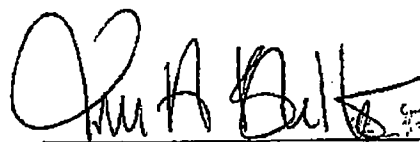
v. )

**CERTIFICATE OF SERVICE**

State of South Carolina, )  
 Respondent. )

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I placed in the mail this 16<sup>th</sup> day of January 2017, a copy of a Motion Pursuant to Rule 59 (a) & (e), SCRCP, to Julie Coleman of the Attorney General's Office, at:

Office of the Attorney General  
 Att: Julie Coleman, Ast. AG  
 PO Box 11549  
 Columbia, SC 29211



Tricia A. Blanchette  
 PO Box 2147  
 Leesville, SC 29070  
 (803) 908-3266

RECORDED  
 2017 JAN 18 AM 6:03  
 J. L. CAMPBELL  
 CLERK OF COURT  
 SUMTER COUNTY, S.C.

January 16, 2017

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS  
DOCKET NO.: 2014-CP-43-0644

JERON A. COOK, 337103

Applicant

v.

ORDER DENYING MOTION

STATE OF SOUTH CAROLINA

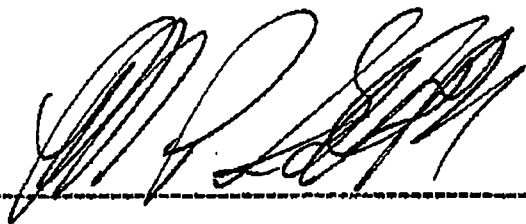
Respondent

RECORDED  
2017 FEB -9 PM 4:51  
JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

This matter comes before the court pursuant to Applicant's motion dated January 16, 2017. After reviewing the issues presented in Applicant's motion I find insufficient reason to grant any of the relief requested.

ACCORDINGLY, IT IS THEREFORE ORDERED THAT APPLICANT'S MOTION IS DENIED.

February 7, 2017



Brooks P. Goldsmith, CIRCUIT JUDGE

**WITNESSES**

SCSO

D. Florence

**ARREST WARRANT NUMBER**

M2192787; M192786; Direct Present

D/A: 03/19/09

**ACTION OF GRAND JURY**

True Bill

*Leroy A. Thompson, Jr.*

Foreperson of Grand Jury

Date: 4-1-10

**VERDICT**

AMENDED

DOCKET NO. 2009-GS-43- 882

**The State of South Carolina**

County of SUMTER

**COURT OF GENERAL SESSIONS**

**APRIL TERM 2010**

**THE STATE**

vs.

**JERON COOK**

**Indictment for**

**ASSAULT AND BATTERY WITH INTENT  
TO KILL, MURDER, BURGLARY (1<sup>st</sup>  
Degree), POSSESSION OF FIREARM  
DURING COMMISSION OF A VIOLENT  
CRIME, UNLAWFUL CARRYING OF A  
HANDGUN**

**C. KELLY JACKSON, SOLICITOR**

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA )  
COUNTY OF SUMTER )  
INDICTMENT FOR  
ASSAULT AND BATTERY WITH INTENT TO  
KILL, MURDER, BURGLARY (1<sup>st</sup> Degree),  
POSSESSION OF FIREARM DURING  
COMMISSION OF A VIOLENT CRIME,  
UNLAWFUL CARRYING OF A HANDGUN

At a Court of General Sessions, convened on April 1, 2010, the Grand Jurors of  
SUMTER County present upon their oath:

DEPUTY CLERK OF COURT  
SUMTER COUNTY  
SOUTH CAROLINA

COUNT ONE – ASSAULT AND BATTERY WITH INTENT TO KILL

That JERON COOK did in Sumter County on or about March 18, 2009, violate Section 16-3-620 of the Code of Laws of South Carolina (1976), as amended, in that he with malice aforethought, committed an assault and battery upon one Audja Blackwell by shooting Audja Blackwell with a pistol, with intent to kill the said Audja Blackwell.

COUNT TWO – MURDER

That JERON COOK did in Sumter County on or about March 18, 2009, feloniously, wilfully and with malice aforethought, either expressed or implied, kill one William Blackwell by means of shooting him with a pistol, and that the said William Blackwell did die as a proximate result thereof.

COUNT THREE – BURGLARY (1<sup>ST</sup> Degree)

That JERON COOK did in Sumter County on or about March 18, 2009, enter the dwelling of Audja Blackwell without consent and with the intent to commit a crime therein and entered or remained in said dwelling in the nighttime and while therein displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm and inflicted serious physical injury to the occupants of the home in violation of Section 16-11-311(A)(1) & (3), South Carolina Code of Laws (1976), as amended.

COUNT FOUR – POSSESSION OF A FIREARM DURING COMMISSION OF A VIOLENT CRIME

That JERON COOK did in Sumter County on or about March 18, 2009, was in possession of and did visibly display a firearm during the commission of a violent crime, in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

COUNT FIVE – UNLAWFUL CARRYING OF A HANDGUN

That JERON COOK did in Sumter County on or about March 18, 2009 unlawfully carry about the person a pistol in violation of Section 16-23-20, 50(A)(2), of the 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.

\_\_\_\_\_  
SOLICITOR

658  
STATE OF SOUTH CAROLINA

COUNTY OF Sumter  
STATE VS.  
Jeron Alondo Cook

AKA:  
Race: 2 Sex: M Age: 28  
DOB: 1982 SS#:

City, State, Zip: Sumter, SC 29150

DL#: SID#:

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was  
TO: Manslaughter / Voluntary manslaughter

in violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217  
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Conner, Harry W

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 92 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: 2009-65-43-882C+4+5  
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms:

☐ Set by SCDPPPS

Recipient:

|                                        |                 |
|----------------------------------------|-----------------|
| *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 \$         |
| § 47.12 (Public Def/Prob)              | \$500 \$        |
| § 14-1-212 (Law Enforce. Funding)      | \$25 \$         |
| § 14-1-213 (Drug Court Surcharge)      | \$100 \$ 25.00  |
| § 50-21-114 (BUI Breath Test Fee)      | \$50 \$         |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea \$      |
| § 90.7 (SCCJA Surcharge)               | \$5 \$ 5.00     |
| 3% to County (if paid in installments) | \$ 3.90         |
| TOTAL                                  | \$ 133.90       |

Clerk of Court/ Deputy Clerk James C. Campbell

Court Reporter: Priscilla Ray

SCCA/217 (11/2009)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-43-0882

A/W#: M192786

Date of Offense: 3/18/2009

S.C. Code § 16-03-0010

CDR Code #: 0116

CERTIFIED TRUE COPY  
OF ORIGINAL FILE

SENTENCE SHEET

DEPUTY CLERK OF COURT

☒ CONVICTED OF SUMTER COUNTY  
SOUTH CAROLINA

PTUP \_\_\_\_\_

\_\_\_\_\_ 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

Judge Code: 2155

Sentence Date: 21 April 2010

## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

659

COUNTY OF  
STATE

Sumter

VS.

Jeron Alondo Cook

AKA:

Race: 2 Sex: M Age: 28

DOB: SS#:

Address:

City, State, Zip: Sumter, SC 29150

DL#: SID#:

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☒ CONVICTED OF or ☐ PLEADS

TO: Count #4 Possession of A Firearm During Violent Crime

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Conner, Harry W

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 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: 2009-LS-43882 Manslaughter☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

\*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 \$

§ 47.12 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$100 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk James C. Campbell

Court Reporter: Priscilla Ray

SCCA/217 (11/2009)

INDICTMENT/CASE#: 2009-GS-43-0882B

A/W#: 4192786 Direct Present

Date of Offense: 3/18/2009

S.C. Code § : 16-23-490

CDR Code #: 0549

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 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: 2009-LS-43882 Manslaughter☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

\*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 \$

§ 47.12 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$100 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk James C. Campbell

Court Reporter: Priscilla Ray

SCCA/217 (11/2009)

Presiding Judge

Judge Code: 2156

Sentence Date: 21 April 2010

660  
STATE OF SOUTH CAROLINA

COUNTY OF  
STATE

Sumter

VS.

Jeron Alondo Cook

AKA:

Race: 2 Sex: M Age: 28

DOB: SS#:

Address:

City, State, Zip: Sumter, SC 29150

DL#: SID#:

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Count #5 Unlawful Carrying of A Pistol

in violation of § 16-23-20 of the S.C. Code of Laws, bearing CDR Code #

☐ 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. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Conner, Harry W

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 31 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.

☐ 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:

\*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 \$

§ 47.12 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$100 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk James C. Campbell

Court Reporter: Priscilla Ray

SCCA/217 (11/2009)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-43-0882-A

A/W#: M192786 Direct Present

Date of Offense: 3/18/2009

S.C. Code § : 16-23-20

CDR Code #: 0044

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

0044

Count 4 2009 6 5 43 822

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

Judge Code: 215

Sentence Date: 21 April 2010