

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Oconee County

S.C. SUPREME COURT

Honorable Edgar W. Dickson, Circuit Court Judge

WILLIAM CANNON GRESHAM,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000517

APPENDIX

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1 State of South ) In the Court of General  
 Carolina ) Sessions  
 2 )  
 County of Oconee ) Indictments Nos:  
 3 ) 2013GS3700755 through '00762

4  
 5 State of South )  
 Carolina )  
 6 )  
 Plaintiff, ) Transcript of Record  
 7 ) Guilty Plea Hearing  
 -vs- )  
 8 )  
 William Cannon )  
 9 Gresham, )  
 )  
 10 Defendant. )

11 March 31, 2011  
 Walhalla, South Carolina

12  
 13  
 14 B e f o r e:

15 The Honorable R. Lawton McIntosh, Judge.

16  
 17  
 18 A p p e a r a n c e s:

19 Chrissy Adams, Esq.  
 10th Circuit Solicitor  
 20 Attorney For the State

21 W. Wilson Burr, Esq.  
 Attorney for the Defendant

22  
 23  
 24 Robin Sue Hild, FCRR, RPR  
 25 10th Circuit Court Reporter

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1 in his trial. And then the State plans on seeking the  
2 death penalty in the case against Mr. Owens and, in  
3 fact, I plan on serving that notice this afternoon after  
4 this plea is accepted.

5 So really the only agreement, Your Honor, which is  
6 outlined here that I have made a Court's Exhibit, is  
7 that we have taken the death penalty off the table. And  
8 then Mr. Gresham is aware that after he testifies  
9 truthfully, that he will be facing anywhere from 30 to  
10 life.

11 And here is the Agreement, Your Honor. I marked it  
12 as a Court's Exhibit.

13 THE COURT: Mr. Burr, if you would walk with me.  
14 Murder is 30 to life?

15 MR. BURR: Yes, Your Honor.

16 THE COURT: Each individual Indictments?

17 MR. BURR: Yes, Your Honor.

18 THE COURT: All right. What's the range on  
19 kidnapping?

20 MS. CHRISSY ADAMS: Up to 30 years, Your Honor.

21 THE COURT: Up to 30.

22 Burglary first? What is burglary first?

23 MS. CHRISSY ADAMS: 15 to life.

24 THE COURT: 15 to life. Assault with intent to  
25 kill [sic], is that ten to 20 or...

1 MS. CHRISSY ADAMS: Up to 20.

2 THE COURT: Up to 20.

3 The weapon is five consecutive. And then grand  
4 larceny over five is what?

5 MS. CHRISSY ADAMS: Up to ten.

6 THE COURT: Zero to ten. Okay.

7 Do you agree with those figures?

8 MR. BURR: Yes, Your Honor, I do.

9 THE COURT: Okay. And do you also agree, Mr. Burr,  
10 that I am, pursuant to the understanding with the  
11 Solicitor's Office, that the death penalty is gonna be  
12 taken off the table, that your client is pleading guilty  
13 today without sentencing being had and that being  
14 deferred contingent upon his testifying honestly in the  
15 other trial in this matter?

16 MR. BURR: That is our agreement, Your Honor.

17 THE COURT: Would you swear the Witness, please,  
18 Madam, Clerk.

19 THE CLERK: Would you raise your right hand.

20 (Whereupon, the Defendant, William Cannon Gresham,  
21 was sworn by the Clerk of Court.)

22 Whereupon,

23 William Cannon Gresham,  
24 after first having been duly sworn, testified as  
25 follows:

1 Examination by the Court:

2 Q. You are William C. Gresham?

3 A. Yes, sir.

4 Q. I need you to speak loud enough so I can hear you  
5 and this other lady here, the court reporter, can hear  
6 you. Okay, sir?

7 A. All right.

8 THE COURT: Solicitor, it appears all these are  
9 True Bills; is that correct?

10 MS. ADAMS: Yes, sir, Your Honor.

11 By the Court:

12 Q. How old are you, Mr. Gresham?

13 A. I'm 25, about to be 25 next month or two months.

14 Q. 25. What's your birth date?

15 A. 6-30-85.

16 Q. How far did you go in school?

17 A. Ninth grade.

18 Q. Ninth?

19 A. (Nodded head.)

20 Q. You have to give me verbal responses, please.

21 A. Yeah, ninth grade.

22 Q. Do you have a GED?

23 A. No, sir.

24 Q. Do you have any vocational training?

25 A. No, sir.

1 Q. What kind of work have you done over the years?

2 A. I was working at Burger King, Huddle House, and  
3 Bi-Lo Center. I was working three jobs when I got  
4 arrested.

5 Q. What kind of jobs were you doing at Bi-Lo Center?

6 A. Building stages and stuff for like concerts that  
7 come down and stuff, putting up stages, lights, all that  
8 stuff.

9 Q. Did you have to look at plans and directions in  
10 order to put up stages and whatnot?

11 A. Yes, sir.

12 Q. So you are capable of reading and interpreting  
13 those plans and turning those into a stage?

14 A. Oh, yeah.

15 Q. And when you worked at Burger King as well --

16 A. Uh-huh.

17 Q. -- what did you do there?

18 A. I was a cook down there, I would take orders down  
19 there.

20 Q. What else did you do?

21 A. Worked at the Huddle House.

22 Q. At the Huddle House?

23 A. Yes. I was a cook and a server and everything down  
24 there and I done about everything else. I about run the  
25 store by myself.

1 Q. Can you read, write, and understand the English  
2 language?

3 A. Yes, sir.

4 Q. Are you married?

5 A. No, sir.

6 Q. Are you under the influence of any medications,  
7 drugs or alcohol today?

8 A. No, sir.

9 Q. That means prescription medications or other  
10 illegal street drugs.

11 A. No, sir.

12 Q. Have you ever been treated for drug or alcohol  
13 abuse?

14 A. No, sir.

15 THE COURT: Mr. Burr, are you satisfied that  
16 Mr. Gresham is competent to plead guilty?

17 MR. BURR: Your Honor, we have had him evaluated by  
18 a private psychiatrist. He has a diagnosis. He has a  
19 learning disability, but nothing that comes in the area  
20 of not being competent to understand and comprehend what  
21 he's doing.

22 THE COURT: Do you have that report? Does your  
23 office have that report?

24 MR. BURR: Yes, sir. My office has it and I  
25 provided it to the prosecution.

1 THE COURT: Would you make it available to me --

2 MR. BURR: Yes, Your Honor.

3 THE COURT: -- to make it a part of the Court's  
4 record.

5 MR. BURR: Yes, sir.

6 THE COURT: Do you have any objection to that?

7 MR. BURR: No, sir.

8 THE COURT: Any objection from the State?

9 MS. CHRISSY ADAMS: Um...

10 THE COURT: I'll give you ten days from today to me  
11 making it a part of the Court's record. Okay?

12 MS. ADAMS: Thank you, Your Honor.

13 By the Court:

14 Q. Now, Mr. Gresham, you heard stated on the record  
15 that the benefit that you are receiving by pleading  
16 guilty today is that the death penalty is being taken  
17 off the table for you. Do you understand?

18 A. Yes, sir.

19 Q. And there is no other benefit that you are gonna  
20 receive.

21 A. No, sir.

22 Q. And that in addition to you going forward with your  
23 plea, that you will have to testify truthfully at any  
24 subsequent trial when the Solicitor requires to you do  
25 so. Do you understand that?

1 A. Yes, sir.

2 Q. All right. Do you understand that there is no  
3 other recommendation?

4 A. Yes, sir.

5 Q. There's no negotiation. Okay?

6 A. (Nodded head.)

7 Q. What that simply means, Mr. Gresham, is that I  
8 could sentence you to the maximum on each and every one  
9 of these charges and I can make those consecutive to one  
10 another. Do you understand that?

11 A. Yes, sir.

12 Q. In your case, in your murder pleas, and you have  
13 two, I can sentence you to a minimum of 30 years up to a  
14 maximum of life. Do you understand that?

15 A. Yes, sir.

16 Q. And for the next murder I can sentence you to a  
17 minimum of 30 to a maximum of life and make that  
18 consecutive to the prior Indictment. Do you understand?

19 A. Yes, sir.

20 Q. In fact, each and every one of these one, two --  
21 eight Indictments can be made consecutive to one  
22 another. Do you understand that?

23 A. Yes, sir.

24 Q. Do you understand what consecutive means?

25 A. Run concurrent?

1 Q. No. Concurrent means they have to all be served  
2 together. Consecutive means you've got to serve your  
3 time on one before you start getting credit on the  
4 other. Do you understand?

5 A. Yes, sir.

6 THE COURT: Do you agree with my explanation,  
7 Mr. Burr?

8 MR. BURR: I do, Your Honor.

9 THE COURT: Solicitor?

10 MS. CHRISSY ADAMS: Yes, sir, Your Honor.

11 By the Court:

12 Q. All right. What that would mean, Mr. Gresham, is  
13 you would have to serve whatever time you were sentenced  
14 to on say the first murder Indictment before you start  
15 getting credit on the second murder Indictment and so  
16 forth on each one of theses Indictments, which would  
17 have the net effect that you would never, ever come out  
18 of jail. Do you understand that?

19 A. Yes, sir.

20 Q. That you would likely die in jail, do you  
21 understand that?

22 A. Yes, sir.

23 Q. Just to make sure you understand, for kidnapping I  
24 could sentence you anywhere from zero to 30 years.

25 A. Yes, sir.

1 Q. For each kidnapping zero to 30.

2 For burglary first I could sentence you 15 years to  
3 life.

4 For assault with intent to kill [sic] I could  
5 sentence you up to 20 years.

6 A. (Nodded head.)

7 Q. Do you understand?

8 A. Yes, sir.

9 Q. You have to give me verbal responses, okay?

10 A. Yeah.

11 Q. Any plea for a violation [sic] of a gun during the  
12 commission of violent crime has to be consecutive --

13 A. Yes, sir.

14 Q. -- by Statute.

15 Is that is right, Mr. Burr?

16 MR. BURR: Yes, Your Honor, it is.

17 THE COURT: Is that right, Solicitor?

18 MS. CHRISSY ADAMS: Yes, sir, Your Honor.

19 By the Court:

20 Q. In addition, the grand larceny over five thousand  
21 dollars is up to ten years. Do you understand?

22 A. Yes, sir.

23 Q. And consecutive again means you have to serve  
24 whatever time you are required to on one charge before  
25 you start serving or getting credit on the next one. Do

1 you understand that?

2 A. Yes, sir.

3 Q. And knowing that -- and I'm not bound by anything  
4 else in this case -- do you want to go forward with your  
5 plea?

6 A. Yes, sir.

7 Q. Has anybody forced, threatened, or promised you  
8 anything to get you to go forward with your plea?

9 A. No, sir.

10 Q. Are you pleading guilty freely and voluntarily?

11 A. Yes, sir.

12 Q. Okay. Just to make sure you understand, for murder  
13 I can sentence you 30 to life. Right?

14 A. Yes, sir.

15 Q. A minimum of 30.

16 A. (Nodded head.)

17 Q. For kidnapping I could sentence you up to 30. Do  
18 you understand?

19 A. Yes, sir.

20 Q. Burglary first, a minimum of 15 up to life. Do you  
21 understand?

22 A. Yes, sir.

23 Q. Assault with intent to kill [sic] up to 20 years?

24 A. Yes, sir.

25 Q. Possession of a gun during the commission of a

1 violent crime is five consecutive to any other sentence.

2 Do you understand?

3 A. Yes, sir.

4 Q. And grand larceny five thousand or above is up to  
5 ten.

6 A. Yes, sir.

7 Q. Okay. Do you understand that on each one of these  
8 Indictments, whether in one trial or multiple trials,  
9 that you have a right to a jury trial?

10 A. Yes, sir.

11 Q. In that trial or trials, Mr. Gresham, you would be  
12 presumed to be innocent. Do you understand?

13 A. Yes, sir.

14 Q. And the State would have to prove each and every  
15 element of any and all charges that you have been  
16 indicted on before you could be found guilty, and they  
17 have to prove that beyond a reasonable doubt. Do you  
18 understand that?

19 A. Yes, sir.

20 Q. During that trial you would be presumed innocent  
21 and it would not be until the State has proven each and  
22 every element of all charges against you beyond a  
23 reasonable doubt before you could be found guilty. Do  
24 you understand?

25 A. Yes, sir.

1 Q. Beyond a reasonable doubt is the highest burden of  
2 proof recognized in South Carolina law. Do you  
3 understand that?

4 A. Yes, sir.

5 Q. If you go forward with your plea today, do you  
6 understand that you will be admitting your guilt, but  
7 you will not be sentenced?

8 A. Yes, sir.

9 Q. And, in addition, if you go forward with your plea  
10 today, you will lose your right to have a Jury consider  
11 your guilt or innocence on any of these charges. Do you  
12 understand?

13 A. Yes, sir.

14 Q. You will have given up your right to a jury trial.

15 A. Yes, sir.

16 Q. Is that what you want to do?

17 A. Yes, sir.

18 Q. Do you freely and voluntarily waive your right to a  
19 jury trial and instead plead guilty to all Indictments  
20 in this matter?

21 A. Yes, sir.

22 Q. Do you understand that you have the Constitutional  
23 rights to confront and cross-examine any witnesses that  
24 the State presents against you on any of these charges?  
25 Do you understand?

1 A. Yes, sir.

2 Q. Do you understand my question? You looked like you  
3 didn't.

4 A. (Gestures.)

5 Q. Well, let me tell you. I'm gonna stop you now. I  
6 want you to tell your attorney or indicate to me, if you  
7 don't understand anything I say, I want you to let me  
8 know. It is critical that you understand what you are  
9 doing today and you do so freely and voluntarily,  
10 knowing the consequences. Okay?

11 A. Yes, sir.

12 Q. All right. Going back. Under our Constitution,  
13 United States and the State of South Carolina, whoever  
14 the State presents to testify against you, you have a  
15 right to cross-examine them. Do you understand?

16 A. Yes, sir.

17 Q. You have a right to challenge any evidence that the  
18 State seeks to introduce against you in any of the  
19 Indictments that you will be standing trial for. Do you  
20 understand?

21 A. Yes, sir.

22 Q. You would also have the right to present your own  
23 evidence in your own defense. Do you understand that?

24 A. Yes, sir.

25 Q. In any of these trial or trials you have a right

1 not to testify or to remain silent. Do you understand  
2 that right?

3 A. Yes, sir.

4 Q. If you did not testify, the Court, whoever was  
5 presiding over the Jury, would instruct the Jury they  
6 shall not consider your failure to testify in any form  
7 or fashion in their deliberations. Do you understand?

8 A. Yes, sir.

9 Q. Now, have you understood these Constitutional  
10 protections that I've just outlined for you?

11 A. Yes, sir.

12 Q. If you go forward with your plea, you will give up  
13 or waive your Constitutional protections I've just gone  
14 over with you. Do you understand that?

15 A. Yes, sir.

16 Q. Is that what you want to do?

17 A. Yes, sir.

18 Q. Do you freely and voluntarily waive your  
19 Constitutional rights in favor of pleading guilty today  
20 to all eight Indictments?

21 A. Yes, sir.

22 Q. Any question about any matters I've asked you thus  
23 far?

24 A. No, sir.

25 Q. Do you understand, Mr. Gresham, that if you contend

1 that you have a defense to any of these charges, any  
2 charge of these eight Indictments, you will lose the  
3 ability to assert that defense if you go forward with  
4 your guilty plea today and I accept it? Do you  
5 understand?

6 A. Yes, sir.

7 Q. Also, if you contend that anybody has violated your  
8 Constitutional rights up to this point with regard to  
9 any of these eight Indictments, you will lose the right  
10 to complain about those alleged Constitutional  
11 violations if you go forward with your plea and I accept  
12 it. Do you understand?

13 A. Yes, sir.

14 Q. Do you have any questions for me thus far?

15 A. No, sir.

16 Q. Do you understand all the questions that I've asked  
17 you up to this point?

18 A. Yes, sir.

19 Q. Do you have any questions you would like to ask  
20 before we go further of your attorney?

21 A. No, sir.

22 Q. Of me?

23 A. No, sir.

24 Q. And, again, I'm gonna make sure you understand that  
25 you will not be sentenced today, but we'll just go

1 forward with your guilty pleas on all eight Indictments.

2 Do you understand?

3 A. Yes, sir.

4 Q. Is that what you want to do?

5 A. Yes, sir.

6 Q. Under Indictment 2010-GS-37-755, are you guilty of  
7 the murder of Audrey Scull?

8 A. Yes, sir.

9 Q. Under Indictment 2010-GS-37-756, are you guilty of  
10 the murder of Eloise Corley?

11 A. Yes, sir.

12 Q. Under Indictment 2010-GS-37-757, are you guilty of  
13 kidnapping Jerry Lander Corley?

14 A. Yes, sir.

15 Q. Under Indictment 2010-GS-37-758, are you guilty of  
16 kidnapping Audrey Scull?

17 A. Yes, sir.

18 Q. Under Indictment 2010-GS-37-759, are you guilty of  
19 burglary in the first degree?

20 A. Yes, sir.

21 Q. Under Indictment 2010-GS-37-760, are you guilty of  
22 assault and battery with intent to kill?

23 A. Yes, sir.

24 Q. Under Indictment 2010-GS-37-761, are you guilty of  
25 possessing a weapon during the commission of a violent

1 crime?

2 A. Yes, sir.

3 Q. Under Indictment 2010-GS-37-762, are you guilty of  
4 grand larceny valued at five thousand or more?

5 A. Yes, sir.

6 THE COURT: Mr. Burr, with regard to these pleas,  
7 several of these are most serious; correct?

8 MR. BURR: Yes, Your Honor.

9 THE COURT: Would these, would the fact that he  
10 pled guilty to these crimes then make him potential for  
11 a life without the possibility of parole candidate?

12 MS. CHRISSY ADAMS: Yes, sir, Your Honor. And  
13 actually murder is day for day now in South Carolina, so  
14 even if he got the absolute minimum, he would serve  
15 every day of that. Obviously he would get credit for  
16 the time, but it is day for day.

17 By the Court:

18 Q. So, Mr. Gresham, you understand that by going  
19 forward with your plea today, that I could sentence  
20 you -- or you could be sentenced later to life in prison  
21 without the possibility of parole, meaning that you  
22 would die in prison. Do you understand that?

23 A. Yes, sir.

24 Q. Do you still want to go forward with your plea?

25 A. Yes, sir.

1 Q. Are you satisfied with the services of your  
2 attorney?

3 A. Yes, sir.

4 Q. Has he reasonably done all that you have asked him  
5 to do with regard to all eight Indictments?

6 A. Yes, sir.

7 Q. As we stand here in court today, is there anything  
8 that you contend that your attorney hasn't done to  
9 either investigate your cases or to prepare your cases  
10 that he should have done before coming to court today?

11 A. No, sir.

12 Q. Are you totally and completely satisfied with the  
13 services of your attorney with regard to all eight  
14 Indictments?

15 A. Yes, sir.

16 THE COURT: All right. Mr. Burr, have you met with  
17 Mr. Gresham and explained to him all the time that he  
18 could get on all these charges?

19 MR. BURR: I have, Your Honor, on numerous  
20 occasions.

21 THE COURT: Have you gone over with him the  
22 elements of each one of these Indictments that are  
23 pending against him?

24 MR. BURR: Yes, Your Honor, I have.

25 THE COURT: Have you explained to him his

1 Constitutional rights?

2 MR. BURR: I have.

3 THE COURT: Have you explored with Mr. Gresham  
4 whether or not he has any defenses to these charges?

5 MR. BURR: Yes, Your Honor.

6 THE COURT: Have you gone over the State's  
7 discovery with Mr. Gresham?

8 MR. BURR: Yes, Your Honor.

9 By the Court:

10 Q. MR. Gresham, do you agree with that?

11 A. Yes, sir.

12 Q. Do you believe that your attorney has fully  
13 investigated and looked into your cases?

14 A. Yes, sir.

15 THE COURT: MR. Burr, do you believe that there is  
16 a substantial factual basis for Mr. Gresham's decision  
17 to plead guilty to all eight Indictments?

18 MR. BURR: I do, Your Honor.

19 THE COURT: Do you agree with his decision to plead  
20 guilty to all eight Indictments?

21 MR. BURR: Yes, Your Honor, I do.

22 THE COURT: Have you explained to him that he will  
23 enter a guilty plea only today and will be sentenced  
24 later at a subsequent date?

25 MR. BURR: I have, Your Honor.

1           **THE COURT:** Have you also explained to him that if  
2 he goes forward with this plea, he could get a sentence  
3 of life without the possibility of parole and he would  
4 die in prison?

5           **MR. BURR:** Yes, Your Honor, we have discussed that.

6           **THE COURT:** Do you agree with that, Mr. Gresham?

7           **THE DEFENDANT:** Yes, sir.

8           **THE COURT:** All right. I'll be glad to hear from  
9 the Solicitor's Office.

10          Statement of Facts by Solicitor:

11           **MS. CRISSY ADAMS:** Thank you, Your Honor, may it  
12 please the Court. Just to put some brief facts on the  
13 record.

14           On April 19th, 2010, this Defendant, along with his  
15 Codefendant, Shawn Owens, went to the home of Eloise and  
16 Jerry Corley which is located at [REDACTED] Drive in Salem.  
17 66-year-old Eloise Corley was home alone and working in  
18 her yard when this Defendant along with Codefendant  
19 Owens attacked her. She ultimately died, Your Honor,  
20 from shock secondary to sharp force trauma.

21           Owens and Gresham then went into the Corleys' home  
22 and began going through their belongings. During this  
23 time Mrs. Corley's husband, Jerry, arrived along with  
24 her sister, Mrs. Corley's 62-year-old sister, Audrey  
25 Scull. Both Defendants held Mr. Corley and Ms. Scull

1 against their will for several hours and at times at  
2 gunpoint. The Quail Drive home was burglarized and  
3 various items valued at more than five thousand dollars  
4 were stolen from the home, including a car that was  
5 stolen from the Corleys.

6 Mr. Corley and Ms. Scull were then taken against  
7 their will to a wooded area off of Pine Lane in Salem.  
8 At this location they were held by this Defendant at  
9 gunpoint and later both of them were shot by Codefendant  
10 Owens. Mrs. Scull died from her gunshot wounds to the  
11 head and Mr. Corley survived his multiple gunshot wounds  
12 to the head area.

13 Your Honor, Mr. Gresham has been cooperative and  
14 forthcoming with law enforcement since day one since  
15 they were arrested. And, as stated earlier, he has  
16 agreed to testify against Owens. It is the right thing  
17 to do, Your Honor, which is why we are allowing him to  
18 plead and taking the death penalty off the table.

19 We just ask that you accept his guilty plea so he  
20 could be sentenced later.

21 And, Your Honor, just before I forget, too, as a  
22 housekeeping matter, he is on probation for two charges,  
23 and Probation has asked me to just get you to sign off  
24 on time served. They were two old arson charges. He  
25 was only looking at a year and he's already served that.

1 THE COURT: Do you agree with that?

2 THE PROBATION OFFICER: We leave that to the  
3 discretion of the Court.

4 THE COURT: Thank you, sir.

5 By the Court:

6 Q. All right, Mr. Gresham. Did you hear the facts  
7 recited on the record by the Solicitor?

8 A. Yes, sir.

9 Q. Do you agree that you committed or that you  
10 participated in those acts just described by the  
11 Solicitor?

12 A. Yes, sir.

13 Q. I'm looking at what is marked as Court's Exhibit  
14 Number 1 that is captioned "State of South Carolina v.  
15 William Cannon Gresham," and it says "Plea Agreement,"  
16 and it has Case Numbers 2010-GS-37-755 through '762.  
17 Have you seen this document?

18 A. Yes, sir.

19 Q. It purports to have your initials on the front page  
20 and your signature, your attorney's signature, and the  
21 Solicitor's signature on the second page. Is that  
22 correct?

23 A. Yes, sir.

24 Q. Is that, in fact, your signature?

25 A. Yes, sir.

1 Q. And have you signed this plea agreement freely and  
2 voluntarily?

3 A. Yes, sir.

4 Q. Has anybody forced, threatened, or coerced you to  
5 make you sign this plea agreement?

6 A. No, sir.

7 Q. You're doing, you did so freely and voluntarily and  
8 knowingly?

9 A. Yes, sir.

10 THE COURT: All right. MR. Burr, I'll be glad to  
11 hear anything you would like to say at this stage, if  
12 anything.

13 MR. BURR: Your Honor, we do have extensive  
14 mitigation, but we would like to wait until the  
15 sentencing phase to actually submit that mitigation.

16 MS. CHRISSY ADAMS: Your Honor, I was just gonna  
17 say, back to his evaluation by the private psychiatrist,  
18 my only hesitation to make it a part of the Court Record  
19 now is it may become an issue in the death-penalty case  
20 of Mr. Owens, so...

21 THE COURT: Well, let me just do this. I'm gonna  
22 withdraw the requirement that it be made part of this  
23 record. I would be glad to see it if I am the  
24 Sentencing Judge; and if I am not the Sentencing Judge  
25 of Mr. Gresham, that whoever is the Sentencing Judge

1 would be given a copy of it for their review before  
2 passing sentence. Does that suit you all?

3 MS. CHRISSY ADAMS: Yes, Your Honor, absolutely.

4 THE COURT: Do you agree with that, Mr. Burr?

5 MR. BURR: Yes, Your Honor, I do.

6 THE COURT: All right.

7 Mr. Gresham, do you have anything you would like to  
8 state at this point?

9 THE DEFENDANT: No, sir.

10 THE COURT: All right. I'm gonna accept your pleas  
11 to all eight Indictments as knowingly and intelligently  
12 and voluntarily made, with the advice of very competent  
13 Counsel with whom the Defendant expresses his  
14 satisfaction. I'm gonna find that there is a  
15 substantial factual basis for his decision to plead to  
16 all eight Indictments.

17 That being said, I'm gonna defer sentencing  
18 pursuant to the Plea Agreement, and you will be brought  
19 back at a later date for sentencing, Mr. Gresham.

20 And let me tell you this so it's clear on the  
21 record, and I double-checked this just to make sure of  
22 your appeal rights. You would have ten days if you went  
23 forward with a plea and a sentence at this point to  
24 appeal whatever sentence you may get. But under Rule  
25 203 of the South Carolina Appellate Court Rules, your

1 ten days would not begin to run until the sentence has  
2 passed, okay? So right now there's no appeal rights,  
3 but that would be after sentence is issued and passed  
4 upon you on all eight Indictments, you would have ten  
5 days to appeal. Do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you agree with that, Mr. Burr?

8 MR. BURR: Yes, sir.

9 THE COURT: Madam Solicitor, do you agree with  
10 that?

11 MS. CHRISSY ADAMS: Yes, sir, Your Honor.

12 THE COURT: All right.. Anything further from the  
13 State?

14 MS. CHRISSY ADAMS: No, Your Honor.

15 THE COURT: From the Defense?

16 MR. BURR: Nothing. Thank you, Your Honor.

17 THE COURT: All right. I'm going to mark all these  
18 plea sheets as guilty plea only taken, with sentencing  
19 deferred.

20 MS. CHRISSY ADAMS: Yes, sir.

21 THE COURT: All right. Very good.

22 MS. CHRISSY ADAMS: Thank you, Your Honor.

23 (Whereupon, the Guilty Plea of William Gresham was  
24 concluded at approximately 3:18 p.m.)

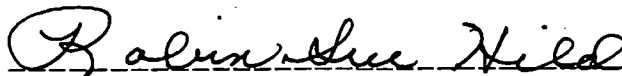
25 \*\* End of Certified Requested Transcript of Record \*\*

Certificate of Court Reporter

I, the undersigned, Robin Sue Hild, FCRR, RPR, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for Oconee County, South Carolina, on the 31st day of March, 2011.

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

January 13, 2014

  
Robin Sue Hild, FCRR, RPR  
Circuit Court Reporter

FILED OCONEE, SC  
BEVERLY H. WHITEFIELD  
CLERK OF COURT

2012 OCT 16 A 10:40

FORM 5

STATE OF SOUTH CAROLINA )

County of Oconee )

William Cannon Gresham )

Full name and prison number (if any) of Applicant )

S.C.D.C. #349177 )

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

CP. - No. 2012-CP-37-915

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention LEE CORRECTIONAL INSTITUTION  
990 Wisacky Hwy Bishopville S.C. 29010
2. Name and location of Court which imposed sentence Court of General Sessions County of Oconee
3. Name(s) of co-defendant(s) (if any) Shawn Owens
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2110GS3700760(ABWIK), 2010GS3700759 (Burg. 1st),
  - (b) 2110GS3700757(Kidnapping), 2010GS3700758(Kidnapping)

(c) 2010GS3700755(Murder), 210GS3700756(Murder), 2010GS3700762G/L

5. The date upon which sentence was imposed and the terms of the sentence:

(a) Sentence dates 1-6-2012 Life, Life, 30yrs 30 yrs

(b) 30 yrs 20 yrs 10 yrs Concurrent

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

6. Check whether a finding of guilty was made:

(a) after a plea of guilty GUILTY

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. \_\_\_\_\_

ii. n/a

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

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

i. \_\_\_\_\_

ii. n/a

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

(c) the date of each such result:

i. \_\_\_\_\_

ii. n/a

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

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

n/a

i. \_\_\_\_\_

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

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

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

(a) UNABLE TO COMPLY WITH 10 Day deadline

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

(c) UNABLE TO COMPLY WITH 10 day deadline

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: Plea not knowingly or inteligently entered

(a) \_\_\_\_\_

(b) Ineffective Assistance of Counsel

(c) Mentally incompetent to assist in defense

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

(a) Plea based on advise of Trial Atty. "That I would get a 30 yerar sentence "

(b) Counsel failed to investigate (defense of duress /insanity.

(c) Counsel failed to have competency evaluation

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

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? \_\_\_\_\_

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

N/A

(a) the specific nature thereof:

i. N/A

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

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

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

(b) the name and location of the Court in which each was filed:

i. \_\_\_\_\_

ii. N/A

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

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





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

Sentence vacated and remanded for Trial(jury)  
or new sentencing hearing (30 Yrs. Max)

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

N/A

202. CP. 37. 915

STATE OF SOUTH CAROLINA )  
County of Bishopville )

VERIFICATION

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

William Gresham

SWORN to and subscribed before me this 11  
day of Oct, 2012.

Maurice Wilson (L.S.)  
Notary Public

My Commission Expires: 3/8/2020

FILED O'CONNOR, SC  
BEVERLY H. WHITFIELD  
CLERK OF COURT  
2012 OCT 16 A 10:40

2012 CP 37.915

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

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

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

William C. Gresham  
Applicant

SWORN or affirmed to and subscribed before me this  
11 day of Oct, 2012.

Marene Wilson  
Notary Public

My Commission Expires: 3/8/2016

FILED O'CONNOR, SC.  
BEVERLY H. WHITEFIELD  
CLERK OF COURT  
2012 OCT 16 A 10:40

COUNTY OF OCONEE

William Cannon Gresham,
S.C.D.C.# 349177

Plaintiff(s)

vs.

State of South Carolina

Defendant(s)

(Please Print)

Submitted By: William Gresham

Address: Lee Corr. Inst.
990 Wisacky Hwy
Bishopville S.C
29010

CIVIL ACTION COVERSHEET

2012 CP-37-915

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

2012 OCT 16 A 10:40

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law...

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

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

NATURE OF ACTION (Check One Box Below)

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

Submitting Party Signature: William Gresham

Date: 10-1-12

|                          |   |                              |
|--------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS |
|                          | ) |                              |
| COUNTY OF OCONEE         | ) | TENTH JUDICIAL CIRCUIT       |
|                          | ) |                              |
| William Cannon Gresham,  | ) | C.A. No. 2012-CP-37-915      |
| S.C.D.C. No. 345044,     | ) |                              |
|                          | ) |                              |
| Applicant,               | ) |                              |
|                          | ) |                              |
| v.                       | ) | <b>RETURN</b>                |
|                          | ) | (counsel has been appointed) |
| State of South Carolina, | ) |                              |
|                          | ) |                              |
| Respondent.              | ) |                              |
|                          | ) |                              |

---

The Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed October 16, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Oconee County. The Applicant was indicted at the August 2010 term of the Court of General Sessions for Oconee County for two counts of murder (2010-GS-37-755; -756), two counts kidnapping (2010-GS-37-757; -758), burglary, first-degree (2010-GS-37-759), assault and battery with intent to kill 'ABWIK' (2010-GS-37-760), possession of a weapon during a violent offense (2010-GS-37-761), and grand larceny, greater than \$5,000 (2010-GS-38-762). The Applicant was represented by Wilson Burr, Esq. On March 31, 2011, Applicant entered a plea agreement with the State to plead guilty as indicted in return for the State's forbearance in declining to pursue a capital punishment in his case. The State was represented by Tenth Circuit Solicitor Crissy Adams, Esq. The Honorable

R. Lawton McIntosh accepted Applicant's guilty plea and deferred sentencing to a later date.

On January 6, 2012, The State called Applicant's case for a sentencing hearing. The Honorable G. Edward Welmaker sentenced Applicant to two terms of life imprisonment on the murder charges, two terms of thirty (30) years imprisonment on the kidnapping charges, a term of thirty (30) years imprisonment on the burglary charge, a term of twenty (20) years imprisonment on the ABWIK charge, a term of ten (10) years imprisonment on the grand larceny charge. The sentences were to be served concurrently. Applicant did not appeal his sentences or convictions.

Attached herewith and incorporated herein by reference are the records of the Oconee County Clerk of Court regarding the subject conviction(s), and the transcript from Applicant's plea hearing, the transcript from Applicant's sentencing hearing, and records from the Dept. of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

## II.

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

1. Ineffective Assistance Counsel
  - a. Failure to adequately advise Applicant on his sentence;
  - b. Failure to investigate an insanity/duress defense;
  - c. Failure to submit Applicant for a competency evaluation.

## III.

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

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of

the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

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

#### IV.

The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

#### V.

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

#### VI.

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

VII.

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

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Assistant Deputy Attorney General

WALT WHITMIRE  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

July 2, 2014





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&lt;&lt; -- &gt;&gt;

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EXHIBITS

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



1 straight up. In return, the Solicitor, Chrissy Adams,  
2 took death off the table and serving him a notice to seek  
3 the death penalty.

4 A month after entering that agreement, it was before  
5 Judge McIntosh who accepted the agreement through a  
6 thorough colloquy.

7 On January 6, 2012, four months later, a sentencing  
8 hearing was convened in front of the Honorable Judge  
9 Welmaker. He was sentenced to the maximum on each term  
10 to run consecutive. For Your Honor's -- noting for Your  
11 Honor, the plea agreement itself was Court Exhibit 1. It  
12 has been added to Your Honor's packet. And opposing  
13 counsel does have a copy of it also. He filed a timely  
14 application for post-conviction relief in which he  
15 alleges three allegations: ineffective assistance of  
16 counsel for failure to advise applicant on the sentencing  
17 discretion from the plea agreement, failure to  
18 investigate insanity, duress, and last, failure to submit  
19 applicant for a competency eval. The State would note  
20 the record in this case is very thorough and refutes all  
21 three of those. But most particularly regarding the  
22 competency eval, Mr. Burr had him evaluated. And Dr.  
23 Schwartz Watts spoke on his behalf in mitigation.

24 At this time, I turn matters over to opposing  
25 counsel.

1 THE COURT: All right. Mr. Bagwell?

2 MR. BAGWELL: May it please the Court. My  
3 client has asked me to ask for a continuance of this  
4 case. He feels that if he was given more time,  
5 specifically with the transcript of the guilty plea  
6 hearing and his sentencing hearing, that he would be able  
7 to come up with more evidence and more defenses to this  
8 case, Judge.

9 THE COURT: Mr. Bagwell, he had a copy of both  
10 of those transcripts before this hearing, didn't he?

11 MR. BAGWELL: He did request the package --  
12 excuse me -- the file from Mr. Burr. That was turned  
13 over actually to his mother and then to him. That is the  
14 information that he was provided before this case.

15 THE COURT: Okay. He did not get copies of the  
16 transcripts?

17 MR. BAGWELL: He says that he does not have  
18 copies of those two transcripts in his possession.

19 THE COURT: Okay.

20 MR. WHITMIRE: The State would object. He is  
21 represented by counsel. Of course, he was present at  
22 those hearings and has a recollection. Counsel has  
23 assured me that he's prepared and ready to go forward.  
24 But most importantly, Your Honor, Mr. Skull, whose wife  
25 was killed by him and his cohort, is here and present.

1 And not to have to put him through another hearing, the  
2 State would object.

3 THE COURT: I understand, Mr. Whitmire. But  
4 what I'm trying to find -- I've got a copy of the  
5 transcript. Did the State provide his attorney with  
6 copies of the transcript?

7 MR. WHITMIRE: Yes, Your Honor, the packet was  
8 delivered.

9 THE COURT: And Mr. Bagwell, you got copies of  
10 the transcript?

11 MR. BAGWELL: I have copies of both of those,  
12 Your Honor.

13 THE COURT: Okay. And you have met with your  
14 attorney and gone over those with him?

15 MR. BAGWELL: I have met with Mr. Gresham if  
16 that's the answer to your question.

17 THE COURT: Yes, sir.

18 MR. BAGWELL: And I have went over these  
19 transcripts several times myself.

20 THE COURT: Okay. You're prepared to go  
21 forward?

22 MR. BAGWELL: I am. I personally am prepared  
23 to move forward, Your Honor.

24 THE COURT: Okay. All right. Well, I'm going  
25 to deny the continuance and let's go forward. Okay?

1 MR. WHITMIRE: Thank you, Your Honor.

2 THE COURT: Okay. Thank you. All right.

3 Mr. Bagwell, this is your case.

4 MR. BAGWELL: All right. I'd like to call my  
5 client, Mr. Gresham, to the stand.

6 THE COURT: Okay.

7 **WILLIAM CANNON GRESHAM,**

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. BAGWELL:

11 Q. So, Mr. Gresham, if you'd be aware that I'm a little  
12 hard of hearing. If you could speak up when you give  
13 your answers, I'd appreciate it.

14 A. Yes, sir.

15 Q. I'm going to ask you a few questions about your  
16 understanding of what we're doing here today. You  
17 understand that this is not a trial itself?

18 A. Yes, sir.

19 Q. That if you were to win today, you would not go  
20 free. That -- what's your understanding if you had your  
21 order request granted today? What would happen for you?

22 A. I don't understand the question.

23 Q. Is it your understanding that you would be granted a  
24 new trial should your request be granted today?

25 A. Yes, sir.

1 Q. And that you would have to defend your guilt and  
2 innocence at that trial?

3 A. Yes, sir.

4 Q. But that's not what we're here today for. You also  
5 understand if you get a new trial and lose, you could  
6 have a new sentence passed down?

7 A. Yes, sir.

8 Q. And that sentence could go all the way up to the  
9 death penalty. You understand that?

10 A. Yeah.

11 Q. You want to move forward with what we're doing today  
12 anyways?

13 A. Yes, sir.

14 Q. All right. All right. Could you please tell me  
15 about your education level, sir?

16 A. I didn't complete the ninth grade before I got  
17 locked up. But since I been down at Lee, I got my GED.

18 Q. Okay. So you have completed your GED since you've  
19 been incarcerated?

20 A. Uh-huh (affirmative).

21 Q. But before that, did you finish the ninth grade or  
22 just begin?

23 A. Just begin.

24 Q. Just began the ninth grade and only finished the  
25 eighth grade. Now, how did you do in school when you

1 were there?

2 A. Not very good.

3 Q. How well do you read?

4 A. I read all right.

5 Q. Okay. Okay. Now, there was some mention in your  
6 transcript from the hearing earlier that you'd been put  
7 under an evaluation to check your competency to stand  
8 trial; is that correct?

9 A. Yes.

10 Q. All right. And I believe I read in there somewhere  
11 that the counselor felt you had a learning disability?

12 A. She said that.

13 Q. Did she say that in her written report?

14 A. I don't think -- I ain't got no written report. I  
15 just remember what she said. When I went and got  
16 sentenced, I remember that.

17 Q. Okay. You didn't read that; you just heard somebody  
18 say it because you haven't seen a written report?

19 A. Yeah.

20 Q. So given that background and that edification, did  
21 you know that you were pleading guilty at that hearing  
22 that took place March 31st, 2011?

23 A. I thought so, yeah.

24 Q. So you knew that you were entering a plea of guilty?

25 A. (Nodded head up and down in the affirmative)

1 Q. All right. Did you know what crimes you were  
2 entering a guilty plea for?

3 A. Yeah.

4 Q. All right. So you were aware that the crimes you  
5 were accused of, a short list of the two murders and the  
6 assault and battery with intent to kill, you were aware  
7 that you were pleading guilty to those at the time?

8 A. Yes, sir.

9 Q. Okay. And you were aware that the possible sentence  
10 for those crimes could be up to a sentence to where you  
11 would die in prison?

12 A. Yeah.

13 Q. You were aware of that even as you were pleading?

14 A. Yeah.

15 Q. And given that you were aware of those facts, why  
16 did you enter that plea?

17 A. Because Wilson Burr and the solicitor told me to  
18 confess to all these charges in a plea agreement. But  
19 from my understanding, it says an open plea. But from my  
20 understanding from what Wilson Burr said -- and the  
21 solicitor told me the same thing -- that she'd recommend  
22 thirty years. But when I went in front of the judge who  
23 sentenced me, she didn't recommend thirty years, which is  
24 what I thought she was going to do.

25 Q. So the solicitor told you again -- did she write

1 that down or was it out of her mouth?

2 A. No. On 3/31 -- I ain't sure of the exact date. But  
3 when I went to her office, we all sat around, me and  
4 Wilson Burr, the solicitor and other investigators. And  
5 she said when I went to court in front of the judge that  
6 she would recommend thirty years, but she never done  
7 that.

8 Q. Okay. So at the time you were agreeing to take that  
9 plea of guilty on the promise of a recommendation?

10 A. Yeah. A recommendation of thirty years, yeah.

11 Q. And that accurately states it. Okay. Let's see.  
12 Now, have you learned about any evidence, any information  
13 about your case since that guilty plea hearing?

14 A. Yeah, I have.

15 Q. You have? All right. Tell us about -- tell me --  
16 can you tell me about what you have learned since then?

17 A. Yeah. Well, I knew what happened when the stuff  
18 happened, but I didn't kill nobody. But they just all  
19 trying to say I did kill the people. And after I got my  
20 files, after I got sentenced -- because Wilson Burr  
21 refused to give it to me. After I got sentenced, I seen  
22 the autopsy shows I didn't kill nobody. Even Sherry  
23 Crowe said I didn't kill nobody. And the only reason I  
24 pled guilty because I thought I was getting thirty years.

25 Q. And you said something there that really interests

1 me. You said that Mr. Burr refused to give you your  
2 file?

3 A. Yeah, he refused to give me my files when I was  
4 sitting in County. And if I had my files, I could show  
5 you where he -- I could show you the paper where I filed  
6 against the clerk of court asking for my files, and he  
7 still wouldn't give them to me.

8 Q. Okay. And you said when you were sitting in County.  
9 That is the detention center here in Oconee County?

10 A. Uh-huh (affirmative).

11 Q. So you were a few blocks from this courthouse asking  
12 for the evidence in your case, and it was not provided?

13 A. No, sir.

14 Q. All right. Is there anything -- now, we're talking  
15 about a file in general. Is there anything specific from  
16 that file that you were looking for that you recall?

17 A. Yeah. The autopsy. The autopsy shows that what I  
18 did, even though -- that did not kill nobody. So there's  
19 no way that they could have charged me with murder which  
20 I had pled guilty to.

21 Q. Okay. Could you please identify that document for  
22 me?

23 A. It's a voluntary statement from my co-defendant,  
24 Shawn Hayden Owens.

25 Q. Okay. And is there a date listed on this document?

1 A. Yeah, 4/20/2010. The first time we got arrested.

2 MR. BAGWELL: All right. I would like to  
3 submit this to the Court.

4 THE COURT: Would you show Mr. Whitmire a copy?

5 MR. WHITMIRE: Yes, Your Honor. This is in the  
6 solicitor's file and counsel's file. You know, I don't  
7 object ---

8 THE COURT: Okay.

9 MR. WHITMIRE: --- as long as it's made a part  
10 of the record.

11 MR. BAGWELL: That's what I'm asking for.

12 THE COURT: Okay. That would be Applicant's  
13 Number 1.

14 (WHEREUPON, Applicant's Exhibit Number 1 was marked  
15 and admitted into evidence.)

16 Q. Would you please read what is written in the body,  
17 handwritten there toward the middle of the page?

18 A. "I, Shawn Owens, shot Jerry and his sister-in-law  
19 and slit his wife's throat."

20 Q. Okay. And then there's some markings there in the  
21 middle. Can you identify those two letters?

22 A. Yeah, S.O. I guess this stands for Shawn Owens, I'm  
23 guessing.

24 Q. Shawn Owens. All right. And so, now, once again do  
25 you remember the date of your -- the hearing in which you

1   pled guilty?

2   A.   January 6, 2012.

3   Q.   I believe that was your sentencing hearing.  What's  
4   the date that you pled guilty?

5   A.   Oh, you talking about the date when I ---

6   Q.   Yeah.  Was it in March?

7   A.   3/31/2011.

8   Q.   March 31st, 2011.  And you identified the date on  
9   this document earlier as April 20th, 2010?

10  A.   Uh-huh (affirmative).

11  Q.   So this document was in existence almost an entire  
12  year before you pled guilty?

13  A.   Yes, sir.

14  Q.   Were you aware of this document when you pled  
15  guilty?

16  A.   No, sir.

17  Q.   All right.  I'm going to take one step back before I  
18  finish my line of questioning with you.  And you  
19  indicated to me in some of our correspondence that you  
20  understand that you are not completely innocent?

21  A.   Yes, sir.

22  Q.   That there were crimes committed that day, the day  
23  of reckoning, if you will, that you took part in?

24  A.   Yeah.

25  Q.   But you do not feel that you were guilty of the full

1 extent of the crimes you were accused of?

2 A. That's right.

3 Q. All right. So your intentions, should you win  
4 today, are not to play the innocent card but rather to be  
5 properly accused and properly sentenced. Is that an  
6 accurate statement?

7 A. Yeah.

8 Q. Thank you. And so I'm assuming -- or let me ask it  
9 this way. Is one of those crimes that you feel that  
10 you're not -- or inappropriately accused of the murder  
11 charge?

12 A. Yeah. And I've got proof to back it up.

13 Q. Yes. And you feel that since Mr. Owens confessed to  
14 this murder charge, is that part of your reasoning behind  
15 that decision that you're not guilty to this extent?

16 A. Yeah.

17 Q. Now, you're aware that both you and Mr. Owens can be  
18 found guilty of murder at the same time for the same  
19 person?

20 A. I understand that.

21 Q. Because that is the case today. So you're aware  
22 that even if you were granted a new trial and Mr. Owens  
23 has not only confessed but been convicted, that you could  
24 be convicted of the same -- of a murder of the same  
25 individual?

1 A. (No verbal response)

2 Q. I'm sorry. That was a confusing question. Let me  
3 ask it more simply. You're aware that just because Mr.  
4 Owens has confessed and been convicted, that does not  
5 mean that you too cannot be convicted of the same crime  
6 against the same individual?

7 A. Yeah.

8 Q. All right. Now -- but if you were made aware of Mr.  
9 Owens' confession before you pled guilty, would you still  
10 have pled guilty?

11 A. No.

12 Q. All right. If you knew what you knew now -- since  
13 you've discovered things from searching through Mr.  
14 Burr's work, if you knew at the guilty plea hearing what  
15 you know now, would you have still pled guilty?

16 A. No.

17 Q. Okay. So are you telling me that because Mr. Burr  
18 did not give you all the evidence and did not disclose  
19 everything to you, it changed your decision?

20 A. Yes, sir.

21 Q. All right. Do you feel, after learning all of this,  
22 that Mr. Burr effectively represented you?

23 A. No.

24 MR. BAGWELL: I believe that's all my  
25 questions, Your Honor.

1 THE COURT: Thank you, sir.

2 MR. WHITMIRE: May it please the Court.

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. WHITMIRE:

6 Q. The statement that you're referencing, that's part  
7 of Mr. Owens' statement; is that correct?

8 A. Yes, sir.

9 Q. And he shot Ms. Aubrey and Mr. Corley; is that  
10 correct?

11 A. Yes, sir.

12 Q. But didn't you take a hammer and put it through the  
13 skull of Ms. Corley?

14 A. Yes, sir. Because he told me then that he was going  
15 to kill me.

16 Q. Did you tell your attorney this?

17 A. Yes, sir.

18 Q. So y'all talked about that?

19 A. Yeah.

20 Q. Did he explain to you the law on that?

21 A. I don't remember.

22 Q. I'm interested -- what did he tell you he was going  
23 to kill you with?

24 A. He just told me if I didn't do what he said that he  
25 would -- the only that I said -- he says if I didn't go

1 by what he said, he was going to kill me. That's the  
2 only thing ---

3 Q. Was he armed at this point?

4 A. Yeah, he had the knife. That's what he was stabbing  
5 her throat and eye with.

6 Q. Well, you made that decision to go and burglarize  
7 their home, didn't you?

8 A. Yes, sir. I made a robbery, but there wasn't nobody  
9 supposed to get hurt.

10 Q. Well, y'all specifically waited until Ms. Corley was  
11 home alone?

12 A. No. When we went there, everybody was there at the  
13 time. When we went there, it was Jerry, his wife and  
14 his daughter were there.

15 Q. Do you recall Solicitor Adams talking about all the  
16 times that you could have gotten away or stopped this?

17 A. Yes.

18 Q. At one point you held Mr. Corley and Ms. Skull at  
19 gunpoint when Mr. Owens wasn't present?

20 A. But I never pointed a gun at them.

21 Q. But you held them?

22 A. Yeah.

23 Q. So you could have saved their lives?

24 MR. BAGWELL: Your Honor, I'd object to this  
25 line of questioning. We made specifically clear that Mr.

1 Gresham's guilt or innocence of the acts that was  
2 committed day were not part of our testimony today. Your  
3 Honor, we said that from the very beginning. I believe  
4 opposing counsel is just using events from that day to  
5 prejudice against my client.

6 THE COURT: All right.

7 MR. WHITMIRE: Your Honor, I'll rephrase it.

8 THE COURT: If you don't mind rephrasing the  
9 question.

10 Q. Did you tell your attorney these things, your  
11 version of the facts?

12 A. Yes, sir.

13 Q. You told law enforcement too?

14 A. Yes, sir. I told the truth the whole time.

15 Q. And one of your contentions is Mr. Burr didn't give  
16 you your discovery?

17 A. Yes, sir. He never gave it to me.

18 Q. Did he go over it with you at least?

19 A. He come give it to me one time, I think, come in.

20 When I say I got it one time, he let me see it. And  
21 that's the only time. That's not enough time to study it  
22 to get prepared for trial.

23 Q. My question is did he review it with you at least?

24 A. No. When he come to give it to me, he left me there  
25 with his secretary, Lynn Black. He never was in there

1 with me with my file.

2 Q. He never came to you and talked to you about what  
3 the State's evidence was?

4 A. No.

5 Q. How many times did he meet with you?

6 A. Multiple times. A couple of times. I'm not real  
7 sure. He's met with me a couple of times while I was in  
8 the County, but ...

9 Q. And there was a lot of discovery disclosed in this  
10 case; correct? It's a murder case. Do you recall?

11 A. What's a -- how you ...

12 Q. There was numerous disclosures from the solicitor's  
13 office. Six?

14 A. I guess I don't understand the question, but ...

15 Q. I mean, do you recall Mr. Burr getting all this new  
16 stuff every couple months from the solicitor's office  
17 about your case?

18 A. No. No.

19 Q. No? So you wouldn't be aware that the autopsy  
20 reports were in the initial disclosure back in June 2010?

21 A. No, sir.

22 Q. And you signed this plea agreement, I believe, a  
23 month before you entered it?

24 A. I signed it on 3/31, I believe is what that date  
25 was. I believe I signed it on 3/31/2011.

1 Q. Now, seven or eight months passed before you got  
2 sentenced; correct?

3 A. Yes, sir.

4 Q. Mr. Owens had pled guilty before you that morning?

5 A. Yeah, he did.

6 Q. So you knew he was going to plead guilty?

7 A. Yes. But from my understanding the solicitor said  
8 she was going to serve him with the death penalty too.

9 Said she was going to serve him with death penalty  
10 papers.

11 Q. Did you tell your attorney you wanted to get out of  
12 that plea agreement that day?

13 A. No, because I didn't understand it. From my  
14 understanding, I was supposed to get -- the Solicitor was  
15 supposed to recommend thirty years. And he told me that  
16 I was going to get thirty years. So that's the reason I  
17 went on with the plea agreement because I thought I was  
18 going to get thirty years. I didn't realize -- I didn't  
19 know it was an open plea. I didn't understand the plea  
20 agreement.

21 Q. That thirty-year recommendation, was it put on the  
22 record? Do you remember?

23 A. I don't know. I know when me and Burr and the  
24 solicitor and all was sitting around the table, she said  
25 that she would recommend thirty years.

1 Q. Two judges said they could sentence you to the max;  
2 correct?

3 A. What, now?

4 Q. I said two different judges said they could sentence  
5 you to life without the possibility of parole, advised  
6 you?

7 A. I don't remember.

8 Q. Do you remember Judge McIntosh advising you that if  
9 you didn't understand something or if you were confused,  
10 to let him or your attorney know immediately?

11 A. Yeah. But the way Wilson Burr told me -- the way  
12 Wilson Burr told me, I thought I was getting thirty  
13 years. That's the reason I pled guilty on the charges.

14 Q. Did Solicitor Adams state that you'd probably serve  
15 the rest of your life in prison?

16 A. She never stated I would serve the rest of my life  
17 in prison. She said she'd recommend thirty years. And I  
18 don't know much about the law. But usually when I hear  
19 the solicitor recommend something, that's usually what  
20 the judge goes with, so ...

21 Q. Did you ever write your attorney about this?

22 A. I don't remember.

23 Q. You didn't bring it to anyone's attention before you  
24 filed this application?

25 A. I don't remember.

1 MR. WHITMIRE: I beg the Court's indulgence.

2 THE COURT: Take your time.

3 MR. WHITMIRE: No further questions, Your  
4 Honor.

5 THE COURT: All right. Anything on redirect?

6 REDIRECT EXAMINATION

7 BY MR. BAGWELL:

8 Q. Mr. Burr did meet with you at least several times  
9 before your trial; correct?

10 A. Yeah.

11 Q. And at that time, you felt like he was doing his job  
12 and doing it properly?

13 A. Yeah, because as I understand everybody said Wilson  
14 Burr is a good attorney, so I stuck with him.

15 Q. All right. And it's only after your plea agreement  
16 was entered, after the sentencing, that you found  
17 information that now would have changed what you did  
18 then?

19 A. It would have changed my outcome, yes, sir.

20 Q. Do you feel that Mr. Burr should have given you that  
21 information before you entered your plea agreement?

22 A. Yeah, because if you go to trial without evidence,  
23 you don't know what they got against you, so ...

24 MR. BAGWELL: That's all, Your Honor.

25 THE COURT: Anything on recross?

1 MR. WHITMIRE: None, Your Honor.

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

3 All right. Mr. Bagwell, call your next witness.

4 MR. BAGWELL: No other witnesses, Your Honor.

5 THE COURT: No other -- all right.

6 MR. BAGWELL: No other witnesses.

7 THE COURT: All right. Okay. Thank you, sir.

8 All right. Mr. Whitmire, does the State have any  
9 witnesses?

10 MR. WHITMIRE: Your Honor, the State calls Mr.  
11 Burr to the stand.

12 (WHEREUPON, the witness was duly sworn.)

13 THE COURT: Your witness, Mr. Whitmire.

14 **WILSON BURR,**

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. WHITMIRE:

18 Q. Good afternoon, Mr. Burr.

19 A. Good afternoon.

20 Q. How long have you practiced law in the State of  
21 South Carolina?

22 A. Thirty-plus years.

23 Q. And what is your primary area of practice?

24 A. Criminal law.

25 Q. Have you had a chance to review your case file in

1 this matter?

2 A. I have.

3 Q. Do you recall the representation?

4 A. I'm sorry?

5 Q. Do you recall the representation?

6 A. Oh, yes, I do.

7 Q. How many murder crimes have you done in Oconee  
8 County in the last thirty years?

9 A. I haven't been in Oconee County the entire time.  
10 But in Oconee County I've probably represented a half a  
11 dozen or more murders. In my career probably twenty or  
12 more.

13 Q. Has the State ever noticed one of your clients with  
14 its intention to seek the death penalty?

15 A. I'm sorry. I can't hear you.

16 Q. Has the State ever noticed of your clients in those  
17 previous cases with their intention to seek the death  
18 penalty?

19 A. Yes. I also have federal time when I was in the Air  
20 Force, and I have done capital murder cases.

21 Q. Now, do you recall the circumstances surrounding  
22 your appointment to Mr. Gresham's case?

23 A. I do.

24 Q. Briefly discuss those, Mr. Burr.

25 A. It's a little unusual. I had a client unrelated to

1 this that I'd been dealing with. And he lived somewhere  
2 in the area of where the law enforcement was looking for  
3 the two defendants in this case. And he called me at  
4 home and told me something was going on. I got basic  
5 information on it. I notified the jail personnel to let  
6 me know the second the two people were arrested and  
7 provide the applications for counsel. I don't remember  
8 -- well, I guess Mr. Gresham's application probably came  
9 first. And so I kept his case. And I immediately --  
10 Captain Greg Reid is the chief investigator, so I wrote  
11 him a letter advising him, you know, do not talk to my  
12 clients. I got a call from the jail a couple of days  
13 later that Mr. Gresham was being interviewed. I  
14 immediately went over to Captain Reid's office and told  
15 him -- you know, I said, "Did you get the letter from  
16 me?" He said, "Yes." And he also showed me several  
17 requests that Mr. Gresham had written him. And  
18 continuously, against my advice, Mr. Gresham was so  
19 forthcoming, it actually worked to his detriment.

20 Q. Can you explain how it worked to his detriment?

21 A. Well, I mean, he actually made it, in my opinion,  
22 extremely easy for law enforcement to prosecute this  
23 case. I think looking at all the evidence that it was  
24 probably -- it would have been an easy case to prosecute  
25 in the first place, but he made it much easier.

1 Q. Correct me if I'm wrong. But you served your first  
2 discovery motion within two days of his arrest. Do you  
3 recall?

4 A. I don't doubt that. This was a high-profile case in  
5 the county, and I was working on it from the very first  
6 minute.

7 Q. Is it your policy to give clients their discovery  
8 while they're in detention?

9 A. I typically go meet with them and go over all the  
10 evidence with them. I'm reluctant -- unless they really  
11 demand it, I'm reluctant to give volumes of information  
12 for them to take back to the cell block.

13 Q. And what was your reasons for that reluctance be?

14 A. I've never seen a case, serious case, prosecuted, go  
15 to trial in Oconee County where a jailhouse snitch didn't  
16 show up. And if they get enough, some basic information,  
17 it gives them more credibility. So I encourage my  
18 clients -- if they demand they want their own copy,  
19 obviously I give it to them. But I advise against it.

20 Q. Do you recall how many times you met with Mr.  
21 Gresham prior to entering the plea?

22 A. I honestly have no idea. Mr. Gresham is a very  
23 likeable person. I definitely immediately formed the  
24 opinion that he was much less involved in this crime. He  
25 was a follower more so than a leader. So I took great

1 interest in his case, so I did meet with him quite  
2 frequently.

3 Q. You reviewed all the State's discovery disclosures  
4 with him?

5 A. I did.

6 Q. Would you have reviewed the Miranda waiver and his  
7 statement with him?

8 A. Yes, I did.

9 Q. Autopsy reports?

10 A. Yes.

11 Q. Did y'all talk about a possible defense early in the  
12 case?

13 A. I fairly distinctly remember talking to Mr. Gresham  
14 about, you know, I was concerned that he had given all  
15 the voluntary statements. That kind of took a lot of my  
16 leverage from trying to negotiate a better deal for him.  
17 But he showed great remorse from the second, you know,  
18 that I dealt with him. And he just wanted to get it off  
19 his chest. He was -- like I say, he could not have been  
20 more honest about what had happened.

21 Q. Was duress a viable defense in this case?

22 A. In my opinion, it wasn't. In fact, that was the  
23 point I think I made probably in my mitigation statement  
24 in closing argument. There was an allegation that he was  
25 left alone with the victims at some point. And he

1 convinced me that he actually let one of the victims hold  
2 the pistol at one time. That was never verified. Like I  
3 say, everything else he told me was true. I assumed that  
4 was true also. That would certainly negate any duress  
5 defense.

6 Q. Was this a plea from the beginning?

7 A. Yes. Like I said, before I even, you know, day  
8 three he had already made full confessions as to what had  
9 happened.

10 Q. When, if at any point, did Mr. Gresham indicate his  
11 desire to go to trial?

12 A. There I don't remember or recall any requests for  
13 trial.

14 Q. Do you recall the circumstances of Solicitor Adams'  
15 plea agreement in this case?

16 A. Yes, we were. And I'm sure I went over that  
17 agreement with Mr. Gresham.

18 Q. Is there anything else that was stipulated or sort  
19 of silent, I'm going to recommend thirty years, that  
20 wasn't actually in the four corners of the document?

21 A. If I remember correctly, there was nothing discussed  
22 other than not going forward with the death penalty.

23 Q. And had that been discussed, would you have brought  
24 that to the sentencing court's attention?

25 A. Definitely. There again, if there were any

1 confusion, my desire and perhaps my discussions with Mr.  
2 Gresham that, you know, he would have gotten a much  
3 lighter sentence because I would have loved to have seen  
4 a better distinction between he and the more, what I  
5 consider the more, serious defendant in this case.

6 Q. Correct me if I'm wrong. But Mr. Owen pled guilty  
7 right before Mr. Gresham, or the same time?

8 A. Yes. It's only logical that he did. I really don't  
9 recall.

10 Q. Did Mr. Gresham ever communicate to you any  
11 trepidation about also pleading guilty considering that  
12 Mr. Owen also pled guilty?

13 A. No. Like I said, he was of the mind set to take  
14 full responsibility as soon as he was arrested.

15 Q. Do you recall your efforts of mitigation in this  
16 case?

17 A. Yes. Well, first of all, I actually wanted  
18 competency establish. And Dr. Swartz-Watts was hired to  
19 interview Mr. Gresham. If I remember correctly, Dr.  
20 Swartz-Watts and I met together with Mr. Gresham on  
21 several occasions. And then obviously, she's interviewed  
22 him on her own on at least two occasions.

23 MR. WHITMIRE: I beg the Court's indulgence one  
24 moment.

25 THE COURT: Take your time.

1 Q. Have you had prior experience with Dr. Swartz-Watts?

2 A. I have. I think this was probably -- she was still  
3 in transition from working with the State. And I had  
4 dealt with her on another very serious murder case where  
5 actually there was a finding of not guilty by reason of  
6 insanity. So since then, she's done a lot of defense  
7 work with me statewide, I think. But, yes, I have a lot  
8 of faith in her.

9 Q. One of the best?

10 A. One of the best I've dealt with.

11 Q. Did you try this case to the best -- I'm sorry. Did  
12 you represent Mr. Gresham to the best of your ability?

13 A. I did.

14 MR. WHITMIRE: No further questions, Your  
15 Honor.

16 THE COURT: Anything on redirect?

17 MR. WHITMIRE: Please answer any questions Mr.  
18 Burr [sic] has.

19 THE COURT: I mean on cross. Excuse me. I'm  
20 sorry.

21 MR. BAGWELL: May it please the Court.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. BAGWELL:

25 Q. Just a few questions, Mr. Burr. Is it possible that

1 Mr. Gresham and Mr. Owens were actually sentenced on the  
2 same day and not entering guilty pleas on the same day?

3 Do you have any recollection as to that?

4 A. I just don't recall the exact sequence.

5 Q. No problem. No problem. You mentioned that Mr.  
6 Gresham was more along the lines of a follower rather  
7 than the mastermind?

8 A. That was my feeling, and I think Dr. Schwartz-Watts  
9 came to the same conclusion after she -- in fact, she  
10 testified at the sentencing.

11 Q. Well, I've noticed as well. He doesn't have his  
12 hands bound today. You know, he's a -- did you feel any  
13 fear in his presence?

14 A. No, never.

15 Q. Okay. I didn't believe so. And it's also true also  
16 that he cooperated, maybe over-cooperated even, with the  
17 law enforcement?

18 A. From a defense point of view, yes, he did.

19 Q. Of course. And we actually have -- I spoke with a  
20 Sergeant Reid. Do you remember him?

21 A. Captain Reid.

22 Q. Captain Reid. Excuse me. And Captain Reid was --  
23 he was the lead investigator on the case; is that right?

24 A. I think he was.

25 Q. And Mr. Gresham was overly cooperative with him. Did

1 -- and I only ask this question because you testified  
2 earlier that you have so much experience. Given all your  
3 experience, did you feel that Mr. Gresham would actually  
4 get the thirty years instead of the life sentence?

5 MR. WHITMIRE: Objection to speculation.

6 THE COURT: I'm going to let him answer the  
7 question. He's got plenty of experience as a lawyer. He  
8 can tell him what he thought.

9 Go ahead.

10 A. There were no promises made beyond the written  
11 agreement.

12 Q. Understanding that no promises made, nothing on the  
13 record, but given that he was the follower and not  
14 violent and that he cooperated, would it at least leave  
15 open a good possibility that he could get thirty years  
16 instead of life? Is that a fair statement?

17 A. I can't speak for the judge.

18 Q. Okay. Well, given the things that were stated  
19 earlier, is it possible that because of all of that, that  
20 you went along with a plan that would allow Mr. Gresham  
21 to spend thirty years in prison instead of life, and you  
22 might have missed an opportunity to have his charges  
23 reduced?

24 A. Repeat that again.

25 Q. I'm primarily a real estate attorney, so forgive my

1 ignorance. I've never tried a criminal case. And is it  
2 -- normally during the average criminal case, is there a  
3 negotiation that goes on between the solicitor and the  
4 defense that allows for a reduction in charges based on  
5 cooperation?

6 A. Yes.

7 Q. All right. Did you full exploit that possibility  
8 that Mr. Gresham, being the follower, being not as  
9 violent as Mr. Owens, could have received reduced  
10 charges?

11 A. As I alluded to earlier, if he had not been so  
12 forthcoming with law enforcement and would have invoked  
13 his rights, which he has a right to do, perhaps I would  
14 have had more grounds to negotiate. But he was --  
15 really, he'd made so many statements, there was nothing I  
16 could do except just beg.

17 MR. BAGWELL: That's all my questions. Thank  
18 you.

19 THE COURT: All right. Anything on redirect?

20 MR. WHITMIRE: Just briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. WHITMIRE:

23 Q. Just a few questions for you, Mr. Burr. Had Mr.  
24 Gresham communicated a desire not to plead anything  
25 greater than thirty years in prison, would you have

1 advised him to go -- to accept the plea?

2 A. I'm sorry. I'm ...

3 Q. If Mr. Gresham was bent on it's thirty years or I'm  
4 not pleading guilty, would you have advised him to accept  
5 the accept plea based on the terms?

6 A. I would have advised him to based on the fact that,  
7 you know, the death penalty could have been on the table.

8 Q. If he desired a trial, would you have tried this  
9 case?

10 A. Absolutely.

11 Q. I believe that opposing counsel has mentioned his  
12 disposition. Did you formulate a mitigation strategy  
13 based on his disposition and desire to speak to police?

14 A. If my memory serves me, in the sentencing phase, I  
15 made a fairly lengthy statement. I had Dr. Swartz-Watts  
16 testify. I questioned her about additional findings as  
17 to his diminished capacity, whatever. And I went through  
18 the fact that he had been extremely cooperative, even  
19 against my advice. He just wanted to get it off his  
20 chest, I think, is exactly what he told me. He worked  
21 very closely with law enforcement. Actually, I think,  
22 struck up friendships with some investigators, as far as  
23 -- as much as law enforcement and a serious defendant  
24 could be because he is -- he's a very likeable young man.

25 MR. WHITMIRE: Your Honor, that's all.

1 Thank you, Mr. Burr.

2 THE COURT: Anything on recross?

3 MR. BAGWELL: Nothing further, Your Honor.

4 THE COURT: You may step down, Mr. Burr. Thank  
5 you, sir.

6 THE WITNESS: Thank you, Your Honor.

7 MR. WHITMIRE: I ask that Mr. Burr be excused.

8 THE COURT: Any objection?

9 MR. BAGWELL: No objection to that.

10 THE COURT: All right. Mr. Burr, you are  
11 excused.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Thank you for coming.

14 All right. Mr. Whitmire, anybody else from the  
15 State? Any other witnesses?

16 MR. WHITMIRE: Your Honor, the State rests.

17 THE COURT: Okay. All right.

18 All right. Mr. Bagwell, it looks like he is asking  
19 for ineffective assistance of counsel, and he says he was  
20 -- and it says mentally incompetent to assist in defense?

21 MR. BAGWELL: Your Honor, we did not pursue  
22 that. The course of action it was not a -- it would not  
23 have bore fruit for him.

24 THE COURT: Well, I agree. I just wanted to

1 make sure that I wasn't giving up anything ---

2 MR. BAGWELL: No.

3 THE COURT: --- because it seems clear on the  
4 record that he is competent, was competent at the time  
5 and he is competent now. I've reviewed the record while  
6 I was sitting here. Is there anything else you want to  
7 tell me about this?

8 MR. BAGWELL: One moment.

9 Just, Your Honor, that after we cut through  
10 everything that it's the one question of my client did  
11 not have all the information appropriate to make a proper  
12 decision. And that was his lawyer's duty to provide that  
13 information.

14 THE COURT: Okay. All right. All right. What  
15 I'll do is I'll look over the record. I'll get back to  
16 y'all with my decision. Okay? Thank y'all. I  
17 appreciate it.

18 MR. WHITMIRE: Thank you, Your Honor.

19 (WHEREUPON, the hearing concluded at approximately  
20 2:43 p.m.)

21 \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*



|                          |   |                              |
|--------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS |
|                          | ) |                              |
| COUNTY OF OCONEE         | ) | TENTH JUDICIAL CIRCUIT       |
|                          | ) |                              |
| William Cannon Gresham,  | ) | C.A. No. 2012-CP-37-915      |
| S.C.D.C. No. 349177,     | ) |                              |
|                          | ) |                              |
| Applicant,               | ) |                              |
|                          | ) |                              |
| v.                       | ) | <b>ORDER OF DISMISSAL</b>    |
|                          | ) |                              |
| State of South Carolina, | ) |                              |
|                          | ) |                              |
| Respondent.              | ) |                              |

FILED OCONEE SC  
 BEVERLY H. WHITMIRE  
 CLERK OF COURT  
 2014 JUL 15 A 10:51

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed October 16, 2012. Respondent subsequently filed its responsive pleadings. An evidentiary hearing into the matter was convened on July 28, 2014 at the Oconee County Courthouse. Applicant was present and was represented by Tjay Bagwell, Esq. Respondent was represented by Walt Whitmire, Esq., of the Office of the Attorney General.

**PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Oconee County. Applicant was indicted at the August 2010 term of the Court of General Sessions for Oconee County on two counts of murder (2010-GS-37-755; -756), two counts of kidnapping (2010-GS-37-757; -758), assault and battery with intent to Kill (ABWIK) (2010-GS-37-760), possession of a weapon during a violent offense (2010-GS-37-761) and grand larceny, < \$5,000 (2010-GS-37-762). He was represented by Wilson Burr, Esq.

On March 31, 2011, Applicant entered a guilty plea, as indicted, pursuant to the written plea agreement with State; the Honorable R. Lawton McIntosh accepted the plea. Applicant did not appeal his sentence or conviction.

On January 6, 2012, the State called Applicant's case for a sentencing hearing. The Honorable G. Edward Welmaker sentenced Applicant to two terms of life imprisonment for murder, two terms of thirty (30) years imprisonment for kidnapping, a term of thirty (30) years imprisonment for burglary, a term of twenty (20) years imprisonment for ABWIK, and a term of ten (10) years imprisonment for grand larceny. Applicant did not appeal his sentences or convictions.

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

1. Ineffective Assistance of Counsel:
  - a. failure to provide physical copies of discovery materials to Applicant;
  - b. failure to apprise and discuss the co-defendant's statements with Applicant;
  - c. failure to investigate and pursue a duress defense theory of the case;
  - d. failure to submit Applicant for a competency evaluation;
  - e. failure to object to the solicitor's purported violation of the plea agreement to make a recommendation to the mandatory minimum term of imprisonment for murder.

#### **Summary of Evidence and Testimony presented at the PCR Hearing**

At the PCR hearing, Applicant testified in support of his Application. He testified that counsel never provided him with copies of his co-defendant's statements. He testified that counsel did not discuss the State's evidence with him during their consultations. Applicant

testified that he requested copies of the State's discovery disclosures from his attorney during the pendency of his case but was denied by counsel. Since entering the Dept. of Corrections, Applicant testified that he discovered purportedly critical evidence that would have altered his decision to plead guilty. He further explained that the co-defendant admitted to striking the ultimate blows that caused the deaths of both deceased victims. Applicant partially protested his admissions of guilt for murder by claiming he was still guilty, but less culpable. Applicant testified that he told his attorney his version of the facts: that co-defendant threatened to kill him if he did not strike one of the victims in the head with a hammer. Applicant also testified that counsel should have further investigated his competency.

Applicant testified he pled guilty in part to avoid the death penalty; and in part because the Solicitor promised to recommend a circuit court judge sentence him to the mandatory minimum sentences of thirty (30) years on the murder charges. He recalled the plea and sentencing hearings but testified that he did not remember if either Judge McIntosh or Judge Welmaker apprised him that he faced LWOP on the murder charges.

Counsel testified to his course of conduct during the representation. He provided the Court a brief summary of his extensive experience as a criminal defense attorney. Counsel explained that Applicant had provided the police three detailed confessions. Counsel opined that Applicant solicited the interviews with police. At the outset of the representation, counsel almost immediately received the first of many discovery disclosures from the State. He met with Applicant numerous times before the sentencing hearing. Counsel did not provide Applicant physical copies of discovery materials. He noted that his course of conduct here is the same in all of his cases when the client is confined in pre-trial detention. He explained that risk of "snitches" obtaining the discovery far outweighs the benefits of client having the physical copy. However,

counsel was adamant that he evaluated and then reviewed all of the State's evidence, including the autopsy reports, with Applicant.

Counsel testified that a defense theory of duress was not viable to Applicant's case. He noted that Applicant's confessions alone negated this defense theory. Also, counsel explained that Applicant demonstrated significant remorse during the representation. Counsel explained that Applicant's remorseful posture remained even after the co-defendant's plea. Counsel retained one of the premier forensic mental health experts for Applicant's case. Ultimately, counsel utilized all of Dr. Schwartz-Watts' favorable findings concerning Applicant's minor psychological deficits in his mitigation case at the sentencing hearing. Counsel had Dr. Schwartz-Watts evaluate Applicant on criminal responsibility and capacity; he noted that Applicant never demonstrated any indicators that he was incompetent during the representation or during the commission of the offense.

Counsel testified that he conveyed the plea offer to Applicant and reviewed the written agreement with him. Counsel was adamant that the State's only promise to Applicant was taking the death penalty off of the table. Upon Applicant's cross-examination, counsel reiterated that the State made no sentencing promises beyond the written agreement.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court records regarding the subject's convictions, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents, including Court's Exhibit 1, the written plea agreement from the General Sessions Records, and legal arguments of counsel.

Pursuant to S.C. Code Ann. §17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds that Applicant was not deprived of effective assistance of counsel. Defense counsel's pre-trial investigation and discussions with Applicant were reasonable in the circumstances, and did not fall below professional norms. This Court finds that counsel competently advised Applicant of the charges and possible sentences. This Court finds that counsel's performance did not fall below professional standards of reasonableness. This Court finds that there is no evidence that counsel was ineffective. This Court finds that there is no evidence on the record to indicate Applicant was promised a sentence of 30 years. The Court finds defense counsel's testimony regarding communications with Applicant credible, and does not find Applicant's testimony credible. Therefore, the court is denying the application

#### APPLICABLE LAW

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

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

professional judgment. Strickland, 466 U.S. at 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland, supra. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

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

A.

Applicant failed to meet his burden to prove that counsel's performance was either deficient or ineffective for failing to purportedly apprise Applicant of the co-defendant's statements. "From counsel's function as assistant to the defendant derive the overarching duty to advocate the defendant's cause and the more particular duties to consult with the defendant on important decisions and to keep the defendant informed of important developments in the course of the prosecution." Strickland, 466 U.S. at 688 (1984). "There is no claim of deficient consultation without a showing of prejudice from the deficiency." U.S. v. Mealy, 851 F.2d 890, 908 (7th Cir. 1988).

This Court finds counsel's rationale to safeguard Applicant's discovery materials from the prying eyes of opportunistic inmates in county detention to be a valid reason not to leave copies of the State's discovery with Applicant. See Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992) (where counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel). Furthermore, this Court is convinced that counsel discussed ~~all~~ of the State's evidence and the statements with Applicant during their consultations. Counsel's convincing testimony on the matter was supported by his experience and by the significant attention he paid to this case. In comparison, Applicant's contrary representations were incredible. This Court finds it significant that Applicant suffered "convenient amnesia" when questioned on matters harmful to his allegations. Therefore, this allegation is denied and dismissed with prejudice.

Similarly, Applicant fell well short to meet his burden to prove counsel's performance was either deficient or ineffective for failing to pursue a defense theory of duress. "Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011). In State v. Robinson, 294 S.C. 120, 363 S.E.2d 104 (1987), the South Carolina Supreme Court explained the defense of coercion:

To excuse a criminal act, the degree of coercion must be present, imminent, and of such a nature as to induce a well-grounded apprehension of death or serious bodily harm if the act is not done. Coercion is no defense if there is any reasonable way, other than committing the crime, to escape the threat of harm. The fear of injury must be reasonable.

*Id.* at 121–22, 363 S.E.2d at 104 (citations omitted). "Coercion and duress envision a third person compelling another by threat of immediate physical violence to commit a crime against

someone else or someone else's property." State v. Crawford, 362 S.C. 627, 646, 608 S.E.2d 886, 896 (S.C. Ct. App. 2005). This Court finds counsel's testimony on the matter credible. Counsel testified that a defense theory of duress was not viable in Applicant's case because he had at one time during the murders separated from the co-defendant. Furthermore, the Record shows that he also had numerous other instances to reasonably disengage from the brutal murders. See Gumangan v. U.S., 254 F.3d 701, 705 (8th Cir. 2001) (defense of coercion by co-defendant was unlikely to succeed at trial). Regardless, a defense theory of duress was not possible as a matter of law. See State v. Kelsey, 331 S.C. 50, 502 S.E.2d 63 (1998) (holding duress is not a defense to murder). Applicant wholly failed to produce any competent evidence or testimony that showed counsel's rationale here was defective. Counsel has dual investigative responsibilities to investigate possible defenses and then to select the most appropriate one. Mickey v. Ayers, 606 F.3d 1223, 1236-37 (9th Cir. 2010). Therefore, this allegation is readily denied and dismissed with prejudice.

Applicant failed to meet his burden to prove that counsel's performance in failing to submit him for a competency evaluation was either deficient or ineffective. Counsel's testimony was convincing on the matter; furthermore, counsel's impressions of Applicant's competency were also shared by Dr. Schwartz-Watts. Regardless, Applicant has presented no credible evidence or testimony to undercut counsel's sound performance here. See Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995) (applicant's allegations, alone, will not support a finding of prejudice when applicant claims counsel was ineffective for failing to investigate witnesses; instead, applicant must show the results of an investigation would have resulted in a different outcome at trial). Therefore, this allegation is denied and dismissed with prejudice.

B.

Applicant has failed to meet his burden to prove his guilty plea was rendered involuntary by counsel's performance on failing to ensure the Solicitor honored a purported promise to recommend the mandatory minimum on the murder charges. "When a defendant agrees to [a] plea bargain, the Government takes on certain obligations. If those obligations are not met, the defendant is entitled to seek a remedy which might in some cases be rescission of the agreement, allowing him to take back the consideration he has furnished, i.e., to withdraw his plea."

Puckett v. United States, 556 U.S. 129 (2009). This Court finds that the allegation's underlying assertion is incredible. This Court finds Applicant's testimony on the matter to be not credible and facially dubious. The Court finds counsel's testimony that the Solicitor did not depart from the executed plea agreement to be dispositive. Missouri v. Frye, 132 S. Ct. 1399, 1408-09, 182 L. Ed. 2d 379 (2012) (emphasis added) ("The prosecution and the trial courts may adopt some measures to help ensure against late, frivolous, or fabricated claims").

Alternatively, Applicant has provided this Court no competent reason why he should be able to depart from the assurances and statements that he made to Judge McIntosh and to Judge Welmaker. See Wyatt v. U.S., 574 F.3d 455 (7th Cir. 2009) (transcript shows he said decision to plead was not tied to any particular sentence and sentence possibilities were explained).

Therefore, this allegation is denied and dismissed with prejudice.

### C.

Except as discussed above, this Court finds that the Applicant affirmatively abandoned the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the

doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

**CONCLUSION**


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

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

**IT IS THEREFORE ORDERED**

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


AND IT IS SO ORDERED this 5<sup>th</sup> day of June

  
EDGAR W. DICKSON  
Presiding Judge  
Tenth Judicial Circuit

FILED OCTOBER 26 2015  
BENJAMIN H. WHITFIELD  
CLERK OF COURT  
A 10 51

Orangeburg, South Carolina

C.A. No. 2012-CP-37-615, page 10 of 10

A TRUE COPY  
JUN 18 2015  


**WITNESSES**

HAWK, Oconee Co Sheriff's Dept.

*Justin Ward*

**The State of South Carolina**

County of Oconee

COURT OF GENERAL SESSIONS

AUG 02 2010

Term

**ARREST WARRANT NUMBER**

N136605

**THE STATE**

vs.

William Cannon Gresham

**ACTION OF GRAND JURY**

*True Bill*

CTA

*Chris Cobble*  
Foreperson of Grand Jury      AUG 2 2010  
Date:

**Indictment for**

**VERDICT**

**Murder**

SC Code: 16-03-0010, 0020  
CDR Code: 0116

Foreperson of Petit Jury  
Date:

2010 AUG - 2 A 11: 56

FILED IN OCONEE, SC  
BEVERLY H. WHITEFIELD  
CLERK OF COURT

ENTERED  
COMPUTER



**WITNESSES**

HAWK, Oconee Co Sheriff's Dept.

*Justin Ward*

**The State of South Carolina**

County of Oconee

COURT OF GENERAL SESSIONS  
AUG 02 2010

Term

**ARREST WARRANT NUMBER**

N136606

**THE STATE**

vs.

William Cannon Gresham

**ACTION OF GRAND JURY**

*True Bill*

CTA

**Indictment for**

**Murder**

SC Code: 16-03-0010, 0020  
CDR Code: 0116

**VERDICT**

*Chris O'Leary*  
Foreperson of Grand Jury      AUG 2 2010  
Date:

Foreperson of Petit Jury  
Date:

FILED IN OCONEE, SC  
BEVERLY L. WHITFIELD  
CLERK OF COURT  
2010 AUG -2 A 11:56

ENTERED  
COMPUTER



**WITNESSES**

HAWK, Oconee Co Sheriff's Dept.

*Justin Ward*

**The State of South Carolina**

County of Oconee

COURT OF GENERAL SESSIONS  
AUG 02 2010

**Term**

**ARREST WARRANT NUMBER**

N136607

**THE STATE**

vs.

**William Cannon Gresham**

**ACTION OF GRAND JURY**

*True bill*

CTA

*Chris Potts*  
Foreperson of Grand Jury      AUG 2 2010  
Date:

**Indictment for**

**VERDICT**

**Kidnapping**

SC Code: 16-03-0910  
CDR Code: 0095

Foreperson of Petit Jury  
Date:

FILED IN OCONEE, SC  
BEVERLY L. WHITFIELD  
CLERK OF COURT  
2010 AUG - 2 A 11: 56

ENTERED  
COMPUTER

STATE OF SOUTH CAROLINA )  
COUNTY OF Oconee )

INDICTMENT

At a Court of General Sessions, convened on AUG 02 2010, the Grand Jurors of Oconee County present upon their oath:

**Kidnapping**

That **William Cannon Gresham** did in Oconee County, on or about the **April 19, 2010**, unlawfully seize, abduct, confine, inveigle, decoy or carry away Jerry Lander Corley, to wit: defendant did force the victim at gun point to get into a vehicle at [REDACTED], Salem, South Carolina and was then transported to the Pine Lane area of Tamassee, South Carolina where he was tied up and shot multiple times, without the authority of law. This is in violation of §16-3-0910 of the South Carolina Code of Laws (1976) as amended

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

  
ASSISTANT SOLICITOR

WITNESSES

HAWK, Oconee Co Sheriff's Dept.

*Justin Ward*

The State of South Carolina  
County of Oconee

COURT OF GENERAL SESSIONS  
AUG 02 2010

Term

FILED IN OCONEE, SC  
BEVERLY L. WHITFIELD  
CLERK OF COURT  
2010 AUG -2 A 11:56

ARREST WARRANT NUMBER

N136608

THE STATE

vs.

William Cannon Gresham

ACTION OF GRAND JURY

*True Bill*

CTA

*Chris Adde*  
Foreperson of Grand Jury  
Date: AUG 2 2010

Indictment for

VERDICT

Kidnapping

SC Code: 16-03-0910  
CDR Code: 0095

Foreperson of Petit Jury  
Date:

ENTERED  
COMPUTER

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF Oconee )

INDICTMENT

At a Court of General Sessions, convened on AUG 02 2010, the Grand Jurors of Oconee County present upon their oath:

**Kidnapping**

That **William Cannon Gresham** did in Oconee County, on or about the **April 19, 2010**, unlawfully seize, abduct, confine, inveigle, decoy or carry away Audrey Scull, to wit: defendant did force the victim at gun point to get into a vehicle at [REDACTED], Salem, South Carolina and then was transported to the Pine Lane area of Tamasee, South Carolina where she was tied up and murdered, without the authority of law. This is in violation of §16-3-0910 of the South Carolina Code of Laws (1976) as amended.

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

  
ASSISTANT SOLICITOR

**WITNESSES**

HAWK, Oconee Co Sheriff's Dept.

*Justin Ward*

**The State of South Carolina  
County of Oconee**

**COURT OF GENERAL SESSIONS  
AUG 02 2010**

**Term**

2010 AUG - 2 A 11: 55

FILED IN OCONEE, SC  
BEVERLY A. WHITFIELD  
CLERK OF COURT

**ARREST WARRANT NUMBER**

N136609

**THE STATE**

**vs.**

**William Cannon Gresham**

**ACTION OF GRAND JURY**

*True Bill*

CTA

**Indictment for**

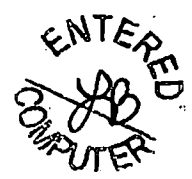
**Burglary (After June 20, 1985) - First Degree**

SC Code: 16-11-0311  
CDR Code: 0079

**VERDICT**

*Chris Pelti*  
Foreperson of Grand Jury  
Date: AUG 2 2010

Foreperson of Petit Jury  
Date:



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF Oconee )

INDICTMENT

At a Court of General Sessions, convened on AUG 02 2010, the Grand Jurors of Oconee County present upon their oath:

**Burglary (After June 20, 1985) - First degree**

That **William Cannon Gresham** did in Oconee County, on or about **April 19, 2010**, willfully and unlawfully enter the dwelling of Jerry and Eloise Corley located at \_\_\_\_\_ Drive, Salem, South Carolina, without consent and with the intent to commit a crime therein and aggravating circumstances were present, to wit: when, in effecting entry or while in the dwelling or in immediate flight he or another participant in the crime, was armed with a deadly weapon or explosive; and/or did cause physical injury to a person who was not a participant in the crime. This is in violation of §16-11-311 of the South Carolina Code of Laws (1976) as amended

2010

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

  
ASSISTANT SOLICITOR

**WITNESSES**

HAWK, Oconee Co Sheriff's Dept.

*Justin Ward*

**The State of South Carolina**

**County of Oconee**

**COURT OF GENERAL SESSIONS**

**AUG 02 2010**

**Term**

2010 AUG - 2 A 11:56

FILED OCONEE, SC  
BEVERLY H. WHITFIELD  
CLERK OF COURT

**ARREST WARRANT NUMBER**

N136610

**THE STATE**

**vs.**

**William Cannon Gresham**

**ACTION OF GRAND JURY**

*True Bill*

**CTA**

**Indictment for**

*Chris Oble*  
Foreperson of Grand Jury      AUG 2 2010  
Date:

**VERDICT**

**ASSAULT AND BATTERY WITH INTENT TO  
KILL (ABWIK)**

SC Code: 16-03-0620  
CDR Code: 0014

Foreperson of Petit Jury  
Date:

ENTERED  
COMPUTER

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF Oconee )

INDICTMENT

At a Court of General Sessions, convened on AUG 02 2010, the Grand Jurors of Oconee County present upon their oath:

**ASSAULT AND BATTERY WITH INTENT TO KILL (ABWIK)**

That **William Cannon Gresham** did in Oconee County on or about **April 19, 2010**, with malice aforethought, commit an assault and battery upon one Jerry Lander Corley, to wit: defendant did shoot the victim multiple times with a pistol with intent to kill the said victim. All in violation of Section 16-3-620, *Code of Laws of South Carolina*, (1976), as amended.

FILED

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

  
ASSISTANT SOLICITOR

**WITNESSES**

HAWK, Oconee Co Sheriff's Dept.

*Justin Ward*

**The State of South Carolina**  
**County of Oconee**

**COURT OF GENERAL SESSIONS**

**AUG 02 2010**

**Term**

**ARREST WARRANT NUMBER**

N136611

**THE STATE**

**VS.**

**William Cannon Gresham**

**ACTION OF GRAND JURY**

*True Bill*

CTA

**Indictment for**

*Chris Cobb*  
Foreperson of Grand Jury

Date: AUG 2 2010

**Possession Of Weapon During Violent Crime**

SC Code: 16-23-0490

CDR Code: 0549

**VERDICT**

Foreperson of Petit Jury

Date:

FILED OCONEE, SC  
BEVERLY J. WHITFIELD  
CLERK OF COURT  
2010 AUG -2 A 11:56



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF Oconee )

INDICTMENT

At a Court of General Sessions, convened on AUG 02 2010, the Grand Jurors of Oconee County present upon their oath:

**Possession Of Weapon During Violent Crime**

That William Cannon Gresham, did in Oconee County on or about April 19, 2010, while committing the crimes of Burglary, Kidnapping, Murder and Assault and Battery with Intent to Kill, crimes of violence, have in his possession a pistol, knife and hammer, all in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

FILED

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

  
ASSISTANT SOLICITOR

**WITNESSES**

HAWK, Oconee Co Sheriff's Dept.

*Justin Ward*

**The State of South Carolina**  
**County of Oconee**

**COURT OF GENERAL SESSIONS**  
**AUG 02 2010**

**Term**

**ARREST WARRANT NUMBER**

N136612

**THE STATE**

**VS.**

**William Cannon Gresham**

**ACTION OF GRAND JURY**

*True Bill*

CTA

**Indictment for**

**Grand Larceny, value \$5,000 or more**

SC Code: 16-13-0030(B)(2)  
CDR Code: 0479

**VERDICT**

*Chris Cobb*  
Foreperson of Grand Jury      AUG 2 2010  
Date:

Foreperson of Petit Jury  
Date:

FILED IN OCONEE, SC  
BEVERLY H. WHITFIELD  
CLERK OF COURT

2010 AUG -2 A 11:56

ENTERED  
*JB*  
COMPUTER

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF Oconee )

INDICTMENT

At a Court of General Sessions, convened on AUG 02 2010, the Grand Jurors of Oconee County present upon their oath:

**Grand Larceny, value \$5,000 or more**

That **William Cannon Gresham** did in Oconee County, on or about the **April 19, 2010**, feloniously take and carry away the personal property of Kim Corley, valued at more than \$5000, described as follows: a 2009 Honda Fit, with intent to deprive the owner permanently of such property. This is in violation of §16-13-30(B)(2) of the South Carolina Code of Laws (1976) as amended.

2010

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

  
ASSISTANT SOLICITOR