

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Aiken County

S.C. SUPREME COURT

Honorable J. Mark Hayes, Circuit Court Judge

RASHAWN J. ISAAC,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002368

APPENDIX

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Appellate Defender

South Carolina Commission on Indigent
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Division of Appellate Defense
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ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA

CIRCUIT COURT
2013-GS-02-01731-33

2 COUNTY OF AIKEN

3 STATE OF SOUTH CAROLINA,

4 -vs-

TRANSCRIPT OF RECORD

5 RASHAWN JAMES ISAAC,
6 Defendant.

7
8 Heard on Thursday, December 10, 2015
9 Aiken, South Carolina

10
11
12 BEFORE:

13 THE HONORABLE JAMES R. BARBER, III

14
15
16 APPEARANCES:

17 Counsel on Behalf of the State:
18 J. William Weeks, Esq.

19 Counsel on Behalf of the Defendant:
20 Michael Chesser, Esq.

21
22
23 Cheri L. Young, RPR
24 Circuit Court Reporter
P O Box 5232
25 Aiken, SC 29804-5232

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EXHIBIT INDEX

(NO EXHIBITS IDENTIFIED/INTRODUCED)

1 ON THURSDAY, DECEMBER 10, 2015 AT 11:16 A.M.:

2 MR. WEEKS: Rashawn Isaac.

3 (Defendant placed under oath.)

4 THE DEFENDANT: How are you doing, sir?

5 THE COURT: Tell -- good. Tell me your name.

6 THE DEFENDANT: Rashawn Isaac.

7 THE COURT: Rashawn what?

8 THE DEFENDANT: Isaac.

9 THE COURT: I-S-A-A-C?

10 THE DEFENDANT: Yes, sir.

11 MR. WEEKS: Your Honor, this is Rashawn James Isaac.

12 He's before you on three indictments. He's indicated that
13 he's tendering a negotiated guilty plea to those three
14 indictments. The first one being an indictment for murder
15 that has been -- they've agreed to accept the
16 lesser-included plea to voluntary manslaughter with a
17 negotiated 30-year sentence, and a burglary first degree
18 with a negotiated 30-year sentence concurrent to the
19 manslaughter -- to the voluntary manslaughter plea, and an
20 armed robbery indictment for a 30-year concurrent sentence
21 to the burglary first and the voluntary manslaughter
22 indictment.

23 He's represented by Attorney Michael Chesser and has
24 indicated that he is accepting the negotiated plea that
25 has been tendered by the State.

1 THE COURT: All right. Are we going to wait on his
2 mother?

3 MR. WEEKS: For sentencing, yes.

4 MR. CHESSER: Yes, Your Honor.

5 THE COURT: For sentencing. And she's going to be
6 able to be here today?

7 MR. CHESSER: I've left a message for her. My
8 understanding she'll be here this afternoon, Your Honor.

9 THE COURT: All right. Do you understand that,
10 Mr. Isaac?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You are 23 years of age?

13 THE DEFENDANT: 24.

14 THE COURT: 24 now. Your birthday was in August.
15 Before you were in jail, did you work? What did you do?

16 THE DEFENDANT: I was about to go back to school,
17 play football.

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

19 THE DEFENDANT: I graduated.

20 THE COURT: From high school?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. And where did you go to high
23 school?

24 THE DEFENDANT: Aiken High School.

25 THE COURT: All right. And you're not married, are

1 you?

2 THE DEFENDANT: No, sir.

3 THE COURT: Do you have any children?

4 THE DEFENDANT: Two.

5 THE COURT: How old are they?

6 THE DEFENDANT: Two, two and four.

7 THE COURT: All right. And who were you living with
8 at the time you were arrested?

9 THE DEFENDANT: My mother.

10 THE COURT: And you have been charged with burglary
11 in the first degree for which you could get a minimum of
12 15 years up to life imprisonment. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And of course you've been charged. You
15 were originally indicted for murder. The State is taking
16 a plea on a voluntary manslaughter charge. Do you
17 understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You can get up to 30 years in the
20 Department of Corrections for that.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you understand? And then you're
23 charged with armed robbery. And you can get up to 30
24 years on armed robbery as well. Do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And of course these are what we call most
2 serious and violent offenses which means that they or at
3 least -- is the burglary, what is that?

4 MR. WEEKS: It's 15 to life. So it would be a
5 violent and most serious.

6 THE COURT: I mean, armed robbery, is that a --

7 MR. WEEKS: Violent and most serious, Your Honor.

8 THE COURT: Huh?

9 MR. WEEKS: It's violent and most serious. Did I
10 check it wrong?

11 THE COURT: Well, it's not checked.

12 MR. WEEKS: I'm sorry.

13 THE COURT: Anyway, they could affect your -- if you
14 get in trouble again in the future, they could affect what
15 the State might do in terms of the sentence.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: It's enhanced, and it might have an
18 effect as to a life without parole. Do you understand
19 that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. And there's a negotiated plea
22 arrangement in this case which means your lawyer with your
23 authorization and the State have agreed that you would
24 plead to a certain, certain offenses and get a certain
25 penalty on those offenses. Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And I -- well, I don't have to accept
3 that negotiated plea arrangement. If I elect not to
4 accept it you will be able to withdraw your plea and do as
5 you deem appropriate, you and your lawyer, at some point
6 in time in the future. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you want to enter a guilty plea
9 pursuant to this negotiated plea arrangement?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that you do not have to
12 plead guilty on any of these charges? You are presumed to
13 be innocent. The State would have to prove you guilty and
14 prove you guilty beyond a reasonable doubt. Do you
15 understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now you have talked to Mr. Chesser about
18 these charges?

19 THE DEFENDANT: Yes, sir, I did.

20 THE COURT: You told him everything you know about
21 it?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: He's answered all your questions, done
24 everything you've asked him to do?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Are you satisfied with his services?

2 THE DEFENDANT: Yes, sir, I am.

3 THE COURT: Mr. Chesser, do you concur with your
4 client pleading guilty --

5 MR. CHESSER: Yes, Your Honor.

6 THE COURT: -- pursuant to this negotiated plea
7 arrangement?

8 MR. CHESSER: Yes, sir.

9 THE COURT: Do you think it's in his best interests
10 to do so?

11 MR. CHESSER: Yes.

12 THE COURT: Do you think the State most probably
13 would prevail if it went forward with a trial on these
14 charges?

15 MR. CHESSER: Yes, sir.

16 THE COURT: Now, Mr. Isaac, do you understand that
17 when you plead guilty you waive some of your
18 constitutional rights. You have a constitutional right to
19 a jury trial on all the charges against you, let 12
20 citizens of this county hear the evidence and they would
21 ultimately determine whether you're guilty or not but you
22 waive that right with this guilty plea. Do you
23 understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you have a constitutional right to

1 confront any witnesses the State may have. The State
2 would have to bring their witnesses to court that they
3 intend to use, that you would have an opportunity to see
4 who they are. Your lawyer would have an opportunity to
5 examine them in the courtroom. But you waive that right
6 with this plea. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And by pleading guilty you give up your
9 right to remain silent. Normally you would not have to
10 say anything, do anything, you wouldn't have to help the
11 State in any way. You wouldn't have to testify at a trial
12 if you elected not to testify. In fact, the Court would
13 instruct the jury they couldn't consider that fact in the
14 course of their deliberations, but by pleading guilty you
15 give up your right to remain silent. Do you understand
16 that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And by pleading guilty you're giving up
19 your right to a trial, you're giving up your right to
20 testify at that trial, to tell your side of the story. Do
21 you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And by giving up your right to a trial
24 you're giving up your right to put up any defenses you may
25 have to these charges as well. Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And by giving up your right to a trial
3 you're giving up your right to contest any evidence the
4 State may have through any motions to suppress, motions in
5 limine, including any statements that you may have given.
6 Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Knowing all of that, do you still wish to
9 go forward with the guilty plea?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. Now, other than the
12 negotiated plea arrangement has the State or anyone else
13 offered or promised you anything to get you to plead
14 guilty?

15 THE DEFENDANT: No, sir.

16 THE COURT: Anybody threaten you, coerce you, force
17 you or pressure you into pleading guilty?

18 THE DEFENDANT: No, sir.

19 THE COURT: You're pleading guilty freely and
20 voluntarily?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And you're pleading guilty because you
23 are guilty?

24 THE DEFENDANT: In a way, yes, sir.

25 THE COURT: Well, we're not doing it in a way.

1 THE DEFENDANT: Oh. Yes, sir.

2 THE COURT: You're either guilty or --

3 THE DEFENDANT: Yes, sir.

4 THE COURT: So you're admitting your guilt?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Have you had any alcoholic beverages in
7 the last 24 hours?

8 THE DEFENDANT: No, sir.

9 THE COURT: Have you taken any drugs or had any
10 medication in the last 24 hours?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: What did you do?

13 THE DEFENDANT: Blood pressure.

14 THE COURT: You've taken some blood pressure
15 medication?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: When did you take that?

18 THE DEFENDANT: This morning at eight.

19 THE COURT: All right. Does that blood pressure --
20 taking that medication, does that prevent you from
21 understanding --

22 THE DEFENDANT: No, sir.

23 THE COURT: -- why you're here?

24 THE DEFENDANT: No, sir.

25 THE COURT: Does it prevent you from understanding

1 the charges and the penalties?

2 THE DEFENDANT: No, sir.

3 THE COURT: Does it prevent you from communicating
4 with Mr. Chesser?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you think you're competent to go
7 forward with the plea even though you've taken blood
8 pressure medicine?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Mr. Chesser, you've had conversation with
11 your client today. Have you seen anything that would
12 indicate to you that he's not competent to go forward with
13 the plea?

14 MR. CHESSER: No, sir.

15 THE COURT: Has he been -- any conversations or
16 responses that you've had, they've been appropriate in
17 your opinion?

18 MR. CHESSER: All have been appropriate, Your Honor.

19 THE COURT: Do you believe he's competent to go
20 forward with the plea?

21 MR. CHESSER: Yes, sir.

22 THE COURT: The Court's going to find that Mr. Isaac
23 has taken some blood pressure medication approximately
24 three and a half hours ago but he says that he's competent
25 to go forward with the plea. He understands the charge

1 and the penalties, not affected by the medication as to
2 his communicating with his lawyer. He understands the
3 proceedings he's involved in. He says he's competent to
4 go forward with the plea. Mr. Chesser, his attorney, has
5 had conversation with him. He concurs that he's
6 competent. The Court finds that his responses to the
7 Court have been appropriate and the Court will find him
8 competent to go forward with the plea.

9 Are you being treated by a psychiatrist or other
10 professional for any mental illness?

11 THE DEFENDANT: No, sir.

12 THE COURT: Do you have any complaints against the
13 solicitor's office?

14 THE DEFENDANT: No, sir.

15 THE COURT: Complaints of law enforcement?

16 THE DEFENDANT: No, sir.

17 THE COURT: Any complaints with anybody at the jail?

18 THE DEFENDANT: No, sir.

19 THE COURT: Have you understood all of my questions
20 here today?

21 THE DEFENDANT: Yes, sir. I have.

22 THE COURT: Have your answers been truthful and
23 complete?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand that you have 10 days

1 from today to appeal my sentence? Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Mr. Isaac, as to Indictment
4 2013-GS-02-1732 which says you did in Aiken County on or
5 about May 28, 2013, willfully and unlawfully enter the
6 dwelling of Shane Jones located at [REDACTED]
7 Street, Aiken, South Carolina, without consent with the
8 intent to commit a crime therein. And you knew -- and you
9 were armed and entered or remained during the nighttime.
10 How do you plead?

11 THE DEFENDANT: Guilty.

12 THE COURT: As to Indictment 2013-GS-02-1731 it says
13 that you did along with others in Aiken County on or about
14 May 28, 2013, feloniously, willfully and with malice
15 aforethought then and there kill and murder Shane Jones by
16 means of shooting that victim and that victim did die in
17 Aiken County at [REDACTED], Aiken, South
18 Carolina, as a proximate result thereof on May 26, 2013
19 {sic}, to which the State is taking a plea on the
20 lesser-included offense of voluntary manslaughter. How do
21 you plead?

22 THE DEFENDANT: Guilty.

23 THE COURT: As to Indictment 2013-GS-02-1733 which
24 says you did in Aiken, South Carolina, along with others
25 on or about May 28, 2013, while armed with a deadly weapon

1 or while alleging either by action or word that you were
2 armed or using a representation of a deadly weapon or an
3 object which a person present during the commission of a
4 robbery reasonably believed to be a deadly weapon, that
5 being a handgun and/or a rifle, feloniously take from the
6 occupants of the household by means of force or
7 intimidation goods or monies of said occupants, such goods
8 or monies being described as Xanax and personal items.

9 How do you plead?

10 THE DEFENDANT: Guilty.

11 THE COURT: I'm sorry?

12 THE DEFENDANT: Guilty.

13 THE COURT: I find this Defendant to be represented
14 by competent counsel and he's satisfied with the services
15 of his attorney. I further find the Defendant pleading
16 guilty freely and voluntarily and knowingly and
17 intelligently and I will accept his plea.

18 Mr. Weeks, I know we're taking -- we're going to
19 sentence him as soon as his mother gets here. Can you
20 give me a factual basis for the plea?

21 MR. WEEKS: Yes, Your Honor. And just to make
22 clear. One of the indictments I believe you stated it
23 occurred on May the 26th. This all occurred --

24 THE COURT: May 28th.

25 MR. WEEKS: Yes, Your Honor. On May 28th.

1 THE COURT: I'm sorry. The burglary was May the
2 28th, so was the murder. I apologize. All of them read
3 May 28th.

4 MR. WEEKS: I just wanted to make sure it wasn't a
5 typo.

6 Your Honor, on that date and leading up to the time
7 of the death of an individual by the name of Shane Jones,
8 Mr. Isaac along with essentially four other people devised
9 a plan to rob the residence of Shane Jones and rob the
10 people in that residence including, I believe, Shane Jones
11 and maybe a couple other people that were in the residence
12 on the night of this murder.

13 What happened was Mr. Isaac along with these four
14 other people developed or participated in a plan whereby
15 one of them, a Mr. Trevon Butler, was located inside of
16 the residence. He was a friend of Shane Jones, a friend
17 of the family. And he was supplying information to one of
18 the participants in this by way of a cell phone as to how
19 many people were in there, were they armed.

20 And his role in this thing as has been discovered by
21 the Aiken Department of Public Safety, the investigators
22 who worked the case are in Court, was that, you know, he
23 would make sure that the back door of Mr. Jones' residence
24 was open. These four individuals, not Mr. Butler who was
25 inside of the residence, arranged to locate two of the

1 residents by way of a vehicle owned by one of the
2 co-defendants.

3 Mr. Isaac drove that vehicle to a location or street
4 located behind the residence. Mr. Isaac stayed with the
5 vehicle while the other three active participants went
6 armed to the back of the residence. Two of them had .22
7 rifles and one of them had a nine millimeter Luger that
8 was actually supplied to him via -- or with the knowledge
9 of Mr. Isaac. I'm not sure exactly. The stories kind of
10 change as to his actual participation in giving it to this
11 co-defendant.

12 But what happened was as they arrived at the
13 residence they burst in the back door. Mr. Jones who
14 was -- it was his house, kind of lunged toward the door.
15 According to the statements we've gotten, he may or may
16 not have a kitchen knife in his hand that he had in his
17 hand essentially when they burst through the door. But he
18 went towards the two of them that burst through the door
19 first. And one of them, the second one in line was
20 Mr. Simmons. And he had the nine millimeter semiautomatic
21 pistol. He shot at least three times and all three of the
22 bullets hit Mr. Shane Jones.

23 Mr. Jones hit the floor right there at the back door,
24 ultimately died as a result of his wounds. Mr. Isaac --
25 and I realize the indictments don't reflect necessarily

1 the language of the-hand-of-one-is-the-hand-of-all was
2 involved in all of this. He knew that they were going to
3 rob, probably didn't know that Mr. Jones was going to get
4 killed but as a result of them all being armed with loaded
5 weapons, Mr. Jones did get killed and he was not armed
6 and -- with anything of substance, and he was obviously in
7 his house and anything he did would have been defending
8 his residence.

9 So Mr. Isaac, I believe, has wrapped his head around
10 the fact that under the hand of one hand of all he's
11 legally guilty of murder and the burglary -- the murder or
12 voluntary manslaughter, burglary first degree and armed
13 robbery.

14 Mr. Jones, as I indicated, did die. The other people
15 that were in the house scattered to the winds for a
16 while. And once the coast was kind of clear, some of them
17 came back and gave statements.

18 Police have been literally investigating this case
19 for two and a half years and talking to witnesses that we
20 discovered that were in the residence at the time, and
21 gotten various pieces of evidence indicating the
22 participation of the three people who went with the
23 weapons.

24 After people came back to the truck one of them
25 drove. Mr. Isaac rode with them. He took possession of

1 the weapon that was determined to have killed Mr. Jones
2 and gave it to some family member. I don't know if it was
3 a cousin or brother.

4 Police got information as to who may have been
5 involved, put out some names and Mr. East, who's
6 represented currently by Mr. Beck and Mr. Walsh, was the
7 first to come to the police department and give a
8 voluntary statement as to the parameters of what happened
9 that night. Mr. Isaac was the second to arrive and gave a
10 very similar statement as to his involvement in it that
11 I've given the Court.

12 Mr. Isaac pursuant to some plea negotiations and the
13 offer the State has made him, has given further
14 information or has given another statement to my office,
15 once again indicating his involvement in the planning and
16 his involvement of what it was after the fact of the
17 actual killing.

18 That's about the factual basis as regard to Mr. Isaac
19 that I need to put in.

20 THE COURT: Anything you want to say with respect to
21 the factual situation, Mr. Chessser?

22 MR. CHESSER: No, sir.

23 THE COURT: I'm going to find that the State has
24 presented a factual basis for the plea. I'm going to find
25 that I will accept the negotiated plea arrangement, that

1 the plea's been entered freely and voluntarily, knowingly
2 intelligently. And, I will accept all of the pleas, and
3 we will hope Mrs. -- what's your mom's name?

4 THE DEFENDANT: Isaac, Angie Isaac.

5 THE COURT: -- Mrs. Isaac gets here as quickly as we
6 can. Does she work?

7 THE DEFENDANT: No, sir.

8 MR. CHESSER: I'll go by her residence, Your Honor.

9 THE COURT: Do you know where she lives?

10 MR. CHESSER: I'm going to get the actual address
11 from him.

12 THE COURT: Do you live right here in town?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Where do you live?

15 THE DEFENDANT: Columbia Avenue.

16 MR. CHESSER: What's the number?

17 THE COURT: All right. Thank you.

18 MR. CHESSER: ■ East Columbia Avenue.

19 MR. WEEKS: Thank you, Your Honor.

20 (At 11:35 A.M., the hearing of this matter was
21 suspended until 2:24 P.M., when the proceedings resumed as
22 follows:)

23 MR. WEEKS: Rashawn Isaac.

24 THE COURT: Ms. Isaac, your son this morning pled
25 guilty to three charges, armed robbery, burglary first and

1 voluntary manslaughter, pursuant to a negotiated plea
2 arrangement. Have you talked to Mr. Chesser?

3 MS. ISAAC: No. I was --

4 THE COURT: What'd you say?

5 MS. ISAAC: So I could be here for the sentence.

6 THE COURT: Right. But did he tell you about your
7 son having pled guilty this morning?

8 MS. ISAAC: I know of involuntary manslaughter.

9 THE COURT: Voluntary manslaughter. And the deal was
10 he would plead guilty and be sentenced to 30 years in a
11 negotiated plea which I don't have the ability to change
12 that if I accept the plea, and I did earlier this
13 morning. But your son wanted you here for the
14 sentencing. Do you understand that? Did you want to say
15 anything?

16 MR. CHESSER: May I have just a word with her?

17 (Conferring with Defendant's mother.)

18 This is on Angie Isaac. A-n-g-i-e Isaac.

19 THE COURT: What do you want to tell me, Ms. Isaac?

20 MS. ISAAC: I'm the mother of Rashawn. And the
21 situation -- but I love him. And I've been -- I didn't
22 know this was going to happen today because I had to leave
23 out tomorrow because my mother just had a heart attack and
24 a stroke.

25 THE COURT: Where do you live? I mean, where does

1 your mother live?

2 MS. ISAAC: In New York.

3 THE COURT: In New York.

4 MS. ISAAC: I love you, Rashawn.

5 THE COURT: I'm sorry this has happened to you and
6 I'm sure your son's sorry he put himself in this position.

7 MS. ISAAC: Yes.

8 THE COURT: If he could go back and undo it he
9 probably would, but unfortunately when you do something
10 bad sometimes you got to be responsible for it and there
11 are bad consequences. And he's here today to face those
12 consequences.

13 How long has he been in jail?

14 MR. WEEKS: Since --

15 THE COURT: How long have you been in jail?

16 THE DEFENDANT: Going on 31 months.

17 THE COURT: 31 months. Well, you get credit for that
18 time. Anything you want to tell me?

19 MR. CHESSER: I don't want to change the sentence but
20 I'd like to speak briefly. He's been a follower. This
21 happened -- these were guys from school that he, his
22 friends. And he followed them. And over the past couple
23 of months in particular he has really manned up with me.
24 That is, he's been -- we've had real good in depth
25 discussions and he's -- in fact, he's been debriefed by

1 the prosecution. And he, he has finally really manned
2 up. This was not something they intended, as the
3 prosecutor said. This was a tragedy and not just,
4 unfortunately, for the deceased, it's very tragic, but
5 it's for these four young men.

6 THE COURT: Well, it sure is. I mean, this fellow
7 here will get out in 25 years or so you -- but, well, he's
8 been in jail, how much, 31 months?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: 23, 23, 22 years-and-some-odd-months.
11 How old are you now?

12 THE DEFENDANT: 24.

13 THE COURT: 24. So he'll be 46. He'll still have a
14 long life ahead of him if he behaves himself in jail.
15 And, but you are going to get out of prison.
16 Unfortunately the fellow that got killed nobody is going
17 to see him again, at least on this earth. And your
18 lawyer's right; it's tragic. Nobody here wants you to go
19 to prison for 20-plus years.

20 But at least you did accept responsibility for it.
21 And you, from this point forward you can go about getting
22 on with your life and hopefully when you get out of prison
23 you'll do what you need to do. But, at least you're
24 getting out before two of them, isn't he, Mr. Weeks?

25 MR. WEEKS: Absolutely, sir.

1 THE COURT: Two of them are going to do 30 years day
2 for day. All right.

3 ON THE ARMED ROBBERY, 2013-GS-02-1733, THE SENTENCE
4 OF THE COURT IS YOU BE COMMITTED TO THE DEPARTMENT OF
5 CORRECTIONS FOR A TERM OF 30 YEARS PLUS COSTS AND
6 ASSESSMENTS AS APPLICABLE.

7 ON INDICTMENT 2013-GS-02-1731, VOLUNTARY MANSLAUGHTER
8 THE SENTENCE OF THIS COURT IS YOU BE COMMITTED TO
9 DEPARTMENT OF CORRECTIONS FOR A TERM OF 30 YEARS PLUS
10 COSTS AND ASSESSMENTS AS APPLICABLE.

11 AND ON YOUR BURGLARY FIRST DEGREE, THE SENTENCE OF
12 THIS COURT IS YOU BE COMMITTED TO THE -- 2013-GS-02-1732,
13 YOU BE COMMITTED TO THE DEPARTMENT OF CORRECTIONS FOR A
14 TERM OF 30 YEARS PLUS COSTS AND ASSESSMENTS AS
15 APPLICABLE.

16 I'm giving you -- ALL OF THEM THEM WILL RUN
17 CONCURRENT. I'M GIVING YOU CREDIT FOR TIME SERVED. And,
18 good luck to you.

19 THE DEFENDANT: Thank you.

20 MR. CHESSER: Thank you.

21 END OF CASE: 2:48 P.M.

22

23

24

25

1 CERTIFICATE OF REPORTER

2 STATE OF SOUTH CAROLINA)

3 COUNTY OF AIKEN)

4 I, Cheri L. Young, Registered Professional Reporter
5 and Official Court Reporter for the State of South
6 Carolina, Second Circuit-At Large, do hereby certify that
7 the foregoing proceedings were written stenographically by
8 me using computer-aided translation; further, that the
9 foregoing is a true, accurate and complete record, to the
10 best of my skill and ability, of all the proceedings had
11 and evidence introduced in the hearing of the captioned
12 case, relative to appeal, in the Court of General Sessions
13 for Aiken County, on the 10th day of December, 2015.

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

16 I have hereunder set my hand this 1st day of August,
17 2017.

18
19 _____
20 Cheri L. Young, RPR
21 Official Court Reporter
22
23
24
25

2013A022010050 /
2013A0220100531
2013A0220100532
IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA)

County of Aiken)

Rashawn J. Isaac # 366517)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

2016CP0202650

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention McCormick Correctional Institution
2. Name and location of Court which imposed sentence General Sessions Aiken County
3. Name(s) of co-defendant(s) (if any) Brian Morton, Markese East, Leon Simmons, and Trevon Butler
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 16-11-0330 Armed Robbery
 - (b) 16-11-0311 Burglary in the First degree

FILED 11-29-16

Leiland
CCCP & CS
Amie 12/30/16
Deputy Clerk

(c) 16-03-0010 Murder

- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) _____
 - (b) _____
 - (c) _____

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

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

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

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) Unawareness of right to appeal
 - (b) _____

(c) _____

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

(a) ineffective assistance of Counsel

(b) _____

(c) _____

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

(a) Failure to obtain mental health documents

(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. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- 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. _____
- 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) lack of understanding
- (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? N/A
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (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. Michael W. Chesser
Post office Box 1018
 - ii. Aiken, SC 29802
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. preliminary hearing and
 - ii. general sessions court
 - iii. _____

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

A New trial, or vacated sentence or
Sentence reduction

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

No

STATE OF SOUTH CAROLINA)

County of Alker)

VERIFICATION

I, Rashawn J. Isaac, 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.

Rashawn Isaac

SWORN to and subscribed before me this 28th day of November, 2016.

Michael Camare
(L.S.)
Notary Public

My Commission Expires: July 09, 2026

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

I, Rashawn J. Isaac, 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.

Rashawn J. Isaac
Applicant

SWORN or affirmed to and subscribed before me this

28th day of November, 2016.



Michael Camare

Notary Public

My Commission Expires: July 09, 2026

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)
)
)
 Rashawn J. Isaac, #366517,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 SECOND JUDICIAL CIRCUIT

Case No.: 2016-CP-02-2650

RETURN

Respondent, making its Return to the application for Post-Conviction Relief ("PCR") filed on November 29, 2016, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. In the November term of 2013, the Aiken County Grand Jury indicted Applicant for murder (2013-GS-02-1731), first degree burglary (2013-GS-02-1732), and armed robbery (2013-GS-02-1733). Michael W. Chesser, Esquire, represented Applicant. John W. "Bill" Weeks, Esquire, prosecuted the case. On December 10, 2015, Applicant pled guilty as indicted to first degree burglary and armed robbery and to the lesser included offense of voluntary manslaughter before the Honorable James R. Barber, III. Pursuant to a negotiated sentence, Judge Barber sentenced Applicant to imprisonment for concurrent terms of thirty years each for voluntary manslaughter, first degree burglary, and armed robbery. Applicant did not appeal his conviction or sentence.

II.

On May 28, 2013, Applicant aided four other people in their attempt to rob the victim, which ended in the victim's death. Plea Tr. 15:21-16:10. Applicant drove the others to the

victim's residence and stayed in the vehicle while three others went into the residence while armed. Id., 17:3-6. The fourth member was already inside the residence to ensure the back door to the residence was open. Id., 16:13-24. When the three active participants entered the residence, the victim lunged toward them and was fatally shot three times by one of the participants. Id., 17:12-24. After the events transpired, Applicant took possession of what was determined to be the murder weapon and gave it to a family member. Id., 18:25-19:3. Because Applicant was aware of the intent to rob the victim while armed, the Second Circuit Solicitor's Office pursued a "the hand of one, hand of all" theory in charging Applicant. Id., 17:3-18:13. When questioned by Judge Barber, Applicant admitted he was guilty of the crimes of first degree burglary, voluntary manslaughter, and armed robbery. Id., 14:3-15:10.

III.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. Counsel failed "to obtain mental health documents."

Attached to this Return and incorporated by reference are the records of the Aiken County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

IV.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's

conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. 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 would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits Applicant can satisfy neither 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, 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.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCPP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCPP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCPP.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VI.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VII.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JULIE A. COLEMAN
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

August 23, 2017

State of South Carolina)	In the Court of Common Pleas
)	Second Judicial Circuit
County of Aiken)	2016-CP-02-2650

Rashawn Isaac,)	
)	
Applicant,)	
)	
vs.)	Transcript of Record
)	
State of South Carolina,)	
)	
Respondent.)	
)	
)	
)	

September 22, 2017
Aiken, South Carolina

B E F O R E:

The Honorable J. Mark Hayes, II, Judge

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

Arthur K. Aiken, Esquire
Attorney for Applicant

Julie A. Coleman, Esquire
Attorney for Respondent

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

I N D E X

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Proceedings 4

Rashawn Isaac,

 Direct Examination by Mr. Aiken 5

 Cross-Examination by Ms. Coleman 10

 Redirect Examination by Mr. Aiken 12

Michael Chesser, Esq.,

 Direct Examination by Ms. Coleman 13

 Cross-Examination by Mr. Aiken 25

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
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No exhibits marked during proceeding.

TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 9:35 a.m.)

MS. COLEMAN: All right. Your Honor, we are starting with *Rashawn Isaac v. the State of South Carolina*. All right. May it please the Court: This is *Rashawn Isaac v. South Carolina*, Docket No., 2016-CP-02-2650. Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court.

In the November term of 2013, the Aiken County Grand Jury indicted applicant for murder, first-degree burglary, and armed robbery. Michael Chesser, Esq., represented the applicant. John Bill Weeks, Esq., prosecuted the case. On December 10th, 2015, applicant pled guilty as indicted to first-degree burglary and armed robbery and to the lesser-included offense of voluntary manslaughter before the Honorable James R. Barber, III.

Pursuant to a negotiated sentence, Judge Barber sentenced applicant to imprisonment for concurrent terms of 30 years each for voluntary manslaughter, first-degree burglary, and armed robbery. Applicant did not appeal his conviction or sentence.

Applicant filed a timely application for postconviction relief on November 29th, 2016, alleging that he was begin held in custody unlawfully based on the

1 following allegations: ineffective assistance of counsel;
2 counsel failed to obtain mental health documents.

3 The state filed its return on August 23rd, 2017.
4 Applicant submitted an amended application on September
5 12th, 2017, which you should have in your packet. And he's
6 present today and represented by Mr. Art Aiken.

7 THE COURT: Yes, sir.

8 MR. AIKEN: Your Honor, we -- we call Mr. Isaac to the
9 stand.

10 THE COURT: Just come right up here and let the clerk
11 of court swear you in, sir.

12 (Whereupon, the witness came forward.)

13 RASHAWN ISAAC, having been first duly sworn,
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MR. AIKEN:

17 Q You need to state your full name.

18 A Rashawn James Isaac.

19 Q How old are you, Mr. Isaac?

20 A Twenty-six.

21 Q And you're in McCormick C.I. right now?

22 A Yes, sir.

23 Q Okay. And I think you were charged back in 2013 in
24 Aiken County with murder, burglary first-degree, and armed
25 robbery; is that right?

DIRECT EXAMINATION BY MR. AIKEN - RASHAWN ISAAC

6

1 A Yes, sir.

2 Q Okay. Now, in -- in that case there were -- there was
3 you and three codefendants, right?

4 A Right.

5 Q There was a -- you and Brian Morton, Markese East, and
6 Leon Simmons, correct?

7 A Right.

8 Q Okay. And the government alleged -- this is not what
9 you say happened, but this is what the government said.
10 The government said that you and those three individuals
11 went to a house in Crossland Park, right?

12 A Yes, sir.

13 Q And they say you drove a truck there with the other
14 three people in it, right?

15 A Right.

16 Q And they say that the other three people, each of whom
17 was armed, went into that house to rob it, right?

18 A Yes, sir.

19 Q Okay. And the government says that one of those guys,
20 Leon Simmons, shot a man named Shane Jones, right?

21 A Right.

22 Q And the government says that Shane Jones died as a
23 result of that, right?

24 A Yes, sir.

25 Q Okay. Now, as to those three charges -- murder, armed

1 robbery, and burglary-first -- did you plead guilty to
2 voluntary manslaughter, burglary-first, and armed robbery?

3 A Yes, sir.

4 Q Okay. And you received 30 years on each of those
5 charges, right?

6 A Yes, sir.

7 Q And all of that was to run concurrent?

8 A Right.

9 Q And so you understand, in effect, you got a 30-year
10 sentence?

11 A Yes, sir.

12 Q Okay. That's what the judge said at your plea, right?

13 A Yes, sir. But ---

14 Q Okay. Now, leading up to that plea -- well, in -- in
15 that criminal case, you were represented by Michael
16 Chesser; is that right?

17 A Right.

18 Q Okay. Now, how many times before the plea did Mr. --
19 Mr. Chesser meet with you?

20 A Couple times.

21 Q Okay. Now, from the time you were arrested back in
22 2013 until the time that you were -- you actually pled,
23 were you at Wire Road at the Aiken County Detention Center?

24 A Yes, sir.

25 Q Okay. So he came out to the detention center maybe

1 two or three times?

2 A Yes, sir, I think.

3 Q Now, leading up to the plea, did Mr. Chesser ever
4 present to you the option that you could try your case?

5 A No, sir.

6 Q Okay. Did Mr. Chesser advise you of the advantages
7 and disadvantages of a plea?

8 A No, sir.

9 Q Did Mr. Chesser advise you of the advantages and
10 disadvantages of a trial?

11 A No, sir.

12 Q Did Mr. Chesser review all of the evidence with you?

13 A No, sir.

14 Q Okay. Now, did Mr. Chesser explain to you what you
15 would get if you pled guilty?

16 A Yes, sir.

17 Q And -- and what did he tell you?

18 A He told me that when he came to the court -- detention
19 center Friday, he was, like, I would plea to 25 years and
20 they'll drop it down to 22.

21 Q Was there any discussion about parole?

22 A Yes, sir. He said I would parole-eligible. That's
23 why I took the plea.

24 Q Well, during the plea the judge said 30 years. If you
25 thought you were going to get 25, why didn't you say, "Hold

1 on a minute"?

2 A Because Mr. Chesser advised me, if I would've said no
3 to anything, that -- that the judge wouldn't accepted the
4 plea and I would've went to trial.

5 Q Okay. Now, you say Mr. Chesser came out on Friday.
6 Was that Friday before the Monday the trial was supposed to
7 start?

8 A Yes, sir.

9 Q Okay. Do you -- do you understand that you are not
10 eligible for parole?

11 A Now I do. Yes, sir.

12 Q Okay. Now, if you had understood, when you made the
13 decision to plead guilty, that you were not eligible for --
14 for parole, would you have pled guilty?

15 A No, sir.

16 Q If you understood that you were going to get at 30-
17 year sentence before you pled guilty, would you have pled
18 guilty?

19 A No, sir.

20 Q Okay.

21 (Off the record briefly.)

22 Q Thank you, Mr. Isaac.

23 A Thank you, sir.

24 (Whereupon, the witness stood.)

25 THE COURT: Sir, just stay right there, okay?

CROSS-EXAMINATION BY MS. COLEMAN - RASHAWN ISAAC 10

1 THE WITNESS: Okay.

2 CROSS-EXAMINATION

3 BY MS. COLEMAN:

4 Q Good morning, Mr. Isaac. I've got some questions for
5 you too this morning. How many times did you meet with
6 your attorney before you pled guilty?

7 A Maybe three or four times.

8 Q Okay. Do you remember reviewing the discovery with
9 your attorney?

10 A Not at all.

11 Q No?

12 A (No audible response.)

13 Q Did you discuss any possible defenses with your
14 attorney?

15 A No -- no, ma'am.

16 Q No?

17 A (No audible response.)

18 Q Did you give him any leads or witnesses to investigate
19 in your defense?

20 A Yes, ma'am.

21 Q Okay. And did he investigate those witnesses or
22 leads?

23 A No, ma'am.

24 Q Do you remember, at the guilty plea, waiving your
25 constitutional rights, like your right to a jury trial and

1 your right to remain silent?

2 A Yes, ma'am.

3 Q Do you remember telling the judge that you were
4 satisfied with your attorney's services?

5 A Yes, ma'am.

6 Q And you had no complaints against him at the time,
7 right?

8 A No, ma'am.

9 Q Okay. Do you remember telling the judge that you
10 wished to plead guilty to this crime?

11 A Yes, ma'am.

12 Q Do you remember telling the judge that you were indeed
13 guilty of this crime?

14 A Yes, ma'am.

15 Q Do you remember telling the judge no one was promising
16 or threatening you to plead guilty?

17 A Yes, ma'am.

18 Q Do you still want a trial on these charges?

19 A Yes, ma'am.

20 Q Okay. Nothing further. Thank you.

21 THE COURT: Any -- any redirect limited to what she
22 went into?

23 MR. AIKEN: Just -- just one thing, Your Honor.

24 THE COURT: Uh-huh.

25

REDIRECT EXAMINATION BY MR. AIKEN - RASHAWN ISAAC 12

1 REDIRECT EXAMINATION

2 BY MR. AIKEN:

3 Q When you said you were satisfied with your lawyer at
4 the plea, did you understand at that time you were not
5 going to be eligible for parole?

6 A After -- after the judge said something. But if -- if
7 I was properly advised, I wouldn't have pled guilty to my
8 charges anyway.

9 Q Okay. Thank you, Mr. Isaac.

10 THE COURT: Thank you, Mr. Isaac. You may step down.
11 Watch your step, okay?

12 THE WITNESS: Yes, sir.

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

14 (Off the record briefly.)

15 THE COURT: Applicant have -- have any other
16 witnesses?

17 MR. AIKEN: No, no further witnesses from the
18 applicant, Your Honor.

19 THE COURT: Thank you, sir.

20 MS. COLEMAN: The state calls Michael Chessser.

21 THE COURT: Sir, just come right up here. Let the
22 clerk swear you in.

23 (Whereupon, the witness came forward.)

24 MICHAEL CHESSER, having been first duly sworn,
25 testified as follows:

1 DIRECT EXAMINATION

2 BY MS. COLEMAN:

3 Q Good morning, Mr. Chesser.

4 A Good morning.

5 Q Would you state your name for the Court? Did you
6 already give it?

7 A Michael Chesser, C-h-e-s-s-e-r.

8 Q Thank you. How long have you been practicing law?

9 A Thirty years.

10 Q Okay. Were you appointed or retained in this case?

11 A Appointed.

12 Q And do you recall how long you represented the
13 applicant before he pled guilty?14 A I -- I'm going to estimate 2 years -- 1 1/2 to 2
15 years.16 Q Okay. How many times did you meet with the applicant
17 before his guilty plea?18 A I just would have to estimate in the neighborhood of
19 six to eight.20 Q Did you file any Rule 5, or *Brady*, motions?

21 A Yes.

22 Q And did you review the discovery with the applicant?

23 A Yes.

24 Q Do you recall when you would've done that?

25 A We did it -- one of the things I did, for example,

DIRECT EXAMINATION BY MS. COLEMAN - MICHAEL CHESSER 14

1 with his statement that he gave to police was I created a
2 transcript, so -- and sent it to him. And then so he could
3 read it. And of course, we talked about it. And my
4 recollection is I did that with the other interviews as
5 well.

6 But in terms of the actual incident report and those
7 things, I'm sure he had physical possession of those.

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

10 A Yes..

11 Q And what were those?

12 A Well, the -- I would just sort of -- let me describe,
13 if I could. The prosecution's sort of theory was that
14 there were about four young people who met up at an
15 apartment on this night. It seems to me about ten o'clock
16 that they met at this apartment in an apartment complex.
17 And then there was an -- there was -- the victim had a
18 house that he rented in Crossland Park. It's a -- in a --
19 one of a humbler neighborhoods.

20 And he was -- apparently, he sold some cocaine. And
21 -- and he also had what the prosecution referred to as a
22 party house; in other words, a place where people would go
23 and hang out. And I guess they could smoke marijuana or
24 whatever.

25 And so there was an individual who was inside the

1 house, according to the prosecution -- and there's very
2 good reason to believe this -- who was communicating with
3 one of the four, according to prosecution, coconspirators.
4 And he was saying, you know, this is the situation here.

5 And so these four people, including Mr. Isaac,
6 according to the prosecution, they reached an agreement
7 and they decided to ride over there. Rashawn Isaac drove
8 the vehicle. And -- and that is a -- not disputed.

9 And so they get there. And they came on a street,
10 really, behind this house and maybe one -- it was a house
11 in between it. So they went through there. They climbed
12 over a fence and down.

13 Now, Mr. Isaac did not do that. So his version of the
14 facts -- and again, it's not disputed -- is that he stayed
15 with the vehicle and the other three went into the back of
16 this house, which the door was open, based on this person
17 on the inside telling them it was open or -- so anyway, the
18 person who was -- the young man who was in the house whose
19 house it was who -- he, to some extent resisted. In other
20 words, they came in the kitchen.

21 There was three of them. They had long rifles -- two
22 of them had long rifles. And it seems to me they had
23 camouflage. And so the individual -- and I'm pretty sure
24 they were known to each other.

25 But at any rate, the individual inside the house, he

DIRECT EXAMINATION BY MS. COLEMAN - MICHAEL CHESSER 16

1 resisted. And that's when Mr. Simmons shot him. And he
2 died.

3 So at that point at least two of the individuals -- it
4 seems to me there were three in the house -- two of them
5 kind of ransacked the house. They got a phone.
6 Eventually, law enforcement really followed the phone -- it
7 was interesting -- and they located, you know, different
8 people that were connected with this and arrested them --
9 arrested one of them that same night, a person with the
10 phone.

11 And then, they got the -- the rifle. It was a -- I
12 call it a long gun. I don't remember -- recall exactly
13 what kind it was. And then -- so anyway, and then
14 everybody -- well, I don't know about everybody. There
15 were two people, it seems to me, who did not really give
16 statements -- or maybe one.

17 But in any event, it was one of the individuals other
18 than Mr. Isaac who gave it up, pretty much, and said, you
19 know, this is what happened, essentially agreeing with the
20 prosecution's story. And so Mr. Isaac's version was just
21 different in certain details. In other words, he admitted
22 being at the apartment before.

23 Essentially, what he was saying, which you see in
24 these type of cases where you have an individual who was
25 the driver, is "I really wasn't in on it. You know, I

1 didn't know it was going to happen."

2 And the difficulty with that -- that was his story.
3 The -- there were any number of difficulties. Number one,
4 you know, on -- in that type of situation, what you really
5 have to have or want to have to have a better chance is
6 some subsequent expression of "I'm not cool with this," for
7 example. But that didn't happen in this case.

8 They rode back to the apartment together. And Mr.
9 Isaac, it -- it turned out his gun was the gun that was
10 used in the killing. And he gave it to his brother, who he
11 had gotten it from originally.

12 And so -- and then, the individual inside the house
13 met them back at the apartment. And he was, seems to me, a
14 little upset about something other than the murder, about
15 how they hadn't -- the plan hadn't gone really according to
16 plan.

17 And so Mr. Isaac's version, again, was that, you know
18 -- what you might call minimization: "I really didn't know
19 exactly what was going on." But it was -- now, we talked
20 about it over this period of a year and a half or two
21 years.

22 And the prosecution took a hard line on this case. I
23 mean, it's a murder case. But they took a hard line. They
24 were just offering murder. That was it. And all these
25 kids were young. I mean, the one who fired the shot was

1 18.

2 And so the prosecution says, "We're tired of this
3 happening in Crossland Park. They're going to plea to
4 murder."

5 And this was the offer to Mr. Isaac for, you know, a
6 year and a half or two years. I mean, there was never
7 anything other than that. And the other three individuals,
8 it's my recollection, they pled and they got 30, day-for-
9 day, on murder.

10 So Mr. Isaac was going to be tried. The prosecution
11 was -- like, again, they were very aggressive. And so we
12 debriefed, so to speak. We went in and gave sort of a
13 final attempt to get something. And Mr. Isaac and I sat
14 down with Mr. Weeks, the prosecutor, and an assistant of
15 his and were debriefed for an hour or so or more.

16 And -- and again, I -- I -- Mr. Isaac sort of -- I'm
17 sure he pretty consistently, to some extent, minimized.
18 You know, he never sort of said, "I'm completely in on
19 this," or whatever. I don't think he said that.

20 But we were trying to help him, to the extent we
21 could, trying to get something better than murder. And the
22 -- but in any event, finally, the offer was made that he
23 could plea to 30 on voluntary, which, as you know, you get
24 a discount, 85 percent. It works out roughly to 25. He'd
25 done 2 or 3. And I believe, as the judge advised him in

1 his sort of guilty-plea colloquy, since he'd done 3 and he
2 had 25, he'd be looking at roughly 22 or 23 more years.

3 So in terms of him telling me his version, yes, he
4 did.

5 Q Oh, okay. Now, did you discuss the "hand of one/hand
6 of all" ---

7 A Yes.

8 Q --- doctrine with him?

9 A Yes, we did. Uh-huh.

10 Q And did he understand that?

11 A Yes.

12 Q Okay. And you -- you stated he -- he pled right
13 before the trial; is that right?

14 A (No audible response.)

15 Q Or he might've testified ---

16 A I don't ---

17 Q --- to that.

18 A --- know that -- you know, it takes a while to get
19 together a trial like that. And I don't know that -- you
20 know, we hadn't picked a jury or anything. I think it was
21 just a situation where we were, you know, given the final
22 in a series of ultimatums ---

23 Q Okay.

24 A --- or ultimata.

25 Q Were you prepared -- were you preparing for a trial?

DIRECT EXAMINATION BY MS. COLEMAN - MICHAEL CHESSER 20

1 A I was very familiar with the evidence. And we both
2 were. You know, you had video interviews from one really
3 cooperating defendant, who was one of the ones who got 30
4 years, day-for-day. And then, we had talked about it. I
5 -- it's -- extensively.

6 And so -- now, I will say this: You know, at one
7 point initially, Mr. Isaac said he had an alibi. But that
8 was investigated -- just something about a girlfriend. And
9 even the police early on disproved that.

10 And so in terms of a -- you know, I mean, I don't -- I
11 mean, we were -- you know, if the prosecution said, "We're
12 going to trial this next week," or "We're going to try this
13 two weeks," yes.

14 We would've, you know, been ready. There would've
15 been some additional things we'd have done. But we'd have
16 been ready for trial.

17 Q What would your trial strategy or your defense have
18 been if you had gone to trial?

19 A Under this type of case, it seems to me that the only
20 thing you could argue is mere presence. You could say, you
21 know, "Somehow I wasn't in on it, even though, you know, I
22 drove the vehicle there. I ended up in possession of the
23 murder weapon. It was my gun in the first place -- or my
24 brother's gun," and so on.

25 But you would take a position that mere presence -- in

1 other words, somehow you didn't actually participate. And
2 that's not a hopeless argument. Juries, you know, will
3 sometimes distinguish between a person who participates
4 versus one who is in the vehicle.

5 Q Okay. What other evidence did the state claim to
6 present at the trial? You already testified about the
7 video interview of the codefendant. What else did they
8 have?

9 A I would say the gun was a major point. The gun --
10 seems to me it came from Mr. Isaac's brother. And that's
11 where it ended up back. In other words, Mr. Simmons shoots
12 the individual. He gives the gun at some point back to Mr.
13 Isaac. Mr. Isaac gives it back to his brother.

14 And eventually, law enforcement gets the gun from his
15 brother. Mr. Isaac cooperated to the extent to tell law
16 enforcement that, which, again, was something we hoped
17 would benefit him. And ultimately, in fact, it did.

18 But the -- in terms of evidence, you had -- of course,
19 it -- to establish the case as a whole, you have
20 individuals in the house. It wasn't just this individual.
21 There were witnesses there. There was females there. You
22 know, the person whose phone was stolen was a female. It
23 seems to me she was shot, actually -- not a -- turned out
24 not a real serious wound. But she was shot.

25 And so they had -- they would've had her, of course,

DIRECT EXAMINATION BY MS. COLEMAN - MICHAEL CHESSER 22

1 who described the -- the armed robbery itself. And then,
2 you had people at the apartment. There was a female at the
3 apartment who would've testified about them being there.

4 You may have had of the codefendants -- it seems to me
5 this provision was in effect where you can come back and
6 help the prosecution and get a sentence cut. And you had
7 one of the defendants who was actually cooperating -- who
8 had actually significantly cooperated. So we have to deal
9 with that.

10 And then, of course, you have Mr. Isaac's statements
11 themselves, which, you know, I don't think legally
12 establish innocence. And so it would -- you know, they had
13 -- I mean, it would -- it's a murder case, a difficult
14 case.

15 Q Uh-huh. How would you characterize the strength of
16 the evidence? Do you believe there was a strong case
17 against him?

18 A Well, right. In other words, they can establish --
19 there's no question they can establish he's there at the
20 apartment; he's there at the house; he drives. They get
21 out with rifles.

22 So you're, like, "How do you not know that they have
23 -- you know, what they're going to do?"

24 They come back; jump in the vehicle. He drives back
25 to the apartment. Now, I'm not exactly clear on that, who

1 drove back, so I'll take that back. Somebody drove [sic]
2 back.

3 But he ends up with the gun in his possession. So
4 again, you have to say, "Well, I was there for all this,
5 but somehow I wasn't really part of it." I think that
6 would be -- you would not typically win a case like that.
7 I think their case was strong.

8 Q Okay. Did you discuss the risks of going to trial
9 with the applicant?

10 A Yes. Of course, murder carries, you know, 30 to life.
11 And so the risk is a life sentence with day-for-day. And
12 frankly, there was so little chance of prevailing at trial
13 that he -- it was in his best interests to -- to do the
14 deal that he did.

15 Q Okay. Did you ever see any reason to have him
16 evaluated for competency?

17 A I did, actually.

18 Q You did have him evaluated?

19 A Yeah. The -- I mean, we actually did not have any
20 trouble communicating. But he -- he had a nickname that
21 seemed to reflect on, you know -- you know, like there was
22 something a little bit wrong with him. And so -- but in my
23 experience with him talking to him, we never had any
24 communication problem. And again, over a period of --
25 quite a period of time, then we end up debriefing again

1 with law enforcement. There was really no question of
2 understanding in the case. But for the sake of
3 completeness, he was evaluated by -- I believe it's
4 Frierstein or something like that.

5 Q And was he found to be competent?

6 A Yes.

7 Q Okay. Regarding the guilty plea itself, before the
8 guilty plea, did you review his constitutional rights that
9 he would be waiving?

10 A Yes. You know, that's typical. You know, right to a
11 jury trial; you don't have to present evidence; you don't
12 have to testify; can't hold that against you. I review all
13 those things with him.

14 Q Okay. Is that your practice to review that with all
15 your clients ---

16 A Yes.

17 Q --- before they plead guilty?

18 Okay. Did he ever tell you he didn't understand
19 something, before or during the guilty plea?

20 A No.

21 Q Okay. Was he aware of the negotiated plea agreement?

22 A Yes.

23 Q Did he understand what that would entail?

24 A Yes.

25 Q Whose decision was it to plead guilty?

1 A Well, I mean, it's his decision. I'm sure I
2 recommended it.

3 Q Uh-huh. And do you still agree with that decision?

4 A Definitely.

5 Q Okay. Thank you. Nothing further.

6 CROSS-EXAMINATION

7 BY MR. AIKEN:

8 Q So you -- you recommended the guilty plea?

9 A Yes, sir.

10 Q All right. And -- that's all I have. Thank you.

11 THE COURT: Any redirect?

12 MS. COLEMAN: No, Your Honor.

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

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

15 MS. COLEMAN: Okay. The state has no further
16 witnesses.

17 THE COURT: Any witnesses in reply?

18 MR. AIKEN: No, sir.

19 THE COURT: All right. I'll let you know.

20 MR. AIKEN: Thank you, Judge.

21 MS. COLEMAN: Thank you, Your Honor.

22 THE COURT: Thank you. Good luck to you, Mr. Isaac.

23 THE APPLICANT: Appreciate it.

24 (Whereupon, the proceeding was concluded at 10:03 a.m.)

25 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND
COMPLETE TRANSCRIPT OF RECORD IN THE HEARING OF THE
CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT
COURT FOR AIKEN COUNTY, SOUTH CAROLINA, ON THE 22ND
DAY OF SEPTEMBER, 2017.

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



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

JANUARY 7, 2017

(2013-GS-02-1733). Michael W. Chesser, Esquire, represented Applicant. John W. "Bill" Weeks, Esquire, prosecuted the case. On December 10, 2015, Applicant pled guilty as indicted to first degree burglary and armed robbery and to the lesser included offense of voluntary manslaughter before the Honorable James R. Barber, III. Pursuant to a negotiated sentence, Judge Barber sentenced Applicant to imprisonment for concurrent terms of thirty years each for voluntary manslaughter, first degree burglary, and armed robbery. Applicant did not appeal his conviction or sentence.

II. ALLEGATIONS

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

1. Ineffective Assistance of Counsel
 - a. Counsel failed "to obtain mental health documents."

On September 11, 2017, Applicant amended his application to include the following additional allegations:

- (i) Failure to obtain mental health records;
- (ii) Failure to present the option of trying the case;
- (iii) Failure to advise Applicant of the advantages and disadvantages of a trial and the advantages and disadvantages of a plea; and
- (iv) Failure to review the evidence with Applicant.

III. APPLICABLE LAW

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

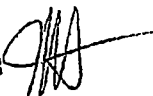
The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland,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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty pleas, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

V. SUMMARY OF RELEVANT TESTIMONY

Applicant's testimony

Applicant testified that he had three codefendants on these charges—Markese East, Leon Simmons, and Brian Morton. He stated that all four of them drove to the victim's house with the plan to rob it, and while the other three were armed and went inside to commit the robbery, he stayed behind with the car. He stated that during the robbery, Leon Simmons shot and killed the victim. Applicant stated he met with Plea Counsel three or four times before his guilty plea. He stated he did not recall reviewing any discovery or discussing any possible defenses with Plea



Counsel. Applicant testified that Plea Counsel told him if he pled guilty he would get a 25 year sentence and the State would drop it down to 22 years. He stated he only took the plea because he thought he would get parole. He testified he and Plea Counsel had this discussion just a few days before the trial was scheduled to begin.

Plea Counsel's testimony

Plea Counsel testified Applicant was the actor who drove the vehicle during the crime, and he stayed in the car while his three codefendants climbed the fence and went inside to rob the drug house. He stated Applicant would have been convicted under the "hand of one is the hand of all" theory of accomplice liability. He stated Applicant admitted to being at the house before the crime. Plea Counsel testified Applicant claimed he did not know what was going to happen when he drove his codefendants to the victim's house. He stated Leon Simmons used Applicant's gun to kill the victim.

Plea Counsel stated that the prosecution took a hard line on this case—they charged all four codefendants with murder. He stated the other three codefendants all pled guilty before the trial and each of them received a thirty year sentence for murder. He stated Applicant was going to be tried, and his codefendants were going to testify against him. He testified the State offered him a plea deal for a thirty year sentence for voluntary manslaughter, meaning he would have to serve eighty percent, which is about twenty-five years. He stated he explained to Applicant that if he accepted this plea offer, he would essentially only have to serve about twenty-two or twenty-three *more* years.

Plea Counsel testified the evidence against Applicant included the video interviews from his codefendants, which they discussed extensively. He stated the State also planned to present the gun that was used to kill the victim, which belonged to Applicant, as well as testimony from

multiple witnesses who were in the house during the robbery, and statements that Applicant gave law enforcement. He testified he met with Applicant anywhere from six to eight times before the plea, and they did review the discovery. He stated Applicant did not have a valid alibi defense to pursue because the police disproved it. Plea Counsel stated the best defense they could pursue at trial was a "mere presence" defense to the accomplice liability theory. He stated Applicant had very little chance of winning at trial, and taking the plea deal was in his best interest. Plea Counsel testified that he had Applicant evaluated for mental competency before the plea, and he was found competent to stand trial. He stated he never had any communication problems with Applicant during his representation.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

As a matter of general impression, this Court finds Plea Counsel's testimony to be credible and persuasive. These credibility findings have been applied to the Court's findings and conclusions set forth below.

INEFFECTIVE ASSISTANCE OF COUNSEL

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

520 (1993)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985).

Applicant has failed to meet his burden in proving Plea Counsel was ineffective in any regard. This Court finds that Plea Counsel properly relayed the State's plea negotiations and went over the discovery with Applicant, as well as fully explained the possible outcomes in sentencing. This Court finds Plea Counsel did discuss with Applicant the option of going to trial rather than pleading guilty, as they were had been preparing for a trial for quite some time and he chose to plead guilty immediately before the trial was scheduled to begin. The transcript of the plea hearing is thorough as to Applicant's understanding of his right to a trial and his willingness to forgo the trial, so any alleged failure of Plea Counsel to discuss a trial as an option cannot be prejudicial. Finally, this Court finds Plea Counsel was not deficient for failing to obtain any mental health records, as he had him evaluated and Applicant was found competent to stand trial, and there was a thorough discussion on the record at the plea about his competence and the plea judge made a finding that he was competent. Tr. 11 line 6 – 13 line 8. This Court finds that Applicant has not shown that he was prejudiced by any of Plea Counsel's actions as he has failed to show that he would not have pled guilty but would have gone to trial but for Plea Counsel's actions. Accordingly this allegation must be dismissed.



OVERWHELMING EVIDENCE

This Court further finds that Applicant cannot meet his burden to show that he was prejudiced by any alleged deficiencies by Trial Counsel because there is overwhelming evidence of his guilt. See Franklin v. Catoe, 346 S.C. 563, 570 n. 3, 552 S.E.2d 718, 722 n. 3 (2001), cert. denied, 535 U.S. 1114, 122 S.Ct. 2332, 153 L.Ed.2d 162 (2002) (finding overwhelming evidence of guilt negated any claim that counsel's deficient performance could have reasonably affected the result of the defendant's trial); Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) (concluding reasonable probability of a different result does not exist when there is overwhelming evidence of guilt); cf. Ford v. State, 314 S.C. 245, 248, 442 S.E.2d 604, 606 (1994) (holding respondent failed to prove prejudice from trial counsel's failure to request an alibi charge where there was overwhelming evidence of guilt).

Trial Counsel credibly testified at the evidentiary hearing that the State planned to introduce at trial several pieces of evidence including testimony and video interviews from all three of his codefendants, the gun that was used to kill the victim which belonged to Applicant, testimony of multiple witnesses who were present at the house and witnesses the crime, and statements Applicant gave to law enforcement, placing himself as the driver of the car during the crime. The guilty plea transcript shows Applicant took possession of the weapon again after the shooting and gave it to a family member. Tr. 18 line 25 – 19 line 3.

Applicant did not dispute the evidence against him. This is clearly overwhelming evidence of Applicant's guilt. As a result, Applicant can show no prejudice from any of the allegations raised in his PCR application as no deficiency on behalf of trial counsel could have reasonably changed the outcome of trial, and these allegations are denied and dismissed with prejudice.



VII. CONCLUSION

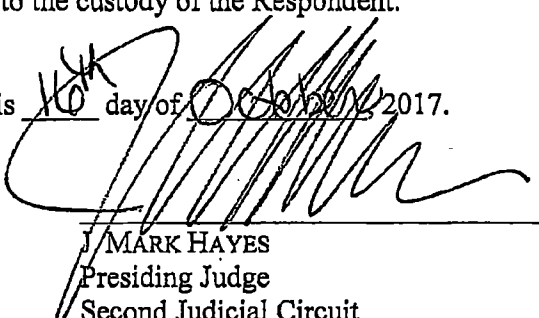
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 10th day of October, 2017.


 J. MARK HAYES
 Presiding Judge
 Second Judicial Circuit

Aiken, South Carolina

WITNESSES

Aiken Department Of Public Safety

David E Savage

Law Enforcement Case #: 13-31768

DOCKET NO. 2013GS0201731

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2013

ARREST WARRANT NUMBER

2013A0220100507

October 31 2013

Leij Gadard
S.C.C.P.&G.S.

THE STATE

vs.

RASHAWN JAMES ISAAC

ACTION OF GRAND JURY

TRUE BILL

Ronnie M. Hall

CDR #: 0116

Indictment for

MURDER

§ 16-03-0010

Foreperson of Grand Jury

Date: October 31, 2013

VERDICT

J. STROM THURMOND, SOLICITOR

Foreperson of Petit Jury

Date:

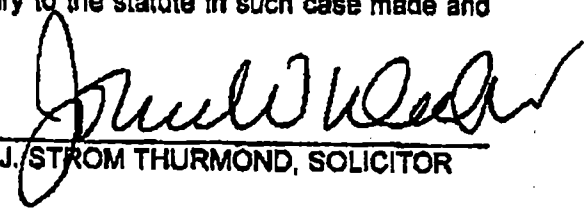
STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
MURDER
§ 16-03-0010

At a Court of General Sessions, convened on November 4, 2013, the Grand Jurors of Aiken County present upon their oath:

That RASHAWN JAMES ISAAC, along with others, did in Aiken County on or about May 28, 2013, feloniously, wilfully and with malice aforethought, then and there kill and murder [REDACTED] by means of shooting and that the victim did die in Aiken County at [REDACTED], South Carolina as a proximate result thereof on May 28, 2013. All in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

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



J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken Department Of Public Safety

David E Savage

Law Enforcement Case #: 13-31768

JWW

ARREST WARRANT NUMBER

2013A0220100531 *October 31 2013*

Lij Godard
A.C.C.P.&G.S.
Charles S. Wentzel
Deputy Clerk

ACTION OF GRAND JURY

TRUE BILL

Ronnie M. Hall

Foreperson of Grand Jury

Date: October 31, 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013GS0201732

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2013

THE STATE

vs.

RASHAWN JAMES ISAAC

CDR #: 0079

Indictment for

BURGLARY IN THE FIRST DEGREE

§ 16-11-0311

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

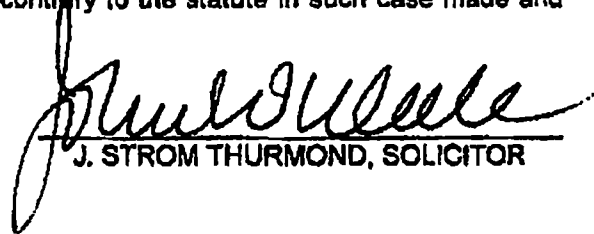
INDICTMENT FOR
BURGLARY IN THE FIRST DEGREE

§ 16-11-0311

At a Court of General Sessions, convened on November 4, 2013, the Grand Jurors of Aiken County present upon their oath:

That **RASHAWN JAMES ISAAC**, along with others, did in Aiken County on or about May 28, 2013, wilfully and unlawfully enter the dwelling of [REDACTED] located at [REDACTED], Aiken, South Carolina, without consent and with the intent to commit a crime therein and the defendants were armed and entered or remained during the nighttime, all in violation of §16-11-311, Code of Laws of South Carolina (1976), as amended.

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


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken Department Of Public Safety

David E Savage

Law Enforcement Case #: 13-31768

DOCKET NO. 2013GS0201733

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2013

ARREST WARRANT NUMBER

2013A0220100532 *October 31 2013*

THE STATE
vs.

RASHAWN JAMES ISAAC

Leif Godard
C.C.C.P. & G.S.
Cheryl S. Westall
Clerk

ACTION OF GRAND JURY

TRUE BILL

Ronnie M. Hall

CDR #: 0139

Indictment for

ARMED ROBBERY

§ 16-11-0330(A)

Foreperson of Grand Jury

Date: October 31, 2013

VERDICT

J. STROM THURMOND, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
ARMED ROBBERY
§ 16-11-0330(A)

At a Court of General Sessions, convened on November 4, 2013, the Grand Jurors of Aiken County present upon their oath:

That **RASHAWN JAMES ISAAC**, along with others, did in Aiken County on or about May 28, 2013, while armed with a deadly weapon or while alleging either by action or words that he was armed while using a representation of a deadly weapon or an object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, to wit: a handgun and/or a rifle, feloniously take from the occupants of the household by means of force or intimidation goods or monies of said occupants, such goods or monies being described as follows: Xanax and personal items, all in violation of §16-11-330, Code of Laws of South Carolina (1976), as amended.

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



J. STROM THURMOND, SOLICITOR