

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

—————  
Certiorari to Berkeley County

Honorable Brooks P. Goldsmith, Circuit Court Judge  
—————

ARTHUR RAY CHAVIS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002050  
—————

APPENDIX  
—————

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| STATE OF SOUTH CAROLINA  | ) | COURT OF GENERAL SESSIONS |
|                          | ) | NINTH JUDICIAL CIRCUIT    |
| COUNTY OF BERKELEY       | ) |                           |
|                          | ) |                           |
| STATE OF SOUTH CAROLINA, | ) | CASE NO. 2012-GS-08-1978  |
|                          | ) | 2012-GS-08-1979           |
|                          | ) | 2012-GS-08-1980           |
| PLAINTIFF,               | ) | 2012-GS-08-1981           |
|                          | ) | 2012-GS-08-1982           |
|                          | ) | 2015-GS-08-0604           |
|                          | ) |                           |
|                          | ) | TRANSCRIPT OF RECORD      |
|                          | ) |                           |
| VS.                      | ) |                           |
|                          | ) |                           |
| ARTHUR RAY CHAVIS, III,  | ) |                           |
|                          | ) |                           |
| DEFENDANT.               | ) |                           |

April 21, 2015

Moncks Corner, South Carolina

B E F O R E:

The Honorable Kristi L. Harrington

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

Bryan A. Alfaro, Assistant Solicitor  
For the State

Grover C. Seaton, IV, Esquire  
For the Defendant

I N D E X

GUILTY PLEA HEARING -- 03

EXHIBITS - None Proffered

CERTIFICATION OF TRANSCRIPT -- 23

If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

1 THE COURT: Are you Arthur Ray Chavis?

2 MR. CHAVIS: Yes, ma'am.

3 THE COURT: Please swear the defendant.

4 (WHEREUPON, the defendant was duly sworn.)

5 THE COURT: Mr. Chavis, you are here to plead  
6 guilty on 2012-GS-08-1978, 1979, 1980, 1981, 1982, and  
7 2015-GS-08-0604; the 2015 case has not been presented to the  
8 Grand Jury of Berkeley County; you have initialed the  
9 sentencing sheet indicating that you waive presentment; is  
10 that correct?

11 MR. CHAVIS: Yes, ma'am.

12 THE COURT: Mr. Seaton, you represent Mr. Chavis?

13 MR. SEATON: I do, Your Honor.

14 THE COURT: Have you explained to Mr. Chavis his right  
15 to have this case presented to the Grand Jury?

16 MR. SEATON: I have.

17 THE COURT: And Mr. Alfaro, this is a negotiated plea?

18 MR. ALFARO: Yes, Your Honor. The State has negotiated  
19 a 25-year sentence on each count of voluntary manslaughter  
20 as well as each count of armed robbery, and a five-year  
21 sentence on both possession of a weapon during the  
22 commission of a violent crime. All sentences are to run  
23 concurrent.

24 THE COURT: Have the victims been notified?

25 MR. ALFARO: Yes, Your Honor. They are present in the

1 courtroom.

2 THE COURT: Mr. Chavis, tell me about yourself. How  
3 old are you?

4 MR ALFARO: Twenty-six.

5 THE COURT: How far did you go in school?

6 MR. CHAVIS: Ninth-grade.

7 THE COURT: Do you have a GED?

8 MR. CHAVIS: No, ma'am.

9 THE COURT: What type of work do you do?

10 MR. CHAVIS: Construction.

11 THE COURT: Have you ever been treated for the abuse of  
12 drugs or alcohol?

13 MR ALFARO: No, ma'am.

14 THE COURT: Have you ever been treated for mental  
15 illness?

16 MR. CHAVIS: No, ma'am.

17 THE COURT: Sir, I can sentence you on the voluntary  
18 manslaughter up to 30 years in the Department of  
19 Corrections. Do you understand that is a possible  
20 punishment?

21 MR. CHAVIS: Yes, ma'am.

22 THE COURT: On the armed robbery I must sentence you  
23 from ten to thirty. Do you understand that is the potential  
24 punishment?

25 MR. CHAVIS: Yes, ma'am.

1 THE COURT: On the possession of a weapon during a  
2 violent crime I can sentence you up to five years with the  
3 Department of Corrections. Do you understand that is a  
4 possible punishment?

5 MR. CHAVIS: Yes, ma'am.

6 THE COURT: Do you understand on the voluntary  
7 manslaughter it is considered a violent and a most serious  
8 offense?

9 MR ALFARO: Yes, ma'am.

10 THE COURT: Have you explained to your client what that  
11 means, Mr. Seaton?

12 MR. SEATON: Yes, Your Honor.

13 THE COURT: And as to the armed robbery it is  
14 considered a violent and most serious offense.

15 Did you also explain to your client what that means?

16 MR. SEATON: Yes, Your Honor.

17 THE COURT: Mr. Chavis, do you understand what those  
18 two classifications mean to you?

19 MR ALFARO: Yes, ma'am.

20 THE COURT: In your own words to the best of your  
21 ability please explain to me what the violent and the most  
22 serious mean?

23 MR. CHAVIS: It means -- I am not really sure, really.

24 THE COURT: All right. Mr. Chavis, it is important for  
25 you to enter into this plea freely, voluntarily, knowingly

1 and intelligently. Have you talked to your attorney about  
2 all of your constitutional rights?

3 MR. CHAVIS: Yes, ma'am.

4 THE COURT: And do you understand -- did you --

5 Talk to him about the classification of two of these  
6 offenses as being violent.

7 (WHEREUPON, Mr. Seaton confers with Mr. Chavis.)

8 MR. CHAVIS: Yes, ma'am.

9 THE COURT: In your own words I just need to understand  
10 that you know what we are doing here today. Can you explain  
11 it to me in your own words?

12 MR. CHAVIS: It means that if I caught another charge I  
13 could get life.

14 THE COURT: All right, that is what the most serious  
15 classification is. Sometimes people refer to it as strikes,  
16 three strikes. And so you now are pleading guilty to a most  
17 serious offense on the voluntary manslaughter, two counts,  
18 and the armed robbery, two counts; so that you now have a  
19 most serious offense on the record. Do you understand?

20 MR ALFARO: Yes, sir.

21 THE COURT: So in the future if you commit a  
22 combination of a serious or most serious the State could  
23 seek to impose life without parole. Do you understand what  
24 that classification means?

25 MR ALFARO: Yes, ma'am.

1 THE COURT: The violent classification has to do with  
2 the amount of time that you may be required to serve.  
3 Sometimes attorneys tell their client 65 percent, 85  
4 percent. Have you had that discussion with Mr. Seaton?

5 MR. CHAVIS: Yes, ma'am.

6 THE COURT: And that may be, but that is up to the  
7 Department of Corrections to determine whether or not you  
8 were eligible for a certain percentage. Do you understand?

9 MR. CHAVIS: Yes, ma'am.

10 THE COURT: I tell defendants that they should assume  
11 that they will serve day for day the sentence that I am  
12 about to impose. Do you understand that?

13 MR. CHAVIS: Yes, ma'am.

14 THE COURT: Do you understand what the negotiated plea  
15 is?

16 MR. CHAVIS: Twenty-five.

17 THE COURT: Twenty-five years with -- on the voluntary  
18 manslaughter and the armed robbery, and then the weapons --  
19 the two weapons charges are concurrent?

20 MR. ALFARO: Yes, Your Honor.

21 THE COURT: If after hearing your facts and your prior  
22 record, if any, I cannot accept that negotiation I will  
23 allow you to withdraw this plea. Do you understand?

24 MR ALFARO: Yes, ma'am.

25 THE COURT: I can't give you any more time, but I also

1 cannot give you any less time. Do you understand?

2 MR. CHAVIS: Yes, ma'am.

3 THE COURT: Sir, you do not have to plead guilty here  
4 today. I understand you were on the trial docket; is that  
5 correct?

6 MR ALFARO: Yes, ma'am.

7 THE COURT: By pleading guilty you are giving up your  
8 right to a trial, your right to have a jury determine your  
9 guilt beyond a reasonable doubt based upon the facts and the  
10 evidence the State presents as well as any evidence that you  
11 may introduce, your right against self-incrimination, your  
12 right to say nothing at all, your right to confront and be  
13 confronted by the witnesses against you as well as the right  
14 to call witnesses on your behalf.

15 By pleading guilty here today you give up any defense  
16 you have to any of these charges. Do you understand those  
17 rights?

18 MR. CHAVIS: Yes, ma'am.

19 THE COURT: And do you waive those rights at this time?

20 MR. CHAVIS: Yes, ma'am.

21 THE COURT: Understanding the charges that you are  
22 facing, the possible punishment, as well as the consequences  
23 of this plea, how do you plead to involuntary manslaughter  
24 involving -- excuse me, voluntary manslaughter involving  
25 June Guerry?

1 MR. CHAVIS: Guilty.

2 THE COURT: How do you plead to invol- -- to voluntary  
3 manslaughter involving Dana Woods?

4 MR. CHAVIS: Guilty.

5 THE COURT: How do you plead to armed robbery?

6 MR. CHAVIS: Guilty.

7 THE COURT: How do you plead to possession of a weapon  
8 during the commission of a crime?

9 MR. CHAVIS: Guilty.

10 THE COURT: How do you plead to possession of a weapon  
11 involving June Guerry?

12 MR. CHAVIS: Guilty.

13 THE COURT: How do you plead to armed robbery involving  
14 June Guerry?

15 MR. CHAVIS: Guilty.

16 THE COURT: Are you pleading guilty to these six  
17 indictments because you in fact are guilty?

18 MR. CHAVIS: Yes, ma'am.

19 THE COURT: Has anybody promised you anything,  
20 threatened you, forced you to plead guilty here today?

21 MR. CHAVIS: No, ma'am.

22 THE COURT: Whose decision was it for you to plead  
23 guilty?

24 MR. CHAVIS: Mine.

25 THE COURT: Has anybody promised you anything,

1 threatened you, forced you to plead guilty here today?

2 MR. CHAVIS: No, ma'am.

3 THE COURT: Have you been satisfied with the services  
4 of your attorney?

5 MR. CHAVIS: Yes, ma'am.

6 THE COURT: Any complaints about the way he has handled  
7 this case?

8 MR. CHAVIS: No, ma'am.

9 THE COURT: You have the right to appeal this plea and  
10 the sentence that I will impose, but you or your attorney  
11 must do so within ten days. Do you understand?

12 MR. CHAVIS: Yes, ma'am.

13 THE COURT: Please listen to the facts. Mr. Alfaro.

14 MR. ALFARO: Thank you, Your Honor. On Sunday, August  
15 26th, the two victims in this case, June Guerry and Dana  
16 Woods, were at Dana's mother's house in St. Stephen.

17 The girls left the residence to take a young child home  
18 that was being babysat at that location because she was  
19 sick. The plan was that they were going to take the child  
20 home and then go to Burger King to pick up some food for  
21 Dana's mother and bring it back to her.

22 The girls left the residence in Dana's white Chevy  
23 Metro. It had silver doors. Dana's mother spoke with Dana  
24 on the phone just before midnight when the girls were at the  
25 Burger King drive-through.

1           Shortly before that the manager of Papa John's Pizza in  
2 Moncks Corner, where Dana had worked before, reported to  
3 police that he had spoken with her on the phone. During  
4 both conversations the girls were laughing and everything  
5 appeared to be fine.

6           Dana told her mother while she was at Burger King that  
7 they were going to take a friend of June's home first and  
8 then they would be back home.

9           When the girls failed to come back home Dana's mother  
10 began calling her and June's phone repeatedly but never  
11 received an answer. These phone calls started about 12:30  
12 in the morning and continued throughout the morning. Around  
13 5:00 a.m. the calls began going straight to voicemail.

14           That morning both families began frantically looking  
15 for the girls, filed a missing person's report with Berkeley  
16 County Sheriff's Office.

17           That morning June's brother and father were riding  
18 together and saw Dana's car driving over Highway 52, the  
19 Tailrace Canal. They were only able to see one person in  
20 the car who was described as a white male with a close  
21 haircut. They attempted to follow the car onto 402 but lost  
22 sight.

23           Throughout Monday the search -- the community as well  
24 as the families were searching for both girls. On Tuesday,  
25 August 28th, an individual was at Cane Gulley Road near

1 Forestry Road when he came across the burned-out remains of  
2 Dana's car.

3 Berkeley County Sheriff deputies responded to the scene  
4 and conducted a search of the area. A short distance away  
5 from the car deputies located the body of Dana Woods. Dana  
6 was naked from the waist down. Her shorts and underwear  
7 were found a short distance from the body. And it appeared  
8 that she had been dragged to that location. And someone had  
9 actively attempted to actively cover her body with leaves  
10 and brush.

11 In the area deputies also located two 9 millimeter  
12 shell casings, an unfired nine millimeter round, and a  
13 receipt with Dana's name on it.

14 The autopsy of Dana was done and revealed that she had  
15 been killed as a result of two gunshot wounds, one to the  
16 back of the skull and one to the front cheek.

17 This defendant was interviewed during the week  
18 regarding the two missing girls and initially told police  
19 that the last time he had talked to June was two weeks prior  
20 and the last time he had seen June was about a month prior.  
21 At that time he denied any knowledge of murders or the  
22 girls' whereabouts.

23 After Dana was found the search for June's body con- --  
24 or June continued. On Wednesday her body was found near  
25 Alvin near Greenwood Road and Walleye Road C.

1           A man was walking in the area and saw a red shirt  
2 hanging from some bushes in the area. He went over to  
3 investigate and when he looked down the embankment he saw  
4 June's body about seven or eight feet -- or seven to ten  
5 feet down the embankment.

6           An autopsy of June was conducted and revealed that her  
7 cause of death was a single gunshot wound to the back of the  
8 head.

9           By Saturday Berkeley County Sheriff's deputies had  
10 received information that the codefendant, Caleb Matlock,  
11 and this defendant were suspects in it.

12           They went to Matlock's last known address on Regent  
13 Street in Summerville. When they were speaking with the  
14 owners of the residence Matlock ran out the back of the  
15 residence carrying a backpack.

16           He was subsequently caught and the backpack was  
17 recovered. The backpack contained what was determined by  
18 SLED's ballistics to be the murder weapon, a nine millimeter  
19 pistol.

20           Matlock was arrested, interviewed by detectives. He  
21 admitted that the weapon that they found in his backpack was  
22 the weapon that was used to kill both girls and that both  
23 girls' bodies had been dumped and hidden.

24           At that time he was asked if this defendant was  
25 involved, and he said that he was not. Around the same time

1 Arthur Chavis was brought back in to speak with police.  
2 Gave a second interview. At which time he did confess that  
3 they had tricked the girls into going into Cane Gulley Road  
4 where Dana was found. Matlock had told the girls that he  
5 had left his wallet out there and would give them money if  
6 they would help him find it. He acknowledged that he knew  
7 Matlock wanted to steal their car to commit a separate  
8 robbery.

9 His version of events was as they were walking up the  
10 path, all four together, Matlock pulled out a pistol and  
11 shot Dana first and then shot June.

12 He did not admit to having a role of hiding Dana's  
13 body. He said Matlock put June's body in the trunk of the  
14 car, the girls' car, by himself. However, he does admit in  
15 that statement that he had helped empty out the trunk and  
16 that he moved the vehicle prior to Matlock putting the body  
17 in the trunk of the car. He indicated that Matlock kept the  
18 murder weapon as well.

19 Matlock's girlfriend was also interviewed regarding her  
20 knowledge of the incident. She indicated that she took  
21 Matlock to this defendant's home Sunday night around 10:30  
22 or 10:45 and dropped him off.

23 She said that around midnight she received a call from  
24 Matlock who indicated that June had called and they were  
25 going to be hanging out. She called back to yell at him.

1 She was angry about that.

2 And Matlock told her he was going to kill June because  
3 Ray had told him they should kill her and take the car to do  
4 a robbery. That is Matlock's version of what happened out  
5 there.

6 Around 3:00 or 4:00 in the morning he came home and  
7 indicated that he had killed June and Dana. He left her  
8 residence at around 8:00 a.m. that morning.

9 Around noon that day Denning picked Matlock up from  
10 near Chavis' home and told her that he had burned June's car  
11 and he was with her.

12 Matlock had indicated to Amanda that the girls were  
13 walking, he had a flashlight, he stopped and told them he  
14 had to talk to Ray. And his version to police, Matlock's  
15 version to police, was that Ray didn't know that the  
16 shooting was going to happen. They had had discussions  
17 about a separate robbery of an ATM but that he had no direct  
18 knowledge that Matlock was going to murder the two girls.

19 This defendant had agreed to testify against Matlock at  
20 Matlock's trial, which was initially on the trial docket in  
21 June of last year.

22 His agreement to testify, the State would acknowledge,  
23 played -- likely played a part in Caleb Matlock's decision  
24 to plead guilty and allow the family to avoid a trial at  
25 that time.

1           Part of his agreement to testify involved proffered  
2 agreement with the State. During the course of his proffers  
3 he admitted having discussions with Matlock about doing the  
4 robbery of an ATM and stealing a car to complete that  
5 robbery.

6           He described the story that the girls were told when  
7 June called that night about looking for the wallet. In  
8 addition as part of his proffer, statements were made to an  
9 FBI polygraph examiner that he had knowledge that Matlock  
10 was going to steal the car when they agreed to meet that  
11 night.

12           As I said, the bullet that was -- there was a bullet  
13 recovered from Dana's body at autopsy. And that bullet  
14 along with shell casings from the scene were conclusively  
15 shown to have been fired by Matlock's weapon.

16           Your Honor, as I said, the willingness of this  
17 defendant to testify against the codefendant, who did in  
18 fact plead guilty and received a 55-year sentence last  
19 year, was a significant reason for this negotiation and  
20 this plea.

21           There were also issues that the State acknowledges  
22 would face at trial if -- a trial of this defendant in that  
23 all the physical evidence pointed directly to the  
24 codefendant who has pled guilty and that there was no  
25 indication that this defendant shot either victim.

1           However, this is clearly a case of hand-of-one,  
2 hand-of-all, in that they -- there was acknowledgment and  
3 evidence of a plan to steal a car and to commit a robbery.  
4 And through the course of that and stealing of the vehicle  
5 both girls were killed.

6           Obviously the law supports -- the hand-of-one law  
7 supports that. However, there could clearly be possible  
8 jury issues of trying this defendant when there is a  
9 co-defendant who has already pled guilty and his guilt is  
10 essentially in question.

11           His only prior -- or his prior record is a 2011  
12 burglary third conviction.

13           THE COURT: Does the family wish to address the court?

14           MR. ALFARO: Yes, Your Honor. As I said, family  
15 members from June and Dana's family are present. They are  
16 present in the first part of the courtroom.

17           THE COURT: Happy to hear from either or both.

18           MR. ALFARO: Dana's mother does wish to address you.

19           THE COURT: Ma'am, I need you to state your full name  
20 for the record and please spell your last name.

21           MS. HILL: Jennifer Renee Hill, H-I-L-L. Addressing  
22 you today is harder than having to addressing Matlock in  
23 court. Personally because I have had more time to think  
24 about exactly what I wanted to say to you, 967 days to be  
25 exact.

1           That is how long it has been since I've seen my  
2 daughter's face. Nine hundred sixty-seven days if how long  
3 it has been since I have heard her laugh or seen her  
4 beautiful smile. Nine hundred and sixty-seven days since I  
5 have heard Jim say I will see later as she walked out my  
6 front door with a smile and a wave goodbye. Two-and-a-half  
7 years since our daughter can wrap her arms around her  
8 mamma's neck.

9           As I waited these last two years, seven months and  
10 twenty-six days I've only wondered why. Why did you two  
11 pick these two beautiful girls. June was a single mom who  
12 was trying to raise her daughter right and doing a good job  
13 at it. Dana who had just turned eighteen two months prior  
14 was close to finishing her paralegal degree and on her way  
15 to law school with a 3.8 GPA.

16           My life will never be answered because you and Matlock  
17 decided to plea. That is fine, because that may have saved  
18 both our families some additional pain.

19           I've had people message me on Facebook and say they  
20 can't believe that you did this, that you were like a big  
21 brother to them.

22           You might not have pulled the trigger that night, but  
23 you might as well have. You knew we were out searching for  
24 Dana and June but you did not come forward to help us find  
25 them. You could have told us where they were and we might

1 not be standing here today.

2 You didn't just ruin your own lives. You scarred the  
3 hearts of parents, grandparents, siblings and friends. You  
4 two managed to make an entire community feel unsafe in their  
5 own backyards.

6 But not anymore. We are taking our community back, and  
7 you two have lost your 15 minutes of fame. Our community  
8 will no longer mention you two boys when referring to Dana  
9 and June. Dana and June will forever live in all of our  
10 hearts and memories as you two slowly age in a jail cell.

11 I hope for your sake you have learned a valuable  
12 lesson, not to cover for someone who has done wrong.  
13 Unfortunately covering this crime and any other involvement  
14 you had in it has cost you a quarter of your life in  
15 freedom.

16 Thank you.

17 MR. ALFARO: Your Honor, as I indicated, there are  
18 other family members present but none which to address the  
19 court. That is all the State has, Your Honor.

20 THE COURT: Mr. Chavis, you heard the facts as  
21 presented by the State. Are those facts true, sir; is that  
22 what you did?

23 MR. CHAVIS: Yes, ma'am.

24 THE COURT: I find a substantial factual basis for your  
25 plea, that your decision to plead guilty has been freely,

1 voluntarily, willingly and intelligently made. You have  
2 indicated to the court you have had the advice of counsel of  
3 a competent attorney with whom you have told the court you  
4 are satisfied.

5 I hereby accept your plea of guilt on 2012-GS-08-1978,  
6 1979, 1980, 1981, 1982, and 2015-GS-08-0604.

7 Mr. Seaton, happy to hear from you.

8 MR. SEATON: Thank you, Your Honor. First, we are  
9 certainly asking that the court accept the negotiated plea.  
10 We believe it is in the best interest of all involved. We  
11 are also asking pursuant to the statute that he be given  
12 credit for the 962 days that he has already done.

13 Your Honor, as you have heard, he has cooperated with  
14 the -- both the Sheriff's Office and the Solicitor's Office  
15 through his proffer agreement and passed the polygraph in  
16 which he continued to state that he had no idea that Caleb  
17 was going to kill these girls.

18 He understands that through accomplice liability that  
19 the hand-of-one is the hand-of-all and that when they were  
20 up to no good that that means that he has the same sort of  
21 responsibility that Caleb had for their deaths.

22 In the last three years that I have been -- almost  
23 three years -- going on three years that I have been meeting  
24 with Ray on a regular basis he has no way of expressing the  
25 remorse that he feels for not having stood up either to his

## STATE VS. ARTHUR RAY CHAVIS, III

1 cousin or to do the right thing and come forward with the  
2 information that he had after his cousin did this.

3 But all he can do -- the only way he can atone for it  
4 is through the cooperation that he has already given. We --  
5 as I said, we spent quite a bit of time with the Solicitor's  
6 Office in discussing the facts of the case and he went and  
7 was polygraphed by the FBI and now been standing here in  
8 front of you and realizing that he is going to spend 25  
9 years, as the victim's mother stated, a quarter of his life,  
10 paying for a serious mistake that he made.

11 We believe that this is what is in the best interest of  
12 all involved. We simply ask that you accept this negotiated  
13 plea and allow him to serve the time that he is facing, Your  
14 Honor.

15 THE COURT: Mr. Chavis, do you wish to address the  
16 court?

17 Mr. Chavis: No, ma'am.

18 THE COURT: Anything further, Mr. Seaton?

19 MR. SEATON: No, Your Honor.

20 THE COURT: Anything further from the State?

21 MR. ALFARO: No, Your Honor.

22 THE COURT: It is the order of the court on  
23 2012-GS-08-1978, 1979, 1980, and 2015-GS-08-0604 that you be  
24 committed to the State Department of Corrections for a term  
25 of 25 years.

1           It is the order of the court on 2012-08-1981 and 1982  
2 that you be committed to the State Department of Corrections  
3 for a term of five years. Those all -- those six  
4 indictments will run concurrent and you will be given credit  
5 for 962 days. Good luck to you.

6           MR. SEATON: Thank you, Your Honor.

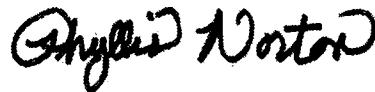
7 (WHEREUPON, the hearing concluded.)

(NOTE: A transcript which has been certified by the court reporter will bear an original signature on the below certification sheet. Please contact the court reporter for additional certified transcripts.)

### CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the captioned case, relative to appeal, in the Court for Berkeley County, South Carolina, on April 21, 2015.

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



---

PHYLLIS NORTON, CVR

Date: April 25, 2016

*Certified Transcript Provided For: Office of Atty. Gen.*

*Certification Reference #042516 Certified Original*

FORM 5

TSY

STATE OF SOUTH CAROLINA

COUNTY OF Berkeley

2016 JAN -6

IN THE COURT OF COMMON PLEAS

PH 3:15

Arthur <sup>Roy</sup> Chavis III 3123789  
Full name and prison number (if any) of Applicant:

CLERK OF COURT  
COUNTY, SC

2016-CP-08-33

v.

State of South Carolina

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 veified (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 clx 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, exerse 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 thfees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Kirkland correctional institution
2. Name and location of Court which imposed sentence Berkeley county clerk of courts
3. Name(s) of co-defendant(s) (if any) Caleb Brad Matlock 300 California Ave Moncks corner SC 29461
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) Armed Robbery indictment # 12-GS-0801980
  - (b) Voluntary Manslaughter indictment # 12-GS-0801978
  - (c) Firearms Provision indictment # 12-GS-0801982
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) April 21 2015 25 years 85%
  - (b) \_\_\_\_\_

MLC

- (c) \_\_\_\_\_
- 6. Check whether a finding of guilty was made:
  - (a) after a plea of guilty ✓
  - (b) after a plea of not guilty \_\_\_\_\_
  - (c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?  
no

8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
    - i. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (b) the result in each such Court to which you appealed:
    - i. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (c) the date of each such result:
    - i. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (d) if known, citations of any written opinion or orders entered pursuant to such results:
    - i. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_

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

- (a) I asked counsel to appeal in a letter and it was never done.
- (b) after plea counsel advised me it would be a waste of time to appeal or file PCR
- (c) \_\_\_\_\_

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

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

a. trial counsel was ineffective and failed to do a proper investigation.

b. trial counsel was ineffective and failed to advise that I had a right to a mental evaluation.

c. trial counsel was ineffective and failed to advise criminal responsibility.

d. trial counsel was ineffective for failing to withdraw guilty plea arrangement when state failed to meet contract agreement.

e. trial counsel was ineffective for failing to withdraw guilty plea when trial judge asked defendant if he really wanted to take the plea.

- (a) ineffective assistance of counsel
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

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

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

- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? no

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

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

- iv. \_\_\_\_\_
- (d) the date of each such disposition:
  - i. N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
  - i. N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

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

NO

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

- (a) which grounds have been presented:
  - i. N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings in which each ground was raised:
  - i. N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

- (a) Ineffective assistance of counsel
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? \_\_\_\_\_
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Beau Seaton ? west main street monks corner SC 29401

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

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

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

i. Plea Deal

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

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

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

I seek a New trial

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

NO

STATE OF SOUTH CAROLINA )  
 )  
County of )

VERIFICATION

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

Arthur Chavis III 363789

SWORN to and subscribed before me this 31  
day of December, 2015.

John D. Best (L.S.)  
Notary Public

My Commission Expires: My Commission Expires April 21, 2018

TSM  
2016 JAN -6 PM 3:13  
MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, SC

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

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

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

Arthur Chavis III 363789  
Applicant

SWORN or affirmed to and subscribed before me this  
31 day of December, 2015.

John D. Best  
Notary Public

My Commission Expires: \_\_\_\_\_ My Commission Expires April 21, 2018

TSM  
2016 JAN -6 PM 3:13  
MARY P. BROWN  
CLERK OF COURT  
BERKLEY COUNTY, SC

|                                 |   |                              |
|---------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA         | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF BERKELEY              | ) | NINTH JUDICIAL CIRCUIT       |
|                                 | ) |                              |
|                                 | ) |                              |
| Arthur Ray Chavis, III #363789, | ) | 2016-CP-08-33                |
|                                 | ) |                              |
| Applicant,                      | ) |                              |
|                                 | ) |                              |
| v.                              | ) | <b>RETURN</b>                |
|                                 | ) |                              |
| State of South Carolina,        | ) |                              |
|                                 | ) |                              |
| Respondent.                     | ) |                              |
| <hr/>                           |   |                              |

Respondent, making its Return to the application for post-conviction relief (PCR) filed January 6, 2016, 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 Berkeley County Clerk of Court. The Applicant was indicted at the October 2012 term of the Berkeley County Grand Jury for one (1) count of Murder, one (1) count of Armed Robbery, and one (1) count of Possession of a Weapon During the Commission of a Violent Crime (2012-GS-08-1978, -1980, -1982). The Applicant was represented by Beau Seaton, Esquire. On April 21, 2015, the Applicant pled guilty as indicted to one (1) count of Armed Robbery and one (1) count of Possession of a Weapon During the Commission of a Violent Crime. The Applicant plead guilty to the lesser included offense of Voluntary Manslaughter. The Honorable Kristi Lea Harrington sentenced Applicant a negotiated sentence of incarceration for twenty-five (25) years for the counts Voluntary Manslaughter and Armed Robbery. The Applicant was sentenced to five (5) years for the count of Possession of a

Weapon During the Commission of a Violent Crime. The sentences run concurrently. The Applicant did not appeal his conviction and sentence.

Attached herewith and incorporated herein are the records of the Berkeley County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, the application, and the guilty plea transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

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

1. "Ineffective Assistance of Counsel"
  - a. "Trial counsel was ineffective and failed to do a proper investigation."
  - b. "Trial counsel was ineffective and failed to advise that I had a right to a mental evaluation."
  - c. "Trial counsel was ineffective and failed to advise criminal responsibility"
  - d. "Trial counsel was ineffective for failing (sic) to withdraw guilty plea arrangement when State failed to meet contract agreement"
  - e. "Trial counsel was ineffective for failing (sic) to withdraw guilty plea when Judge asked defendant if he really wanted to take the Plea."

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

## III.

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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

counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

V.

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

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held on Applicant's allegations.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

JOHANNA C. VALENZUELA  
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON  
Assistant Deputy Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

June 7, 2016.

STATE OF SOUTH CAROLINA )

COUNTY OF BERKELEY )

IN THE COURT OF COMMON PLEAS

2016-CP-08-0033

ARTHUR RAY CHAVIS, #363789 )

Applicant, )

vs )

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA, )

Respondent. )

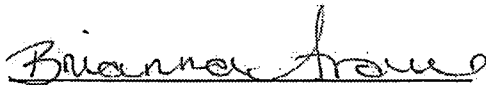
1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Lance S. Boozer, Esquire  
807 Gervais Street, Suite 2013  
Columbia, South Carolina 29201

DATED this 7<sup>th</sup> day of June, 2016.

  
Brianna Arnone, Legal Assistant  
For Respondent

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BERKELEY )  
 )  
 Arthur Ray Chavis, III, #363789, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 NINTH JUDICIAL CIRCUIT  
 C/A NO: 2015-CP-08-33

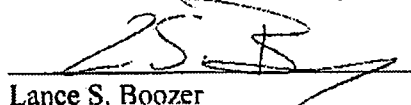
**FIRST AMENDMENT TO PRIOR  
 APPLICATION FOR PCR**

FILED  
 2016 AUG 23 PM 12:56  
 MARY BERGMAN  
 CLERK  
 COURT

The Applicant, through appointed counsel below, makes the following additional claims and amendments to his prior application for post-conviction relief filed January 6, 2016:

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (i) Counsel failed to file a direct appeal; and
  - (ii) Counsel failed to review with Applicant attempting to suppress statements made to police, rendering Applicant's guilty plea involuntary.

THE BOOZER LAW FIRM, LLC



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

Columbia, South Carolina  
 August 19, 2016

LB



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No Exhibits were introduced

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing  
April 17, 2017

1 PROCEEDINGS

2 THE COURT: Ms. Olive, whenever you're ready.

3 MS. OLIVE: Thank you, Your Honor. May it please  
4 the court? This is Arthur Ray Chavis, 2016-CP-08-0033.  
5 He was indicted in October of 2012 for two counts of  
6 murder, one count of armed robbery and possession of a  
7 weapon and -- excuse me two counts of possession of a  
8 weapon during the commission of a violent crime. He  
9 waived presentment on a second count of armed robbery in  
10 2015 at his guilty plea. He was represented by Grover  
11 "Beau" Seaton, IV on April 21, 2015.

12 He pleaded guilty to the lesser included offense of  
13 voluntary manslaughter and as indicted to armed robbery  
14 and possession of a weapon during commission of a violent  
15 crime. Pursuant to a negotiated plea, the Honorable  
16 Kristi Harrington sentenced him to concurrent terms of 25  
17 years for each count of voluntary manslaughter and armed  
18 robbery and to a concurrent term of five years for  
19 possession of a weapon during the commission of a violent  
20 crime.

21 He did not appeal his guilty plea or sentence. He  
22 filed this application for post conviction relief on  
23 January 6, 2016 alleging various grounds of ineffective  
24 assistance of counsel. Mr. Chavis is here today and  
25 represented by Lance Boozer. I'll turn it over to Mr.

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing  
April 17, 2017

1 Boozer at this time.

2 MR. BOOZER: Thank you, Your Honor, if it pleases  
3 the court.

4 THE COURT: Sure.

5 MR. BOOZER: Judge, I did want to make sure that  
6 Your Honor has a copy of the amended application ---

7 MS. OLIVE: --- sorry Your Honor, I forgot to  
8 mention that, but I did provide that to Your Honor.

9 THE COURT: First amended?

10 MR. BOOZER: Correct, Your Honor.

11 THE COURT: Yes, dated August 19, 2016?

12 MR. BOOZER: Correct, Your Honor.

13 THE COURT: I did.

14 MR. BOOZER: And we would go ahead and call Mr.  
15 Chavis to the stand.

16 THE COURT: Okay.

17 [Whereupon, Mr. Chavis comes forward]

18 [Whereupon, the witness is duly sworn by the Clerk  
19 of Court]

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

22 THE WITNESS: Arthur Ray Chavis, C-H-A-V-I-S.

23 MR. BOOZER: Thank you, Your Honor.

24

25



Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing- Arthur Chavis- Direct Examination by Mr. Boozer  
April 17, 2017

1 that the only thing that this court can do for you today  
2 is basically to -- well, one of a few things, or two  
3 things.

4 This court can grant your application and give you a  
5 new trial on all of your original charges, you understand  
6 that?

7 A. Yes, sir.

8 Q. Okay. And part of your application is you're asking  
9 for basically a belated direct appeal so the court could  
10 grant that if it agrees with that, you understand that?

11 A. Yes, sir.

12 Q. Okay. Do you understand that what this court cannot  
13 do is modify your sentence, or reduce your time, or make  
14 you parole eligible, or let you out early. You  
15 understand that that can't happen?

16 A. Yes, sir.

17 Q. Okay. What are you currently serving time for?

18 A. Two voluntary manslaughters, two armed robberies,  
19 and two possessions of a weapon during the commission of  
20 a violent crime.

21 Q. And what type of sentence did you receive as a  
22 result of that?

23 A. Twenty five years.

24 Q. Okay. Did you have other charges that were dropped  
25 along with this plea?

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing- Arthur Chavis- Direct Examination by Mr. Boozer  
April 17, 2017

1 A. The only thing that was modified was they dropped  
2 the murder from murder to manslaughter.

3 Q. Okay. So you -- but to be clear, you understand  
4 that if you do go back to trial you will -- it will be  
5 like a clean slate; you will start over from the original  
6 charges that you had. Do you understand that?

7 A. Yes, sir.

8 Q. Okay. And presumably, if you won, you would then --  
9 you could go back and have another trial and obviously  
10 we've talked about those risk and benefits.

11 But one of the risks is if you went back and you got  
12 found guilty there's a possibility you could receive  
13 either significantly more time than what you got as a  
14 result of the plea or get significantly more time than  
15 the amount of time you have left to serve on your  
16 sentence, do you understand that?

17 A. Yes, sir.

18 Q. And your max out date is when?

19 A. 2033.

20 Q. Okay. And just to make sure, do you want to go  
21 forward with your PCR application? Is that something you  
22 want to do?

23 A. I do.

24 Q. Okay. And no one is making you do that?

25 A. Uh Uh.

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing- Arthur Chavis- Direct Examination by Mr. Boozer  
April 17, 2017

1 Q. All right. Now, Mr. Chavis, who represented you  
2 during your plea and during the time of those charges?

3 A. Beau Seaton.

4 Q. Do you recall when you were arrested on the charges?

5 A. I was arrested September 1<sup>st</sup> of 2012.

6 Q. All right. And how did Mr. Seaton come about  
7 representing you? Did you hire Mr. Seaton?

8 A. Uh Uh. My sister or one of my family members went  
9 to talk to him and he come and talked to me ---

10 Q. --- do you ---

11 A. --- but we didn't have the money to pay him. We  
12 were going to get a public defender and I didn't know he  
13 was still on my case until after -- until I went to my  
14 preliminary hearing.

15 Q. Okay. So did y'all hire him or what? Do you know?

16 A. He did it pro bono.

17 Q. Okay. Your plea was in April of 2015?

18 A. Uh Huh.

19 THE COURT REPORTER: Is that a yes?

20 Q. [Mr. Boozer] Is that a yes?

21 A. Oh, yes, sorry.

22 Q. Okay. Between September 2012 and the plea date of  
23 April 15, do you know about how many times you may have  
24 either met with Mr. Seaton or spoken to him?

25 A. I couldn't tell you. It was a few different times;

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing- Arthur Chavis- Direct Examination by Mr. Boozer  
April 17, 2017

1 probably about seven or eight different times.

2 Q. Do you know -- well, let me ask you this, what did  
3 y'all talk about in your meetings if you remember?

4 A. The first time he came and seen me he said that --  
5 we introduced each other and we -- he was telling me  
6 about trying to get accessory after the fact and I  
7 thought that was okay.

8 I didn't know about doing prison time or anything.  
9 But that's mostly what we talked about was how he was  
10 going to get accessory after the fact or try to get  
11 something lesser where I didn't have to do that much  
12 time.

13 Q. Did y'all review any discovery?

14 A. How do you mean?

15 Q. Do you know if y'all were provided with any  
16 information that the State had such as arrest reports or  
17 incident reports or any sort of evidence or statements.  
18 Do you know if you reviewed anything like that?

19 A. Like in my motion of discovery?

20 Q. There you go, like that.

21 A. It's been a while since I've read it, so I'm not too  
22 sure on any of that stuff.

23 Q. Okay. What else did you two talk about or do you  
24 know what type of investigation Mr. Seaton may have done  
25 into your case?

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing- Arthur Chavis- Direct Examination by Mr. Boozer  
April 17, 2017

1 A. I'm not too sure. I know he said something about he  
2 had this group of lawyers look over my statements to see  
3 if they could get it thrown out, but he said that he  
4 couldn't get them thrown out.

5 Q. Do you know what they were looking at in the  
6 statements?

7 A. I'm not sure. I didn't ask.

8 Q. Okay. Let's go through, sort of, all your  
9 allegations and just hit on those. You've alleged in  
10 your original application that your lawyer didn't perform  
11 an investigation.

12 And I think we were just touching on that. But, is  
13 there anything else you want to bring to the court's  
14 attention about that?

15 A. I'm not sure.

16 Q. Well, let's think because this is your day ---

17 A. --- I know ---

18 Q. --- in court. But, you were kind of telling us what  
19 you thought he may have been doing to investigate your  
20 case. But other than what you just stated, do you know  
21 of anything else that he may have done to investigate  
22 your case?

23 A. Uh Uh.

24 Q. And say yes or no ---

25 A. --- no, oh I'm sorry. No.

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing- Arthur Chavis- Direct Examination by Mr. Boozer  
April 17, 2017

1 Q. Okay. You've also got an allegation that your  
2 lawyer failed to request a mental evaluation. Could you  
3 explain that and why you think you needed a mental  
4 evaluation at the time?

5 A. Well, I had just seen my co-defendant shoot two  
6 people in the head and it's kind of messed with me. So,  
7 I think I would have deserved a mental evaluation.

8 Q. Okay. Did you have any discussion with your lawyer  
9 about that?

10 A. No, sir.

11 Q. All right. You've also got an allegation which  
12 you'll need to explain which is that you feel your lawyer  
13 failed to advise you of criminal responsibility.

14 A. In that right there, I had people telling me ideas  
15 to write down and my -- I wasn't -- I didn't know too  
16 much about the PCR and they were explaining it to me and  
17 they were telling me to write down some stuff and I  
18 didn't know what I was writing down.

19 Q. And you've told me that before, right?

20 A. Yes. So I mean ---

21 Q. --- you're not sure what that means?

22 A. Uh Uh.

23 Q. Okay. And that's fine, but you've also got that  
24 your lawyer failed to withdraw your guilty plea and the  
25 State failed to meet its contractual agreement. Do you

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1 know what that means?

2 A. The proffer agreement?

3 Q. Right.

4 A. I can't even remember -- I know that I was going to  
5 testify and I took a polygraph test and I told them my  
6 side of the story. And the agreement was that they  
7 wouldn't be able to use my statements when I went to  
8 court.

9 Q. Okay. Tell us a little bit more about what your  
10 understanding of whatever this agreement may have been.

11 A. That's all I remember from it.

12 Q. Were you supposed to testify against somebody?

13 A. Yeah, my co-defendant.

14 Q. Okay. Did that happen?

15 A. Uh Uh.

16 Q. And say yes or no.

17 A. No.

18 Q. Okay. Why did that not happen?

19 A. Because he copped out in a plea to 55.

20 Q. That's his sentence -- he got a 55 year sentence?

21 A. Yes, sir.

22 Q. Okay. So do you know if the plea or the proffer or  
23 whatever it is that you're talking about, do you know if  
24 that was going to be honored if you were to testify  
25 against him?

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- 1 A. I believe so, yes.
- 2 Q. Was there any offer made as to what sort of sentence  
3 you were to receive if you did do that?
- 4 A. Not until later.
- 5 Q. Okay. And what was that?
- 6 A. They didn't start coming out with the pleas until  
7 after he had got sentenced. And the first plea was 20 to  
8 30.
- 9 Q. Okay.
- 10 A. And they did another 20 to 30 and then they met in  
11 the middle at 25 and that's when I took it.
- 12 Q. Okay. Were you declining these 20 to 30 offers?
- 13 A. I was.
- 14 Q. Why were you declining those?
- 15 A. Because I thought it would be better if we went to  
16 trial.
- 17 Q. What was the offer specifically to? Was it to  
18 voluntary manslaughter and those other charges?
- 19 A. Yes, sir.
- 20 Q. They were going to drop the murders down?
- 21 A. Yes, sir.
- 22 Q. Okay. But you wanted to not take those and go to  
23 trial at that point?
- 24 A. Yes, sir.
- 25 Q. And we'll come back to that. Did -- let me ask you

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1 about your allegation that your attorney failed to  
2 withdraw the plea when the judge asked you if you really  
3 wanted to plead guilty.

4 A. That ---

5 Q. --- is that another one of those that someone told  
6 you to put in?

7 A. Yeah.

8 Q. Okay. Now, we filed some amendments as well. One  
9 of your allegations is that your lawyer failed to file a  
10 direct appeal. If you would, tell me what conversation,  
11 if any, you had with Mr. Seaton after your plea about  
12 filing any sort of appeal.

13 A. I asked him about if -- I asked him about appeals  
14 and he said that it was that basically it was saying that  
15 I was saying the judge was wrong.

16 I asked about a PCR too, and he also said that it  
17 was just stating that he was wrong and advising me of  
18 counsel.

19 Q. Okay. What did you ask you -- when was ---

20 A. --- I wrote a letter when I got to Kirkland.

21 Q. Okay.

22 A. I wrote a letter to him asking him to appeal the  
23 case.

24 Q. When did you -- when you say you went to Kirkland,  
25 is this after you entered the plea?

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- 1 A. Uh Huh ---
- 2 Q. --- say yes or no.
- 3 A. I went up April 21<sup>st</sup> I think it was, to take the  
4 plea, and then I went on the 25<sup>th</sup> to be evaluated into  
5 Kirkland.
- 6 Q. Okay. And you say you sent a letter. Who did you  
7 send a letter to?
- 8 A. To Beau Seaton's office.
- 9 Q. All right. When did you send a letter to Mr.  
10 Seaton?
- 11 A. On the 25<sup>th</sup> ---
- 12 Q. --- of ---
- 13 A. --- when I first got to Kirkland.
- 14 Q. Of April?
- 15 A. Of April.
- 16 Q. Immediately following your plea?
- 17 A. Yes, sir.
- 18 Q. All right. What did you request, if anything, from  
19 Mr. Seaton in that letter?
- 20 A. The only thing I just asked him about appealing the  
21 case. I didn't mention anything else.
- 22 Q. Okay. Do you have a copy of that letter?
- 23 A. No, sir.
- 24 Q. All right. Did you receive any response to that  
25 letter?

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1 A. No, sir.

2 Q. Did -- at any point have you received any response  
3 from Mr. Seaton about this letter you say you sent?

4 A. No, sir.

5 Q. Now, you've also got an allegation that your lawyer  
6 failed to review with you suppressing certain statements  
7 that were made to the police rendering your plea  
8 involuntary.

9 And you had talked a little bit about what you  
10 thought your lawyer was doing about some statements. Did  
11 you give a statement to police?

12 A. I did.

13 Q. Okay. And in that statement, did you make any sort  
14 of references to your state of mind at the time?

15 A. No, sir. Well, I did say I was doped up on  
16 medication for my back.

17 Q. Okay. How long after your arrest did you give a  
18 statement to police?

19 A. That's not even -- that's not the first one. The  
20 first one was two days after and that's -- that one right  
21 there is the second one. I gave that one on September  
22 1<sup>st</sup>, the same day I got locked up.

23 Q. Okay. You gave a statement the same day that you  
24 got locked up?

25 A. Uh Huh.

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- 1 Q. And were you -- and say yes or no.
- 2 THE COURT REPORTER: Is that yes?
- 3 A. Oh, yes ma'am.
- 4 Q. Okay. When you gave a statement were you under the  
5 influence of any medications?
- 6 A. I was.
- 7 Q. What were you taking?
- 8 A. Hydrocodone point five's and Flexeril ten.
- 9 Q. Okay. Was that something that had been prescribed  
10 to you?
- 11 A. Prescribed to me for my back.
- 12 Q. And what was wrong with your back?
- 13 A. I had muscle spasms in my back.
- 14 Q. Okay. What, at that time, what were the effects of  
15 that medication on you?
- 16 A. I can't explain it, I mean.
- 17 Q. Well, try your best.
- 18 A. Being high. I mean, that's the only thing I can  
19 explain it.
- 20 Q. Okay. Are you taking that now?
- 21 A. No.
- 22 Q. When you say being high, would that have any effect  
23 on statements that you might make?
- 24 A. Yes.
- 25 Q. Okay. And how would that affect statements that you

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1 make?

2 A. Like, if they were talking fast, I'd end up  
3 answering real fast and answering the question as like --  
4 in part of the questions they said who put the -- who  
5 took the stuff out of the trunk and then I answer real  
6 fast and say we took it out of the trunk. But I had  
7 just said that he took it out of the trunk and put it in  
8 the back seat.

9 Q. Okay. Did you have a discussion -- did you tell Mr.  
10 Seaton that you were taking these medications at the  
11 time?

12 A. I didn't tell him until a little later and I asked  
13 him about getting my statements and whatnot throwed [sic]  
14 out.

15 Q. What was his response to that?

16 A. That was whenever he said that he hired a group of  
17 lawyers to see if they could suppress my statements. And  
18 I asked him about my medication and being on my  
19 medication.

20 Q. Do you know who this group of lawyers was?

21 A. Uh Uh.

22 Q. Okay. Do you know what they did?

23 A. No, sir.

24 Q. All right. Do you know any reports that came back  
25 about the statements?

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1 A. No, sir.

2 Q. Did y'all actually file any motions with the court  
3 to attempt to suppress those statements?

4 A. No, sir.

5 Q. Okay. Did you ---

6 A. --- not that I can recall.

7 Q. Did you and Mr. Seaton ever have any discussion  
8 about what your trial strategy would be or what you would  
9 do if you were to go to trial?

10 A. Yes, sir. But I can't -- I don't exactly remember  
11 right now.

12 Q. Okay. Do you remember any of the specifics of it?

13 A. We had a meeting with the Solicitor and they -- we  
14 were going back and forth about what would be said and  
15 where I would sit and, you know all -- I can't explain  
16 everything.

17 Q. Okay. Now, did your co-defendant plead before you  
18 pled, or did you plead first?

19 A. No, he pled before me.

20 Q. All right. And all the time was he going to trial,  
21 is what your understanding was?

22 A. Yes.

23 Q. And you were going to be a witness?

24 A. Yes, sir.

25 Q. What ultimately led to you taking -- accepting this

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1 plea? Why did you go in there and take this plea?

2 A. I was just -- I was tired of trying to get a lesser  
3 plea. I wanted to hurry up and get everything over with.

4 Q. Okay. Did your lawyer understand that or know that?

5 A. I didn't never tell him.

6 Q. Were y'all ever on a trial roster as opposed to  
7 being there for your plea?

8 A. I believe they said that if I didn't accept the plea  
9 then that I would go -- I would be on the roster for the  
10 next week I think it was.

11 Q. Okay. Now, obviously from the plea transcript,  
12 obviously you made certain statements to the court or  
13 they would not have accepted your plea. Do you  
14 understand that?

15 A. Uh Huh.

16 Q. Say yes or no.

17 A. Yes, sir.

18 Q. And explain to this court -- obviously the court  
19 would have asked you if you're guilty, and if you're  
20 satisfied with your lawyer and you had -- you made  
21 certain statements indicating that, yes, you were guilty  
22 and you were happy with your lawyer. Do you recall that?

23 A. Yes, sir.

24 Q. Tell this court why it is that you made those  
25 statements.

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1 A. I just wanted to get it over with, like I said  
2 before. I wanted to get it over with so I could go and  
3 file a PCR and try to see what I can look up. Go to the  
4 law library and see what I can find.

5 MR. BOOZER: Beg the court's indulgence, Your  
6 Honor.

7 THE COURT: Yes, sir.

8 [Whereupon, Mr. Boozer reviews documents]

9 Q. [Mr. Boozer] And you do want a trial in this case?

10 A. Yes, sir.

11 Q. Okay. Now, obviously this is your day in court for  
12 your PCR hearing and I think that we have covered  
13 everything, but I want to make sure.

14 So, is there anything that we have not covered with  
15 regard to your allegations or any inaction or actions  
16 your lawyer took on your behalf that you want to bring to  
17 His Honor's attention today?

18 A. Not that I can recall right now.

19 Q. Well, let's make sure because we got -- if it's  
20 going to be -- it's going to be right now and not a month  
21 from now. But, we've gone through your allegations,  
22 haven't we?

23 A. Yes, sir.

24 Q. Have you talked about the background of your case  
25 that you want to talk about?

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1 A. Like the whole go through the whole story?

2 Q. Well, no, not necessarily the specific facts of the  
3 case, but anything leading you to plead guilty or  
4 anything that you feel like your lawyer wasn't doing for  
5 you or anything you were asking your attorney to do that  
6 he wasn't doing; such as, like you said, not filing the  
7 appeal.

8 A. There was a time whenever he said that he was going  
9 to bring the video recording of the statements that my  
10 co-defendant and my co-defendant's baby momma made and he  
11 never -- he never brought those over.

12 And they told him and, I can't remember the other  
13 guy's name, his paralegal told me that my co-defendant  
14 never directly said that I had nothing to do with the  
15 crime. But, the Solicitor, in court, said that at the  
16 time my co-defendant said that I had nothing to do with  
17 it.

18 Q. Okay. Say that again about your co-defendant saying  
19 you had nothing to do with it in court.

20 A. My co-defendant told the Solicitor and the Solicitor  
21 told the judge, whenever I went to court that I had  
22 nothing to do with the crime.

23 Q. Okay. All right, is there anything else that we've  
24 not addressed?

25 A. No, sir.

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1 Q. Okay. If you would, please answer any questions  
2 Madame Attorney General may have for you.

3 THE COURT: Ms. Olive?

4 MS. OLIVE: Thank you, Your Honor.

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1 CROSS-EXAMINATION

2 BY MS. OLIVE:

3 Q. Good morning, Mr. Chavis.

4 A. Good morning.

5 Q. You just testified that your co-defendant said that

6 you had nothing to do with the crime?

7 A. Yes, ma'am.

8 Q. Are you referring to the armed robbery or the murder

9 or both?

10 A. Both.

11 Q. Okay. But haven't you admitted in your statement

12 that you were involved with the armed robbery; you just

13 didn't know that he was going to kill the girls?

14 A. I reckon. I haven't read my statement in a long

15 time.

16 Q. You don't remember?

17 A. Uh Uh.

18 Q. Okay.

19 THE COURT REPORTER: Was that a no?

20 A. No, ma'am.

21 Q. [Ms. Olive] You stated that you didn't recall what

22 was in your discovery, but your attorney did provide your

23 discovery to you?

24 A. Yes, ma'am.

25 Q. And he discussed that with you?

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1 A. Yes, ma'am.

2 Q. And he discussed the State's evidence against you?

3 A. At the time, yes.

4 Q. And you told him everything that you knew about  
5 these facts?

6 A. Yes, ma'am.

7 Q. And you said that there were two previous plea  
8 offers?

9 A. Yes, ma'am.

10 Q. And you declined both of those?

11 A. Yes, ma'am.

12 Q. And you said you declined those because you wanted  
13 to go to trial?

14 A. Yes, ma'am.

15 MS. OLIVE: Beg the Court's indulgence.

16 [Whereupon, Ms. Olive reviews documents]

17 Q. [Ms. Olive] Mr. Chavis, do you understand that you  
18 were originally indicted for two counts of murder and  
19 that you would have been facing up to life on each of  
20 those if you had gone to trial?

21 A. Yes, ma'am.

22 Q. Okay. Did you discuss that, did your attorney  
23 discuss that with you?

24 A. Yes, ma'am.

25 Q. Same thing with regard to the armed robbery; you

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1 would have been facing up to thirty years?

2 A. Yes, ma'am.

3 Q. And he explained that to you?

4 A. Yes, ma'am.

5 Q. You stated with regard to your mental evaluation,  
6 that you wanted -- did you ever ask your attorney to be  
7 evaluated?

8 A. No, ma'am.

9 Q. Did he have any discussions with you about that?

10 A. No, ma'am.

11 Q. And you testified that the reason why you wanted an  
12 evaluation is because you witnessed your co-defendant  
13 shoot two people in the head?

14 A. Yes, ma'am.

15 Q. Okay. Did you understand what you were doing when  
16 you pleaded guilty?

17 A. Yes, ma'am.

18 Q. And you never told your attorney during the course  
19 of your guilty plea that you wished to withdraw your  
20 plea?

21 A. No, ma'am.

22 Q. And you stated that you sent a letter to your  
23 attorney when you got to Kirkland?

24 A. Yes, ma'am.

25 Q. Would that have been the same day that you got to

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1 Kirkland?

2 A. Yes, ma'am.

3 Q. And you said, though, that you don't have a copy of  
4 that letter and you never received a response?

5 A. No, ma'am.

6 Q. Did you specifically in that letter ask him to file  
7 an appeal for you?

8 A. Yes, ma'am.

9 Q. And the judge did inform you at your guilty plea  
10 that if you wish to appeal your plea, you had a certain  
11 amount of time to do so?

12 A. Yes, ma'am.

13 Q. That you or your attorney can do so within ten days?

14 A. Yes, ma'am.

15 Q. And the judge went over with you at your guilty plea  
16 the fact that you were waiving your right to a jury  
17 trial, your right to confront your accusers and your  
18 right to remain silent?

19 A. Yes, ma'am.

20 Q. Thank you. That's all the questions I have.

21 MR. BOOZER: No redirect, Your Honor.

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

23 [Whereupon, the witness is excused and exits the  
24 witness stand]

25 THE COURT: You may call your next witness.

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1 MR. BOOZER: No further witnesses, Your Honor.  
2 THE COURT: Applicant rests. Attorney General?  
3 MS. OLIVE: Your Honor, the State would call Beau  
4 Seaton.  
5 [Whereupon, Mr. Seaton comes forward]  
6 MR. SEATON: Good morning, Your Honor.  
7 [Whereupon, the witness is duly sworn by the Clerk  
8 of Court]  
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BEAU SEATON,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MS. OLIVE:

Q. Good morning, Mr. Seaton.

A. Good morning.

Q. Mr. Chavis testified that you represented him pro bono?

A. His sister had paid me to represent him in the bond hearing and preliminary hearing and after that, because the public defendant's office had the co-defendant they had conflicted it out and kept me on board as an appointed attorney.

Q. So you were actually appointed?

A. I was paid at first and then appointed, yes.

Q. Okay. Do you recall how many times you met with Mr. Chavis?

A. No I don't. He said six or seven and that's probably about right; probably less than ten. But I also had the man that he referred to, Remington, would take Rule 5 over and sit down with him and talk with him and just sort of generally get an idea of his temperature at the time.

Q. And who is Remington?

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1 A. Remington was a paralegal that was working for me  
2 and is in law school now.

3 Q. Did you file motions for discovery in this case?

4 A. I did.

5 Q. And you testified that Remington would take that  
6 over to him?

7 A. That's correct.

8 Q. Did you have discussions with Mr. Chavis regarding  
9 the discovery yourself?

10 A. We certainly did.

11 Q. Did you discuss with him the State's evidence  
12 against him?

13 A. We did.

14 Q. Did he tell you everything that he knew about the  
15 facts of the case?

16 A. He did. There's, you know, some questions I didn't  
17 ask so that we didn't limit what I could do for him.  
18 But, certainly any questions that he had, anything that  
19 was pertinent we discussed.

20 Q. Did you discuss with Mr. Chavis whether he had any  
21 defenses to these charges?

22 A. We did. We talked at great length about the fact  
23 that because he did not shoot the girls and because he  
24 did not know that the girls were going to be shot, we  
25 talked about the hand of one is the hand of all and what

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1 other crimes may have been committed that he was aware of  
2 and how that would have linked him to the murder.

3 Q. Do you feel he understood those discussions?

4 A. I think so. Yes, I believe so.

5 Q. Did you discuss with him what the State would have  
6 to prove if he had gone to trial?

7 A. Yes, we did.

8 Q. What sort of investigation did you do in preparation  
9 for Mr. Chavis' case?

10 A. There was a great deal of discovery that was  
11 provided by the State. This was a case where two girls  
12 were missing before they found their bodies and one of  
13 the cars had been burned and one of the girls was in the  
14 trunk and the other girl was found in the woods.

15 So, there was a great deal of input from the  
16 community in terms of possible leads. So, you know,  
17 there'd been literally hundreds of phone calls. So, we  
18 went through all of that.

19 And Mr. Chavis had been interviewed by the police, I  
20 believe, twice before he was arrested and then,  
21 interviewed after the arrest. And then eventually we did  
22 a proffer with Scarlet Wilson, with the Solicitor.

23 Q. Can you explain the nature of that proffer?

24 A. The co-defendant had never said a word about  
25 anything and so there were some problems they had with --

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1 with prosecuting him. Even though they certainly  
2 believed him to be the trigger man, he never said  
3 anything. And so, they were somewhat concerned about the  
4 case that they had against him.

5 And Mr. Chavis and I agreed that he would proffer  
6 and would be willing to testify against his cousin in  
7 exchange for a better sentence.

8 Q. Mr. Chavis testified that there had been two  
9 previous plea offers, is that -- do you recall that?

10 A. I remember prior plea offers. I can't say that it  
11 was two or one or more than two. I really don't recall.

12 One of the things Mr. Chavis said is that we had  
13 been holding out for accessory after the fact and that's  
14 what I felt like that's where we could get to and I think  
15 that was probably what we were -- he was talking about in  
16 terms of rejecting offers.

17 We really felt like between his cooperation and most  
18 of the facts that they could prove really led more to  
19 after the fact. That's what we were really holding out  
20 for.

21 Q. Did you have discussions with the Solicitor about  
22 accessory after the fact?

23 A. We did.

24 Q. Was the State willing to make that offer?

25 A. They weren't willing to go that far. I think some

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1 of it may have simply been that at the time it was a  
2 fairly high profile case and I don't think Solicitor  
3 Wilson was willing to go as far as we really felt like  
4 could have, should have happened.

5 Q. Did you have discussions with Mr. Chavis concerning  
6 his -- the risks and benefits of pleading guilty versus  
7 going to trial?

8 A. We did. That was the bulk of our discussions was  
9 the cost benefit analysis that we do with just about any  
10 case.

11 Q. Did he express a desire to go to trial?

12 A. He, as most people, really struggled with the whole  
13 hand of one, hand of all legal concept. From the  
14 beginning he had held that he had no idea that his cousin  
15 was going to shoot the girls and I certainly believed  
16 him. I believe him still.

17 So because he didn't know that's that was going to  
18 happen, I think it's been a -- was a difficult, long  
19 process in really providing that concept and  
20 understanding the legal ramifications of it.

21 Q. Did you advise him concerning the likelihood that he  
22 would be convicted under the hand of one, hand of all or  
23 accomplice liability theory if he had gone to trial?

24 A. Yes.

25 Q. Do you feel he understood those discussions?

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1 A. Yeah. It was a long process, but yes.

2 Q. Mr. Chavis testified that you had hired a team of  
3 lawyers to review his statements to determine whether or  
4 not they could be suppressed, is that correct?

5 A. I hired National Legal Research out of  
6 Charlottesville. I use them on difficult situations.  
7 I'm more of a courtroom attorney than an academician so I  
8 use them a lot in difficult questions.

9 And we -- the main things that hurt Ray was the  
10 statements that he had made both before arrest as well as  
11 ultimately the proffer and so, we had looked into  
12 suppressing those statements. And then it came to light  
13 that he was also taking medications; prescription  
14 medications during the I believe it was the first,  
15 initial interview.

16 So, we got then his doctor records and his  
17 prescription -- or really it was mostly just prescription  
18 records I think from Walgreens or somebody like that and  
19 looked into the issue of whether or not there was an  
20 argument of suppression based on his use of his  
21 prescription.

22 Q. So, all of this information you provided to this  
23 team of attorneys who reviewed his statements?

24 A. Yeah -- I don't know that you call them a team,  
25 they're -- I mean there's a -- it's a big organization. I

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Beau Seaton-Direct Examination by Ms. Olive  
April 17, 2017

1 work primarily with one attorney there ---

2 Q. --- okay ---

3 A. --- but yeah, that information was provided. And  
4 eventually they wrote a brief for us, but we decided that  
5 it wasn't -- it didn't carry enough weight that I felt  
6 like it was a winning argument and my concern was by this  
7 point we were getting close to trial time.

8 We really needed to make a decision and I was  
9 concerned that if I argued a fairly baseless motion to  
10 suppress in front of a judge that might be the same one  
11 that I'd end up having to try our case in front of that  
12 it would have hurt Ray in the long run.

13 Q. Did you discuss with Mr. Chavis the brief that was  
14 written, the results of the review of his statements and  
15 the likelihood that these statements would be suppressed  
16 had you made that motion?

17 A. Yes, and that was -- I'm a little fuzzy with the  
18 timeline because it's been a while, but I think that  
19 might have influenced our decision to do the proffer.  
20 But, I'm not real clear on that.

21 Q. Mr. Chavis testified that he sent a letter to your  
22 office asking you to file an appeal. Did you ever  
23 receive a letter from him?

24 A. I did. Yeah, unfortunately it wasn't timely. It  
25 was long after the right of appeal had run and I thought

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1 about still filing it just a sort of a C-Y-A type of  
2 thing, but there really wasn't anything to appeal. This  
3 was a negotiated sentence and they had followed the  
4 negotiated -- the judge had followed the negotiation and  
5 accepted it.

6 So I really didn't have any grounds for an appeal  
7 other than just some blanket appeal that would not have  
8 had any description of what it was we were appealing.

9 Q. Do you recall -- do you have that letter with you  
10 per chance?

11 A. I don't know that I do.

12 Q. Do you recall the date on the letter?

13 A. No, I don't.

14 Q. You said it was after the time for appeal had  
15 passed. Do you recall approximately how long, days  
16 weeks?

17 A. It would have probably been a month or two down the  
18 road because I think, I can't recall, whether he was in R  
19 and E when he sent it or at some later point.

20 Q. Did you have discussions with him, after the plea  
21 other than receiving this letter, did you have any  
22 discussions with him after the plea regarding an appeal?

23 A. I explained to him the basic process, what the judge  
24 had just told him. This was in the courtroom next door.  
25 After a plea they will take you in to a jury room. We

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1 had a brief discussion. I certainly wished him well,  
2 explained to him the two processes. I think he actually  
3 did a pretty good job of explaining the way I explained  
4 it that an appeal is suggesting that the judge had done  
5 something improper and that a PCR is suggesting that I  
6 had done something improper and that he certainly had a  
7 right to pursue both of those processes.

8 Q. Did he inform you at that time that he wanted you to  
9 file an appeal on his behalf?

10 A. No.

11 Q. Based on your review of the evidence and in your  
12 discussions with Mr. Chavis, if he had proceeded to trial  
13 do you think there would have been -- did you develop an  
14 opinion about the likelihood of whether he would have  
15 been convicted or not if he had proceeded to trial?

16 A. There were a couple of facts before the murders and  
17 a couple of facts after the murder that if those facts  
18 had gotten to a jury, I think he more likely than not  
19 would have been convicted.

20 The question, obviously, is if we are relying on  
21 those facts not to get to the jury and we are wrong, then  
22 certainly he would have been more in that 55 year range  
23 that his cousin was rather than the 25 that he received.

24 MS. OLIVE: Beg the court's indulgence.

25 [Whereupon, Ms. Olive reviews documents]

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1 Q. [Ms. Olive] At any time in your discussions with Mr.  
2 Chavis did you feel it was necessary to request a mental  
3 evaluation?

4 A. Well, I would have analyzed the -- that type of  
5 question, I mean, what Ray talked about, I think, is the  
6 anxiety that he suffered from the trauma that everybody  
7 in that situation went through, which I think is  
8 different than a M'Naghten test or some I.Q. type of  
9 test.

10 So, no we never filed or seriously thought about  
11 filing any type of request for competency type hearing.  
12 There had been some discussion about whether or not he'd  
13 be able to talk with the nurse over at Hill-Finklea about  
14 the issues that he was suffering from but, from a legal  
15 standpoint, no.

16 Q. Thank you. At any time during the guilty plea did  
17 he ask you to withdraw the plea?

18 A. No.

19 Q. Did you feel there was any reason to ask to withdraw  
20 the plea?

21 A. When we entered -- I think what he's referring to is  
22 when we entered into the proffer, we did not have a  
23 specific agreement as to what he would get in return.  
24 And I understand with the Solicitor's offices they don't  
25 typically tell you exactly what you're going to get

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1 because then it could be used against you in the  
2 courtroom. So that when he gets on the stand and  
3 testifies he can say I don't know what I'm going to get  
4 I'm just here to tell the truth.

5 So, we had held out, maybe somewhat overly  
6 optimistic that we could get to accessory after the fact  
7 and we could get -- I think that's what Ray was meaning  
8 when he talked about withdrawing the agreement is because  
9 I truly believed in my heart that the facts of the case,  
10 while they were horrendous for his cousin, he really in a  
11 lot of ways was a bystander.

12 Q. Thank you, Mr. Seaton, that's all the questions I  
13 have.

14 THE COURT: Cross-Examination?  
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Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Beau Seaton-Cross-Examination by Mr. Boozer  
April 17, 2017

1 CROSS-EXAMINATION

2 BY MR. BOOZER:

3 Q. Mr. Seaton, how you doing?

4 A. Good.

5 Q. Good. Going back to the proffer and you indicating  
6 you were, I guess, optimistic about maybe accessory after  
7 the fact being an option ---

8 A. --- correct ---

9 Q. --- what did you express to Mr. Chavis about sort of  
10 what you hoped to happen or kind of what you thought or  
11 foresaw happening?

12 A. It kind of went up the chain. When we first started  
13 the case it was handled by an Assistant Solicitor and  
14 then it sort of got bumped up to the Deputy Assistant  
15 Solicitor and then, eventually, Scarlett got involved.

16 We had held out hope all along based on the  
17 conversations I'd been having with the Solicitors that we  
18 could get to the point of accessory after the fact. But,  
19 we, by the time that we did the proffer it was a  
20 decision, I think at that point, that while we're holding  
21 out for a better proffer it's still a better option than  
22 a trial.

23 Q. And, I guess, what happened? Did his co-defendant  
24 end up entering a plea so his proffer became useless?

25 A. Pretty much, that's exactly it. It worked. You

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1 know, it went from I'm going to try this case to I'm  
2 going to plea. So, in some ways that undercut the value  
3 of the proffer.

4 Q. Do you know, sort of, the timing of the proffer,  
5 then the plea of the co-defendant, and then Mr. Chavis'  
6 plea?

7 A. I would say, probably 30 to 45 days, something like  
8 that. I could be wrong. It's been some period of time  
9 and history is not one of my strengths in terms of  
10 chronology so I'm just guessing.

11 I think we probably went through about two terms of  
12 General Sessions and here in Berkeley they're generally  
13 about once a month.

14 Q. Was there any discussion with the Solicitor's office  
15 after the proffer, after the plea of the co-defendant  
16 about him pleading to an accessory charge?

17 A. Other than me begging for it, you know, not really.

18 Q. Okay. So you were begging for the accessory even  
19 after the plea had been done ---

20 A. --- right ---

21 Q. --- presumably because he's the one who untied this  
22 for them?

23 A. Absolutely. I mean he certainly lived up to his end  
24 of the bargain. He didn't have the opportunity to get on  
25 the stand, but it certainly was only because he had lived

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Beau Seaton-Cross-Examination by Mr. Boozer  
April 17, 2017

1 up to his end of the bargain.

2 Q. Do you think it was clear in the plea, in either  
3 your recollection of the plea or your review of the plea  
4 transcript that he really played a major role in the  
5 Solicitor's office really getting this conviction from  
6 the co-defendant?

7 A. Absolutely.

8 Q. It was done at the plea?

9 A. Uh Huh.

10 Q. Okay.

11 THE COURT REPORTER: Is that a yes?

12 A. Oh, I'm sorry, yes.

13 Q. [Mr. Boozer] Going back to the -- let me ask you  
14 this. On the initial plea offers I think you indicated  
15 there may have been one, but there may have been two?

16 A. There -- originally there weren't any real plea  
17 offers until there was a proffer. The plea offers at  
18 that time were basically pleas straight up versus the  
19 proffers. Once we started discussing a proffer, then  
20 there was some discussion about what he would plea to.

21 Q. And do you know if those, kind of, initial, straight  
22 up plea offers were to the charges that he eventually  
23 pled to?

24 A. No, those would have been the murder.

25 Q. They would have been the murder?

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Beau Seaton-Cross-Examination by Mr. Boozer  
April 17, 2017

1 A. Correct.

2 Q. Okay. And was he pretty adamant about not accepting  
3 any of those plea offers?

4 A. Ray is a guy who absorbs more information than he  
5 does give it. We had a lot of discussions and it's hard  
6 for me to say exactly what Ray was thinking because he's  
7 not a guy who tells you a lot.

8 But, I certainly felt like it made no sense at that  
9 point for him to simply do a straight up plea.

10 Q. So, some of that was your advice to decline those?

11 A. Certainly.

12 Q. Okay.

13 A. Certainly.

14 Q. Going back to the letter that we've been talking  
15 about that he claims he sent 4/25 and that you've  
16 indicated you think you received a little bit later than  
17 that ---

18 A. --- right ---

19 Q. --- or out of time. You don't know if you have a  
20 copy of that or not?

21 A. I don't. I've got -- I only brought a small part of  
22 my file, I've got boxes at my office. So no I don't know  
23 the date, I apologize.

24 Q. And that's ---

25 A. --- I do recall him sending a letter.

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Beau Seaton-Cross-Examination by Mr. Boozer  
April 17, 2017

1 Q. You recall him sending a letter. Do you -- and I  
2 guess you've had experience, probably, in your line of  
3 work with, sort of, the way the mail can sometimes make  
4 its way out of SCDC. Do you know if that could have been  
5 an issue at the time that he may have sent it timely?

6 A. I couldn't say.

7 Q. Okay.

8 A. I honestly couldn't say.

9 Q. But you agree that they do have some issues with ---

10 A. --- oh, absolutely ---

11 Q. --- getting mail ---

12 A. --- absolutely.

13 Q. Okay. You just know that -- your recollection is  
14 you just received it out of time; you're not sure of what  
15 the date may have been on it?

16 A. Correct.

17 Q. Or the mailing date on it?

18 A. Correct.

19 Q. Okay. Had you received it timely?

20 A. If I had received it timely, even though I didn't  
21 feel like I would even know other than just a vanilla the  
22 defendant hereby appeals the decision of the court. I  
23 still would have certainly done it.

24 Q. Okay, but you, yeah, you would have filed it but it  
25 would have just been a vanilla notice of appeal for him?

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Beau Seaton-Cross-Examination by Mr. Boozer  
April 17, 2017

1 A. Correct.

2 Q. But you would have filed it because he requested it?

3 A. I would have filed it because he requested it and  
4 because I would assume one day I would be sitting here  
5 having this discussion.

6 Q. Okay.

7 MR. BOOZER: Beg the court's indulgence, Your Honor.

8 THE COURT: All right. Yes, sir.

9 [Whereupon, Mr. Boozer confers with his client]

10 Q. [Mr. Boozer] Thank you, Mr. Seaton. That's all the  
11 questions I have.

12 A. Thank you.

13 THE COURT: Redirect?

14 MS. OLIVE: No further questions, Your Honor.

15 THE COURT: All right. Thank you Mr. Seaton, you  
16 may step down.

17 MR. SEATON: Thank you, Your Honor.

18 [Whereupon, the witness is excused and exits the  
19 witness stand]

20 THE COURT: All right. Call your next witness.

21 MS. OLIVE: The State rests, Your Honor.

22 THE COURT: The State rests. Anything in reply?

23 MR. BOOZER: Nothing in reply, Your Honor.

24 THE COURT: I'll be glad to hear arguments.

25 MR. BOOZER: Just briefly, Your Honor.

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Closing Argument-Remarks by Mr. Boozer  
April 17, 2017

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CLOSING ARGUMENT

BY MR. BOOZER:

If it pleases the court, Your Honor? I just want to address the appeal issue. I'll let his other allegations stand based on the testimony that's been presented today and with his application.

As far as the appeal, my client certainly has a very specific date and recollection of when he sent this letter requesting the appeal. Obviously from testimony of both counsel and the applicant there was a letter that was sent to Mr. Seaton where he requested an appeal. I think that's uncontroverted; I think the dates are what's kind of the -- where there is some, maybe, not agreement.

If he's requesting an appeal, I think its incumbent upon counsel to go ahead and file the appeal. I think there are some certain procedural steps that must be stated to the court I believe when filing from a guilty plea, but none the less, I believe it is the duty of counsel to file that if it is requested.

Certainly there could be some issues with the letter going out in SCDC mail; unfortunately we don't have that letter to see when it was sent or whatnot. So, in addition to the application being granted on the other allegations, we certainly believe that there are grounds to have a belated direct appeal of his plea, Your Honor.

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Closing Argument-Remarks by Mr. Boozer  
April 17, 2017

1 THE COURT: Ms. Olive?  
2 MS. OLIVE: Thank you, Your Honor.  
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Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Closing Argument-Remarks by Ms. Olive  
April 17, 2017

1 CLOSING ARGUMENT

2 BY MS. OLIVE:

3 Your Honor, Mr. Seaton testified that he had a  
4 conversation with Mr. Chavis directly following the plea  
5 in which he advised him about the nature of a direct  
6 appeal and a PCR. He testified that Mr. Chavis did not  
7 ask him at that point to file a direct appeal and he  
8 testified that he received the letter well after the time  
9 to -- in which to file an appeal.

10 Furthermore, Mr. Chavis was advised by the court  
11 that he had ten days in which to file an appeal and that  
12 either he or counsel could do so. So, it's the State's  
13 position he's failed to satisfy his burden of showing  
14 that he is entitled to a belated appeal in this case.

15 But he, in fact, represented to his attorney that he  
16 wished to file an appeal, specifically had the  
17 opportunity to do so in person, when they had this  
18 discussion directly following the plea and he did not  
19 make that request.

20 THE COURT: Anything in reply?

21 MR. BOOZER: Nothing in reply, Your Honor.

22

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Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Ruling by The Court  
April 17, 2017

1 RULING

2 BY THE COURT:

3 The Court agrees with the position of the argument  
4 taken by the State in this case. I find that the  
5 applicant's failed to meet his burden of proof and I'd  
6 like to go ahead and make a specific finding that  
7 applicant's trial attorney stated that he did get -- did  
8 get the notice and that he would have clearly filed the  
9 appeal had it been within a -- received in a timely  
10 manner.

11 Therefore, the court accepts that along with the  
12 other testimony presented by the witness and finds that  
13 testimony to be more credible and therefore find that the  
14 court believes that this was received out of time.

15 In addition, there doesn't really seem to be any  
16 indication that there was any -- there's no evidence that  
17 an appeal would have been successful on any issue. Ms.  
18 Olive, please prepare an order.

19 MS. OLIVE: Thank you, Your Honor.

20 MR. BOOZER: And Your Honor, that order would  
21 include findings, I guess, on the rest of the other ---

22 THE COURT: --- on the other, right ---

23 MR. BOOZER: --- thank you ---

24 THE COURT: --- on the other matters raised by  
25 applicant.

Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Ruling by The Court  
April 17, 2017

1 MS. OLIVE: Thank you, Your Honor.

2 MR. BOOZER: Thank you, Your Honor.

3 \*\*\*\*\*END OF TRANSCRIPT OF RECORD\*\*\*\*\*

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Arthur Ray Chavis, III v State of S. C.  
Post Conviction Relief Hearing-Certificate of the Court Reporter  
April 17, 2017


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C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official  
Circuit Court Reporter for the Ninth Judicial Circuit of  
the State of South Carolina, do hereby certify that the  
foregoing is a true, accurate, and complete Transcript of  
Record of the proceedings had and evidence introduced in  
the trial of the captioned case, relative to appeal, in  
the Court of Common Pleas for Berkeley County, South  
Carolina on the 17<sup>th</sup> day of April, 2017.

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

June 27, 2017

  
Joyce C. Rueger, CVR-M  
Court Reporter

 **COPY**

STATE OF SOUTH CAROLINA )  
 COUNTY OF BERKELEY )  
 )  
 Arthur Ray Chavis, III, SCDC No. 363789, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2016-CP-08-0033

**ORDER OF DISMISSAL**

FILED  
 17 SEP 20 PM 4:04  
 HON. J. P. BROWN  
 CLERK OF COURT  
 BERKELEY COUNTY, S.C.

This matter comes before the Court by way of an application for post-conviction relief filed January 6, 2016, by Arthur Ray Chavis, III (Applicant), alleging various grounds of ineffective assistance of counsel. Respondent made its Return on June 7, 2016, requesting an evidentiary hearing be held. On August 19, 2016, Applicant, through counsel, filed an amended application alleging two additional grounds of ineffective assistance of counsel. An evidentiary hearing into the matter was convened April 17, 2017, at the Berkeley County Courthouse. Applicant was present at the hearing and represented by Lance S. Boozer, Esquire. Assistant Attorney General Alicia Olive from the South Carolina Attorney General's Office appeared on behalf of the State. At the conclusion of the hearing, this Court denied the application from the bench. This order follows.

**PROCEDURAL HISTORY**

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. During its October 2012 term of court, the Berkeley County Grand Jury indicted Applicant for two counts of murder, two counts of possession of a weapon during a violent

crime, and one count of armed robbery (2012-GS-08-1978, -1979, -1980, 1981, -1982). Grover C. Seaton, IV, Esquire, represented him. Assistant Solicitor Bryan A. Alfaro prosecuted the case on behalf of the State.

On April 21, 2015, Applicant appeared in the Berkeley County Court of General Sessions before the Honorable Kristi L. Harrington, circuit court judge, and pled guilty to two counts of the lesser-included offense of voluntary manslaughter, and as indicted to two counts of possession of a weapon during a violent crime and one count of armed robbery. Applicant also waived presentment to the Berkeley County Grand Jury and pled guilty to an additional count of armed robbery (2015-GS-08-0604). Applicant told the plea court he understood he could receive a sentence between two years to thirty years for voluntary manslaughter, ten year to thirty years for armed robbery, and up to five years for possession of a weapon during a violent crime and that he should expect to serve every day of the sentence. (Plea Tr. 4-5, 7). He told the plea court he was pleading guilty because he was guilty and it was solely his decision to plead guilty. (Plea Tr. 9). He also informed the plea court he was satisfied with counsel's services and had no complaints regarding his handling of the case. (Plea Tr. 10). The plea court informed him he had the right to appeal his guilty plea and he or counsel must do so within ten days. (Plea Tr. 10). Pursuant to plea negotiations between Applicant and the State, the plea court sentenced Applicant to twenty-five years imprisonment for each count of voluntary manslaughter and armed robbery and five years imprisonment for each count of possession of a weapon during a violent crime, with all six sentences to be served concurrently. Applicant did not appeal his guilty plea or sentence.



### FACTUAL HISTORY

These charges arise from the double murder of two young women in Berkeley County in the late night hours of August 26, 2012 and early morning hours of August 27, 2012. Applicant and his co-defendant lured the women into the woods by asking for assistance finding a missing wallet in the hopes of stealing their vehicle to commit an armed robbery. Applicant's co-defendant then used a 9 millimeter pistol to fatally shot each girl before hiding their bodies in two separate locations and stealing the vehicle. (Plea Tr. 10-17). Applicant cooperated with law enforcement and agreed to testify against his co-defendant, who ultimately pled guilty and received an aggregate sentence of fifty-five years imprisonment. (Plea Tr. 15-17).

### ALLEGATIONS RAISED

In his application, Applicant alleged he is being held in custody unlawfully based on allegations of:

1. "Ineffective Assistance of Counsel"
  - a. "Trial counsel was ineffective and failed to do a proper investigation."
  - b. "Trial counsel was ineffective and failed to advise that I had a right to a mental evaluation."
  - c. "Trial counsel was ineffective and failed to advise criminal responsibility"
  - d. "Trial counsel was ineffective for failing to withdraw guilty plea arrangement when State failed to meet contract agreement"
  - e. "Trial counsel was ineffective for failing to withdraw guilty plea when Judge asked defendant if he really wanted to take the Plea."

In his amended application, Applicant alleged trial counsel was ineffective for failing to file a direct appeal and failing to review his statements to law enforcement or attempting to suppress the statements.



**SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING**

At the evidentiary hearing, Applicant testified on his own behalf. Applicant testified counsel represented him as a pro bono client. (PCR Tr. 8). He testified he met with counsel seven to eight times. (PCR Tr. 8-9). He testified at their initial meeting, counsel told him he was trying to secure a plea negotiation to allow Applicant to plead to a lesser-included offense such as accessory after the fact to murder. (PCR Tr. 9). He testified it had been a while since he had reviewed his discovery. (PCR Tr. 9). However, he acknowledged counsel had provided him with a copy of his discovery materials and had reviewed that information with him (PCR Tr. 24-25). He also testified he discussed the State's version of events and his version of events with counsel. (PCR Tr. 25).

He said counsel told him he had "this group of lawyers look over my statements to see if they could get it thrown out" but that counsel ultimately told him he could not get his statements "thrown out." (PCR Tr. 10, 18-19). He elaborated that he gave his statements to law enforcement while he was "doped up on medication" and counsel should have moved to suppress his statements based on these grounds. (PCR Tr. 16-19). Applicant testified there is nothing else counsel should have done to investigate his case. (PCR Tr. 10).

Applicant testified he thinks counsel should have had him evaluated because he "had just seen [his] co-defendant shoot two people in the head and it's kind of messed with [him]." (PCR Tr. 11, 26). He elaborated he thinks he "deserved a mental evaluation." (PCR Tr. 11). He acknowledged he never asked his attorney to have him evaluated and he understood what he was doing when he entered his guilty plea. (PCR Tr. 26). He testified he never asked counsel to withdraw his guilty plea. (PCR Tr. 26). He testified he did not know or understand what he listed



as allegations in his pro se application or post-conviction relief because he listed what people told him to write without understanding the allegations. (PCR Tr. 11).

Applicant testified he entered into a proffer agreement with the State and took a polygraph test. (PCR Tr. 12). He testified the agreement was the State would not be able to use his statements against him when he went to court. (PCR Tr. 12). He testified he was supposed to testify against his co-defendant, who ultimately pled guilty instead of proceeding to trial. (PCR Tr. 12, 19). He testified the State originally offered him a plea for between twenty to thirty years imprisonment and he declined this offer, but ultimately accepted a twenty-five year offer. (PCR Tr. 13). He testified he turned these offers down and wanted to go to trial on the two murder charges which each carried up to a life imprisonment sentence. (PCR Tr. 25).

He testified he wrote counsel when he got to Kirkland Correctional Institute asking counsel to file an appeal of his guilty plea, but does not have a copy of the letter. (PCR Tr. 14-1, 26-27). He testified counsel never responded to his letter. (PCR Tr. 16). He acknowledged the plea court reviewed his appellate rights with him during the plea colloquy. (PCR Tr. 27). He testified he only told the plea court that he was satisfied with counsel's services because he wanted to get the plea over with so he could file a PCR. (PCR Tr. 20-21).

Plea counsel testified next. He testified he was retained to represent Applicant at his bond hearing and preliminary hearing only, but then was appointed due to a conflict because the public defender's office was representing his co-defendant. (PCR Tr. 29). He agreed with Applicant's recollection that they met approximately seven times, but that his paralegal also met with Applicant and brought him discovery. (PCR Tr. 29). Counsel testified he reviewed the discovery with Applicant and discussed the State's evidence against him. (PCR Tr. 30). He testified they



discussed possible defenses, including that Applicant was unaware his co-defendant was going to shoot the two victims. (PCR Tr. 30). He testified they discussed "hand-of-one, hand-of-all" and its impact on the case and that Applicant appeared to understand these discussions. (PCR Tr. 31). He testified discovery was voluminous in this case and Applicant gave many statements to law enforcement. (PCR Tr. 31). He testified Applicant eventually gave a proffer to Solicitor Wilson and agreed to testify against his co-defendant (who was his cousin) in exchange for a more favorable sentence. (PCR Tr. 31-32). He testified he attempted to secure a plea offer for accessory after the fact to murder based on Applicant cooperation, but the State was unwilling to allow him to plead to anything less than voluntary manslaughter. (PCR Tr. 32-33, 40-41). He testified he discussed the benefits and drawbacks of pleading guilty with Applicant and Applicant's hesitation was pleading guilty when he insisted he did not know his co-defendant was going to shoot the victims. (PCR Tr. 33). He testified Applicant was unable to testify against his co-defendant when his co-defendant decided to plead guilty. (PCR Tr. 4-42).

Counsel testified he hired the National Legal Research Group from Charlottesville, Virginia to research possible suppression of Applicant's statements to law enforcement. (PCR Tr. 34). He testified he uses this group in difficult situations to research legal issues. (PCR Tr. 34). He testified he was attempting to suppress these various statements because they were the most damaging evidence against Applicant and Applicant was on medications on the time that might have affected his ability to provide statements. (PCR Tr. 34). He testified he obtained Applicant's medical records, including prescription records. (PCR Tr. 34). He testified the group provided him with a brief in support of suppression, but he ultimately concluded it was "fairly baseless," would not have resulted in suppression, and ultimately would have hurt Applicant in

the long run. (PCR Tr. 35). He testified he discussed this with Applicant and believes it is what ultimately led to the decision to enter into a proffer agreement with the State. (PCR Tr. 35). He testified he thinks Applicant likely would have been convicted at trial and received a much harsher sentence. (PCR Tr. 37). He testified Applicant had anxiety and suffered from trauma following the shooting, but he did not have him evaluated because it did rise to any legal level of a defense and he did not have any competency concerns. (PCR Tr. 38).

Counsel testified he received a letter from Applicant requesting he file an appeal, but it was well beyond the time had expired for filing, likely a month or two after the guilty plea. (PCR Tr. 35, 43-44). He testified he considered filing an untimely notice of appeal to cover himself against future claims, but ultimately decided against it because there were no meritorious issues from the negotiated plea for appellate review. (PCR Tr. 36, 44-45). He testified he would have filed an appeal on Applicant's behalf despite thinking it lacked merit, but did not receive Applicant's request on time. (PCR Tr. 44-45). He testified he reviewed appellate rights with Applicant immediately after the guilty plea in a jury room next to the courtroom and Applicant did not request he file an appeal. (PCR Tr. 36-37).

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearings. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Specifically, this Court finds plea counsel's testimony credible and finds Applicant's testimony not credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, he or she must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813. The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813. The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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



After careful review of the entire record, including the testimony presented at the evidentiary hearings, based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action regarding any of his allegations of ineffective assistance of counsel. Below are this Court's specific finding regarding each of Applicant's allegations of ineffective assistance of counsel:

*Allegation: Failure to Perform a Proper Investigation*

Applicant alleges counsel was ineffective for failing to properly investigate his case. However, at the evidentiary hearing, he testified he does not know what else counsel should have investigated. Moreover, Applicant failed to present any evidence of what additional investigation would have yielded. Therefore, this Court finds Applicant has failed to meet his requisite burden of proof. See Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (holding failure to conduct an independent investigation is not per se ineffective assistance of counsel, especially where an investigation would not have uncovered any helpful information); Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) ("Respondent failed to present any evidence of what counsel could have discovered or what other defenses respondent would have requested counsel pursue had counsel more fully prepared for the trial."). This Court finds plea counsel's performance was reasonable according to professional standards and his allegations that plea counsel was ineffective for failing to investigate must be denied and dismissed with prejudice.

*Allegation: Failure to Advise of and Perform a Mental Evaluation*

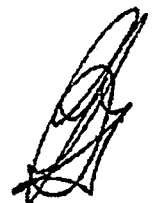
Applicant alleges counsel was ineffective for failing to advise him of his right to a mental evaluation and have him evaluated prior to entering his guilty plea. In support of this allegation,



Applicant testified he thinks counsel should have had him evaluated because he "had just seen [his] co-defendant shoot two people in the head and it's kind of messed with [him]" and, therefore, he "deserved a mental evaluation." Applicant never alleged he was not competent, and to the contrary, admitted he understood what he was doing when he entered his guilty plea. Counsel testified Applicant had anxiety and suffered from trauma following the shooting, but he did not have him evaluated because it did rise to any legal level of a defense and he did not have any concerns as to Applicant's competency.

"When a PCR applicant raises issues of competency in the context of a plea proceeding, the two-prong Strickland analysis still applies; however, because of the nature of the claim, proof of deficiency of counsel is intertwined with prejudice." Ramirez v. State, 419 S.C. 14, 21, 795 S.E.2d 841, 844-45 (2017). "Specifically, when establishing Strickland prejudice in the context of plea counsel's failure to request a mental competency evaluation, 'the [applicant] need only show a 'reasonable probability' that he was ... incompetent at the time of the plea.' " Id. (quoting Jeter v. State, 308 S.C. 230, 233, 417 S.E.2d 594, 596 (1992)); see also Matthews v. State, 358 S.C. 456, 458-60, 596 S.E.2d 49, 50-51 (2004) (expanding the reasonable probability standard as the burden for proving both the deficiency of counsel and the prejudice prongs).

This Court finds Applicant has failed to meet his requisite burden of proof as to either deficiency of counsel or prejudice. Counsel testified there was no reasonable basis on which to have Applicant evaluated or doubt his competency. Applicant testified he understood his proceedings. Therefore, this allegation is denied and dismissed.



*Allegation: Failure to advise Applicant regarding criminal responsibility*

Applicant alleges counsel was ineffective for failing to advise him of criminal responsibility. When asked about this allegation at the evidentiary hearing, Applicant acknowledged he did not know what that meant and only alleged it because other inmates advised him to write it. Applicant presented no testimony in support of this allegation. Therefore, this allegation is denied and dismissed with prejudice.

*Allegation: Failure to withdraw guilty plea*

Applicant alleges counsel was ineffective for failing to withdraw his guilty plea when the State did not meet its contractual agreement. Counsel and Applicant both testified there was no promise or contractual agreement for any specific sentence Applicant would receive for cooperating in the prosecution against his co-defendant. This Court find this allegation is without merit and must be denied and dismissed with prejudice.

Additionally, Applicant alleges counsel was ineffective for withdraw his guilty plea when the plea court asked him if he really wanted to enter his guilty plea. Again, when asked about this allegation at the evidentiary hearing, Applicant acknowledged he did not know what that meant and only alleged it because other inmates advised him to write it. Applicant presented no testimony in support of this allegation. Therefore, this allegation is denied and dismissed with prejudice.

*Allegation: Failure to file an appeal*

Applicant alleges counsel was ineffective for failing to file an appeal on his behalf. Applicant alleged he sent counsel a written request for an appeal within the ten day time limit but counsel never responded and failed to file the notice as instructed. Counsel testified he and the



plea court both advised Applicant he had ten days to file a notice of appeal from his guilty plea. He testified he discussed appellate rights immediately after the guilty plea and Applicant did not request he file a notice of appeal. Counsel testified he did not receive a request to file a notice of appeal from Applicant until well beyond the time limits and did not file one because it would not have been timely. This Court finds Counsel's testimony credible and that Applicant did not timely request an appeal as instructed by both counsel and the plea court. This allegation is denied and dismissed with prejudice.

*Allegation: Failure to Suppress Statements*

Applicant alleges counsel was ineffective for failing to review his statements with him and move to suppress these statements. Counsel's credible testimony clearly refutes this allegation. Counsel testified he reviewed Applicant's various statements to law enforcement with Applicant, and then he retained the National Legal Research Group from Charlottesville, Virginia to research possible suppression of Applicant's statements to law enforcement. Counsel testified he obtained Applicant's medical records, including prescription records, in hopes of further supporting a motion for suppression. He testified the group provided him with a brief in support of suppression, but he ultimately concluded it was "fairly baseless," would not have resulted in suppression, and ultimately would have hurt Applicant in the long run. This Court finds counsel's performance was reasonable and in accordance with professional standards. This allegation is denied and dismissed with prejudice.

Ultimately, this Court finds plea counsel was thoroughly competent in his representation of Applicant and in his advice to Applicant that a guilty plea was in his best interest. Therefore, this application for post-conviction relief is denied and dismissed with prejudice.



**CONCLUSION**

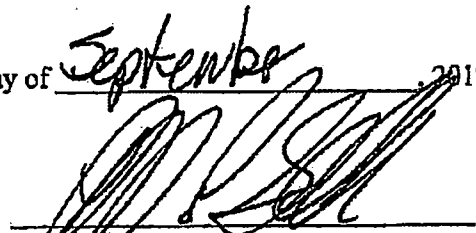
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief is denied and dismissed with prejudice.

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

**IT IS THEREFORE ORDERED:**

1. This application for post-conviction relief must be denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this 11 day of September, 2017.



\_\_\_\_\_  
 BROOKS P. GOLDSMITH  
 Presiding Judge  
 Ninth Judicial Circuit

\_\_\_\_\_, South Carolina

ALF2012-09-01446

WITNESSES

Berkeley County Sheriff's Office

AGENCY CASE NUMBER

201208038209

ARREST WARRANT NUMBER

2012A0810200093

DATE OF ARREST

September 2, 2012

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury  
Date: 10/17/12

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012-GS-08-01978

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2012

THE STATE

vs.

ARTHUR RAY CHAVIS, III

DOB:

W/M

Indictment for

Murder

12 OCT 17 PM 3:17  
MARY P. HANCOCK  
CLERK OF COURT  
BERKELEY COUNTY, S.C.

FILED


JFH

103  
JFH



ALF2012-09-01446

WITNESSES

  
Berkeley County Sheriff's Office

AGENCY CASE NUMBER

201208038209

ARREST WARRANT NUMBER

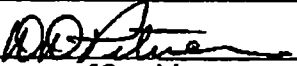
2012A0810200107

DATE OF ARREST

September 7, 2012

ACTION OF GRAND JURY

**True Bill**

  
Foreperson of Grand Jury

Date: 10/17/12

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012-GS-08-01980

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2012

THE STATE

vs.

ARTHUR RAY CHAVIS, III

DOB:

W/M

Indictment for

Armed Robbery

12 OCT 17 PM 3:18  
MARY P. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, S.C.

FILED

JH

105



ALF2012-09-01446

WITNESSES

  
Berkeley County Sheriff's Office

AGENCY CASE NUMBER

ARREST WARRANT NUMBER


2012A0810200111

DATE OF ARREST

September 7, 2012

ACTION OF GRAND JURY

**True Bill**

  
Foreperson of Grand Jury

Date: 10/17/12

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012-GS-08-01982

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2012

THE STATE

vs.

ARTHUR RAY CHAVIS, III

DOB:

W/M

Indictment for

Possession of a Weapon During the  
Commission of a Violent Crime

12 OCT 17 PM 3:18  
MARY R. BROWN  
CLERK OF COURT  
BERKELEY COUNTY, S.C.

FILED

JFH

407  
JFH

