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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

William Jeffrey Young, Circuit Court Judge

ERIC RHEA,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-212171

APPENDIX

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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF SUMTER)

STATE OF SC,)
) PLAINTIFF)
 VS.) TRANSCRIPT OF RECORD
)
ERIC RHEA,)
) DEFENDANT)

APRIL 17, 2009
SUMTER, SOUTH CAROLINA

B E F O R E:

THE HONORABLE R FERRELL COTHRAN, JR., PRESIDING
JUDGE.

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

JASON CORBETT, ASSISTANT SOLICITOR
ATTORNEY FOR THE PLAINTIFF

LAUREN STEVENS, ASSISTANT PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

KATHLEEN RICHARDSON, RPR, CRR
OFFICIAL COURT REPORTER

EXHIBITS

(NO EXHIBITS WERE MARKED.)

1 THE COURT: YES, SIR.

2 MR. CORBETT: YOUR HONOR, MAY IT PLEASE THE
3 COURT. STATE OF SOUTH CAROLINA VERSUS ERIC CHRISTIAN
4 RHEA, R-H-E-A. MR. RHEA IS BEFORE THE COURT ON
5 INDICTMENT 2007-GS-43-95. MR. RHEA WAS ORIGINALLY
6 INDICTED FOR MURDER. HE IS BEFORE THE COURT TODAY
7 WITH HIS ATTORNEY, LAUREN STEVENS, INDICATES HE
8 WISHES TO TENDER A PLEA OF GUILTY TO VOLUNTARY
9 MANSLAUGHTER WHICH THE STATE HAS AGREED TO ACCEPT.

10 THE COURT: OKAY.

11 ERIC RHEA, AFTER BEING DULY SWORN,
12 TESTIFIED AS FOLLOWS:

13 THE COURT: MRS. STEVENS, YOU REPRESENT MR.
14 RHEA?

15 MRS. STEVENS: YES, SIR, YOUR HONOR, I DO.

16 THE COURT: HAVE YOU EXPLAINED THE NATURE OF THE
17 CHARGES AGAINST HIM AND THE POSSIBLE PUNISHMENT HE
18 COULD RECEIVE AS WELL AS HIS CONSTITUTIONAL RIGHTS?

19 MRS. STEVENS: YES, SIR, YOUR HONOR.

20 THE COURT: HE UNDERSTAND THOSE?

21 MRS. STEVENS: HE DOES INDEED, YOUR HONOR.

22 THE COURT: BASED -- AND HE TELLS YOU HE WANTS
23 TO PLEAD GUILTY TO VOLUNTARY MANSLAUGHTER?

24 MRS. STEVENS: YES, SIR, YOUR HONOR, HE DOES.

25 THE COURT: AND BASED ON YOUR INVESTIGATION OF

1 THIS CASE DO YOU CONCUR WITH HIS DECISION?

2 *MRS. STEVENS:* YES, SIR, YOUR HONOR.

3 *THE COURT:* MR. RHEA, YOUR LAWYER TELLS ME YOU
4 WANT TO PLEAD GUILTY. IS THAT RIGHT, SIR?

5 *THE DEFENDANT:* YES, SIR.

6 *THE COURT:* HAVE YOU HAD ENOUGH TIME TO TALK TO
7 HER ABOUT THIS DECISION?

8 *THE DEFENDANT:* I BELIEVE SO.

9 *THE COURT:* ARE YOU SATISFIED WITH HER
10 REPRESENTATION?

11 *THE DEFENDANT:* YES, I AM.

12 *THE COURT:* YOU GOT ANY COMPLAINTS AGAINST HER?

13 *THE DEFENDANT:* NO, NOT TO...

14 *THE COURT:* HAS ANYBODY PROMISED YOU ANYTHING OR
15 THREATENED YOU IN ANY WAY TO GET YOU TO PLEAD GUILTY?

16 *THE DEFENDANT:* NO, I'M JUST AT A POINT WHERE,
17 YOU KNOW, I -- I HAVE A PERIOD WHERE I DIDN'T
18 REMEMBER A LOT OF STUFF THAT HAPPENED, STUFF LIKE
19 THAT, AND I JUST WANT IT -- JUST WANT IT -- I JUST
20 WANT TO -- I JUST WANT IT OVER WITH. I WANT EVERYONE
21 TO FEEL A SENSE OF CLOSURE.

22 *THE COURT:* ALL RIGHT. SO YOU'RE NOT DOING THIS
23 AS A RESULT OF A THREAT OR PROMISE, YOU ARE READY TO
24 GO FORWARD IS WHAT YOU'RE TELLING ME?

25 *THE DEFENDANT:* YES.

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THE COURT: ALL RIGHT. ARE YOU UNDER THE INFLUENCE OF ALCOHOL OR DRUGS TODAY?

THE DEFENDANT: NO. I TAKE PSYCHIATRIC DRUGS.

THE COURT: HAVE YOU TAKEN YOURS TODAY?

THE DEFENDANT: YES.

THE COURT: AND ARE YOU THINKING CLEARLY?

THE DEFENDANT: YES, SIR.

THE COURT: YOU UNDERSTAND WHAT YOU AND I ARE TALKING ABOUT?

THE DEFENDANT: YES.

THE COURT: YOU UNDERSTAND YOUR RIGHTS?

THE DEFENDANT: YES.

THE COURT: AND YOU'RE ENTERING THIS PLEA FREELY AND VOLUNTARILY?

THE DEFENDANT: YES.

THE COURT: OKAY. YOU UNDERSTAND THAT MANSLAUGHTER CARRIES UP TO 30 YEARS?

THE DEFENDANT: I'M AWARE OF THAT.

THE COURT: IT'S A VIOLENT CRIME, A MOST SERIOUS CRIME, AND IT'S A NO-PAROLEABLE OFFENSE. DO YOU UNDERSTAND THAT?

THE DEFENDANT: I DO.

THE COURT: ALL RIGHT, SIR. BY PLEADING GUILTY HERE TODAY YOU'RE GIVING UP YOUR CONSTITUTIONAL RIGHT TO REMAIN SILENT BECAUSE YOU'RE TELLING ME YOU'RE

1 GUILTY. DO YOU UNDERSTAND THAT?

2 THE DEFENDANT: YES.

3 THE COURT: YOU ARE ALSO GIVING UP YOUR RIGHT TO
4 A JURY TRIAL ON THIS CHARGE. AND IN THAT TRIAL YOU
5 WOULD BE PRESUMED INNOCENT AND THE STATE WOULD HAVE
6 THE BURDEN OF PROVING YOU GUILTY BEYOND A REASONABLE
7 DOUBT TO ALL 12 JURORS. YOU'D BE ABLE TO SIT AT THAT
8 TABLE WITH YOUR LAWYER AND CONFRONT THE WITNESSES
9 THAT WOULD TESTIFY AGAINST YOU FROM THAT WITNESS
10 STAND RIGHT THERE. SHE COULD CROSS-EXAMINE THOSE
11 WITNESSES. SHE COULD EVEN SUBPOENA WITNESSES TO
12 TESTIFY IN YOUR BEHALF.

13 WHEN YOU PLEAD GUILTY, YOU GIVE ALL THAT UP. DO
14 YOU UNDERSTAND?

15 THE DEFENDANT: YES, I DO.

16 THE COURT: YOU ARE ALSO GIVING UP ANY APPEALS
17 THAT MAY COME OUT OF THAT TRIAL BY THIS GUILTY PLEA.
18 DO YOU UNDERSTAND THAT?

19 THE DEFENDANT: YES.

20 THE COURT: NOW, IF YOU WANT TO APPEAL THIS
21 GUILTY PLEA AND SENTENCE, YOU MUST DO SO WITHIN 10
22 DAYS OF TODAY'S DATE OR YOU LOSE THAT RIGHT. YOU
23 MUST FILE WITH THE CLERK'S OFFICE IN 10 DAYS. IF YOU
24 DON'T, YOU'RE GOING TO LOSE THAT RIGHT TO APPEAL. DO
25 YOU UNDERSTAND?

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THE DEFENDANT: YES.

THE COURT: HAVE YOU UNDERSTOOD EVERYTHING I ASKED YOU?

THE DEFENDANT: YES.

THE COURT: HAVE YOU GOT ANY QUESTIONS YOU WANT TO ASK ME CONCERNING YOUR RIGHTS?

THE DEFENDANT: NO, YOUR HONOR, NOT NOW.

THE COURT: OKAY. THE SOLICITOR IS GOING TO GIVE ME SOME FACTS AND I'M GOING TO COME BACK AND ASK YOU ABOUT THOSE, OKAY?

MR. CORBETT: THANK YOU, YOUR HONOR. THIS INCIDENT TOOK PLACE ON OR ABOUT OCTOBER 1ST OF 2005. YOUR HONOR, THE REASON I SAY ON OR ABOUT OCTOBER 1ST, 2005 WAS THE DECEASED IN THIS CASE, MRS. HORNER, WAS DISCOVERED BY POLICE ON OR ABOUT OCTOBER 5TH OF 2005. THAT WAS THE RESULT OF A FAMILY MEMBER CALLING POLICE ASKING THEM TO DO A WELFARE CHECK.

YOUR HONOR, IN THIS PARTICULAR CASE MR. RHEA HAD BEEN A CELLMATE OF MRS. HORNER'S SON AT THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. WHEN HE WAS RELEASED, MRS. HORNER ALLOWED HIM TO LIVE AT HER RESIDENCE. DURING THE COURSE OF HIM LIVING THERE IS WHEN THIS TOOK PLACE. MR. RHEA ADMITTED AFTER HIS ARREST THAT HE HAD TAKEN A PILLOW AND SUFFOCATED MRS. HORNER.

1 YOUR HONOR, DETECTIVE CULICK FROM THE SUMTER
2 POLICE DEPARTMENT IS HERE. I'M GOING TO ASK HER TO
3 GIVE YOU A LITTLE BIT OF THE FACTS ABOUT THE CASE.
4 AND THEN ALSO THE VICTIM'S FAMILY WANTS TO SPEAK.
5 AND YOUR HONOR, WE DO HAVE SOME THINGS WE'D LIKE TO
6 OFFER BY WAY OF SENTENCING.

7 *THE COURT:* OKAY. YES, MA'AM.

8 *OFFICER CULICK:* THANK YOU, YOUR HONOR. FORGIVE
9 ME. I HAVE BEEN UP SINCE SIX AM YESTERDAY MORNING, A
10 LONG NIGHT OF CALL. BUT LAW ENFORCEMENT DID RESPOND
11 TO MRS. HORNER'S RESIDENCE [REDACTED]
12 BACK ON OCTOBER THE 5TH OF 2005. WHEN THEY ARRIVED
13 TO CHECK ON MRS. HORNER, BECAUSE HER DAUGHTER STATED
14 SHE COULD NOT GET IN TOUCH WITH HER MOTHER AND WAS
15 CONCERNED, THE DEFENDANT MET LAW ENFORCEMENT AT THE
16 DOOR AT THE TIME AND STATED THAT SHE WAS NOT HOME,
17 TRYING TO CONCEAL WHAT HE HAD DONE, KNEW WHAT HE HAD
18 DONE AND THAT IT WAS WRONG.

19 LAW ENFORCEMENT IN FACT DID MAKE ENTRY INTO THE
20 HOME. THEY FOUND MRS. HORNER IN HER BEDROOM. SHE
21 WAS LYING ON HER BED. SHE HAD BEEN SUFFOCATED.
22 THERE WAS A PILLOW STILL OVER HER HEAD. AUTOPSY
23 REVEALED THAT HER NOSE WAS BROKEN DURING THIS
24 PROCESS. SHE HAD BROKEN RIBS. SHE HAD NUMEROUS
25 CONTUSIONS ON HER BODY AS A RESULT OF THIS.

1 SHE WAS 75 YEARS OLD AT THE TIME. HER VEHICLE
2 WAS NOT AT THE RESIDENCE AT THE TIME. IT WAS LATER
3 FOUND AND DETERMINED THAT HE HAD LOANED THE VEHICLE
4 OUT. THE DEFENDANT IN THIS CASE HAD LOANED THE
5 VEHICLE OUT FOR DRUGS. HE HAD ALSO ACCESSED HER BANK
6 ACCOUNT DURING THIS TIME.

7 IN INTERVIEWS WITH HIM BY LAW ENFORCEMENT, HE
8 ESTIMATED THE INCIDENT HAPPENED AROUND
9 SEPTEMBER 23RD, LATE THAT EVENING OR POSSIBLE EARLY
10 THE NEXT MORNING ON SEPTEMBER THE 24TH, 2005. THIS
11 WAS APPROXIMATELY TWO WEEKS FROM THE TIME LAW
12 ENFORCEMENT DISCOVERED THE BODY, MRS. HORNER'S BODY,
13 THAT HE WAS LIVING IN HER RESIDENCE, USING HER
14 RESIDENCE, HER FUNDS, HER VEHICLE, LIVING OFF THAT,
15 TELLING FAMILY MEMBERS THAT SHE WASN'T HOME, SHE WAS
16 GONE TO THE DRUG STORE WHEN IN FACT SHE WAS -- SHE
17 WAS THERE ALL ALONG.

18 YOUR HONOR, I JUST WANT TO SAY BASED ON ALL OF
19 THESE FACTS, IT'S A VERY SAD SITUATION. HER DAUGHTER
20 IS HERE TODAY AND ALSO WOULD LIKE TO SPEAK WITH YOU,
21 BUT I JUST FEEL BASED ON ENFORCEMENT'S STANDPOINT
22 THAT HE SHOULD RECEIVE THE MAXIMUM ALLOWABLE TIME FOR
23 HIS ACTIONS AND WHAT HE DID TO THIS VICTIM AND ALSO
24 FOR THE POTENTIAL RISK HE POSES FOR THE COMMUNITY.
25 AND I JUST... WOULD LIKE TO HEAR FROM HER NOW, NOT

1 SURE.

2 THE COURT: YES, MA'AM.

3 MRS. BRADEN: MY NAME IS AMY BRADEN. I AM EDITH
4 HORNER'S DAUGHTER. AND THE DETECTIVE GAVE MOST OF
5 THE FACTS. IT WAS MY OLDER SISTER THAT CALLED FROM
6 OUT-OF-STATE TO HAVE THEM CHECK ON HER MOTHER.
7 UNFORTUNATELY WE WERE ESTRANGED WITHOUT A
8 RELATIONSHIP, HAD BEEN FOR ALMOST A YEAR, AND THAT
9 CONTENTION WAS BECAUSE OF MY BROTHER BEING IN PRISON.
10 SHE AND I WERE NOT IN AGREEMENT ABOUT DEALING WITH
11 HIM.

12 I DID -- SO I DID NOT HAVE ANY IDEA THAT SHE WAS
13 GOING TO TAKE SOMEBODY WHO HAD BEEN RELEASED FROM
14 PRISON INTO HER HOME. I WOULD HAVE VEHEMENTLY
15 REFUSED IT. PREVIOUS TO THE TIME OF US NOT
16 COMMUNICATING WE HAD A GOOD RELATIONSHIP. I HAVE
17 FIVE CHILDREN. THOSE ARE HER GRANDCHILDREN. MY
18 SISTER HAS THREE CHILDREN, AND THEY HAD JUST RECENTLY
19 RECONCILED.

20 ANY WAY, I REGRET THE DAY THAT MY BROTHER AND
21 MR. RHEA BECAME ACQUAINTED. IN HAVING TO CLEAN UP MY
22 MOTHER'S HOME I FOUND A WHOLE BAG FULL -- SHE HAD
23 KEPT ALL THE LETTERS SHE EVER GOTTEN FROM MY BROTHER
24 AND ALSO FROM HIM. I BELIEVE THAT MY BROTHER MADE
25 THE MISTAKE OF OFFERING THE SANCTUARY OF HER HOME TO

1 HIM AND SHE MADE THE MISTAKE OF OFFERING IT AND ALSO
2 FOLLOWING THROUGH.

3 SHE WAS 75 YEARS OLD AND IN MOSTLY GOOD HEALTH,
4 SOMEWHAT SENILE, BUT SHE DIDN'T HAVE ANY COUNSEL FROM
5 ANYBODY. SHE CHOSE TO NOT HAVE A RELATIONSHIP WITH
6 ME UNFORTUNATELY, HAD JUST A NOMINAL ONE WITH OUR
7 SISTER, AND SHE WAS BASICALLY ALONE.

8 AND I BELIEVE THAT HAVING MR. RHEA IN HER HOME
9 WAS GOING TO BE THE BEST THING SHE COULD HAVE TO
10 HAVING HER SON BACK. HE HAS ALMOST FOUR MORE YEARS
11 FOR A 12 YEAR SENTENCE HIMSELF, WHICH HE DOES DESERVE
12 TO BE THERE FOR WHAT HE DID.

13 I SAW IN THE LETTERS THAT MR. RHEA HAD MADE
14 PROMISES ABOUT BEING ABLE TO GET MY BROTHER HELP AND
15 GETTING HIM OUT. THEY HAVE TRIED APPEALS, ALL SORTS
16 OF STUFF, AND NONE OF THAT HAS HAPPENED, AND THAT'S
17 HIS PERSONAL BUSINESS. SO SHE WAS HOLDING ON TO THAT
18 HOPE THAT HERE WAS SOMEBODY WHO COULD HAVE SOME
19 ANSWERS.

20 BUT ALMOST IMMEDIATELY UPON GOING IN HER HOME,
21 IT WAS JUST A MATTER OF DAYS WHERE HE STARTED FORGING
22 CHECKS. AND I KNOW SHE WAS VERY PARTICULAR ABOUT HER
23 CAR. SHE PROBABLY WOULD HAVE TAKEN HIM ALMOST
24 ANYWHERE HE NEEDED TO GO.

25 THERE WAS A RECEIPT, A FORM ON THE TABLE WHERE

1 HE HAD TO GO TO TUOMEY HOSPITAL FOR SOME SORT OF
2 ILLNESS AND IT WAS NOTED ON THE FORM THAT HE TESTED
3 POSITIVE FOR COCAINE USE THEN, SO FROM WHAT -- AND WE
4 EVEN FOUND IN THE CLEANING UP OF THE HOME THAT THERE
5 WAS CRACK AND COCAINE AND ALL SORTS OF RESIDUE.

6 SO IT'S MY BELIEF AND KNOWLEDGE THAT HE
7 IMMEDIATELY STARTED USING AS SOON AS GETTING OUT AND
8 FELL BACK INTO SOME OLD HABITS WITH THE FORGERY AND
9 TAKING ADVANTAGE OF HER. AND I HAD ACTUALLY SEEN THE
10 TWO OF THEM TOGETHER IN THE SALVATION ARMY THRIFT
11 STORE DOWNTOWN AND I DECIDED -- I GOT IN THE DOORWAY
12 AND I DECIDED TO BACK OUT AND NOT GO IN BECAUSE OF
13 OUR ESTRANGEMENT, I DIDN'T WANT TO GET SNUBBED, AND I
14 JUST OVERHEARD HER TALKING TO HIM AND JUST GLANCED AT
15 HIM, AND OF COURSE FOUND OUT LATER THE FACTS.

16 I DO JUST WANT TO SAY THAT I AGREE TO DOING THIS
17 PROCEDURE THIS WAY, TO -- TO NOT GO THROUGH THE TIME
18 AND EXPENSE OF A TRIAL, TO NOT GO THROUGH THE LONGER
19 EMOTIONAL TOLL IT WOULD TAKE. THIS HAPPENING TO MY
20 MOTHER, NOT ONLY DID I LOSE MY MOTHER AND MY CHILDREN
21 THEIR GRANDMOTHER, THAT SHE WAS CRUELLY MURDERED.
22 AND MY OLDER ONES WERE OLD ENOUGH TO KNOW. THEY ARE
23 NOW 17, 16 AND 15, SO ALMOST FOUR YEARS AGO THEY KNEW
24 AND DIDN'T UNDERSTAND.

25 AND IT HAS CAUSED A LOT OF EMOTIONAL PAIN IN

1 MYSELF, MY HUSBAND, EVEN DOWN TO MY LITTLE CHILDREN
2 IT IS -- THERE'S NO AMOUNT OF TIME OR MONEY THAT
3 COULD FIX THE DAMAGE THAT HAS BEEN DONE TO MY FAMILY
4 BY THIS PERSON. AND THAT'S WHY I'M ASKING FOR --
5 THAT HE SERVE THE MAXIMUM AMOUNT OF TIME POSSIBLE SO
6 AT LEAST JUSTICE WILL BE DONE HERE AND NOW AND WE
7 COULD HAVE AN END TO THIS CHAPTER IN OUR LIFE AND WE
8 CAN MOVE ON.

9 THE COURT: THANK YOU, MA'AM.

10 MR. CORBETT: YOUR HONOR IF I MAY, IN SPEAKING
11 WITH THE VICTIM AND IN MR. RHEA'S OWN STATEMENTS TO
12 LAW ENFORCEMENT HE INDICATED THERE WAS AN ARGUMENT
13 THAT HE HAD WITH MRS. HORNER AND THAT AS A RESULT OF
14 THAT ARGUMENT HE INDICATED IN HIS OWN STATEMENTS, I
15 THEN TOOK A PILLOW AND HELD OVER HER MOUTH. I
16 CHECKED HER PULSE, BUT THERE WAS NONE.

17 IN A DIFFERENT STATEMENT THAT HE GAVE ME TALKED
18 ABOUT PUTTING THE PILLOW OVER HER FACE. HE TALKED
19 ABOUT THERE BEING BLOOD ON THE PILLOW. WE THINK THAT
20 WAS PROBABLY THE RESULT OF THE BROKEN NOSE OR
21 SOMETHING OF THAT NATURE. THAT WAS CONFIRMED IN THE
22 PICTURES FROM THE CRIME SCENE THE DETECTIVES HAVE
23 AVAILABLE.

24 YOUR HONOR, SOLELY ON THE -- ON THE CLAIM THAT
25 THERE WAS SOME TYPE OF ARGUMENT, WE HAVE AGREED TO

1 ACCEPT THIS AS VOLUNTARY MANSLAUGHTER, OTHERWISE WE
2 WOULD BE PROCEEDING TO TRIAL WITH MURDER.

3 IN THE LAST SEVEN YEARS THAT I HAVE DONE THIS,
4 THIS IS THE SECOND TIME THAT I HAVE ASKED THE COURT
5 TO IMPOSE THE MAXIMUM SENTENCE FOR A GUILTY PLEA.
6 THIS IS THE SECOND TIME OUT OF THE LITERALLY HUNDREDS
7 AND HUNDREDS OF CASES THAT I HAVE HANDLED.

8 THE REASON, YOUR HONOR, THAT I ASKED FOR THAT
9 MAXIMUM PENALTY IN THIS CASE IS BECAUSE THAT
10 OTHERWISE THIS IS A MURDER CASE. IT IS THE MERCY OF
11 THE VICTIM'S FAMILY THAT WE ARE ACCEPTING THIS AS A
12 VOLUNTARY MANSLAUGHTER.

13 MRS. HORNER TOOK HIM IN. WHEN HE GOT OUT OF
14 PRISON AND HAD NO PLACE TO GO, SHE TOOK HIM IN. SHE
15 PUT A ROOF OVER HIS HEAD. SHE HAD FOOD FOR HIM. SHE
16 BOUGHT CLOTHES FOR HIM. AND THE WAY THAT HE REPAID
17 THIS 75 YEAR OLD LADY WHO WAS ABSOLUTELY NO THREAT TO
18 HIM WHATSOEVER WAS HE GOT BACK OUT AND HE STARTED HIS
19 DRINKING AND HE STARTED SMOKING THE CRACK -- THAT'S
20 IN HIS STATEMENTS THAT HE GAVE POLICE -- AND THEN IN
21 THAT CONDITION HE'S ALSO STEALING FROM HER, USING HER
22 CREDIT CARDS, USING HER CHECKS, AND WHEN CONFRONTED
23 WITH IT, WHEN THE ARGUMENT BREAKS OUT, HE PLACES A
24 PILLOW OVER HER FACE AND LITERALLY SUFFOCATES THE
25 LIFE OUT OF THIS LADY.

1 YOUR HONOR, THAT -- HE -- HE DESERVES 30 YEARS
2 FOR THAT, AND THAT'S WHAT WE ARE ASKING THE COURT
3 FOR.

4 *THE COURT:* BEFORE WE GET -- LET ME -- JUST -- I
5 WILL COME BACK TO YOU IN JUST A MINUTE. LET ME
6 ACCEPT. THE FACTS THAT THE SOLICITOR GAVE ME AND
7 DETECTIVE CULICK, ARE THOSE CORRECT, SIR?

8 *THE DEFENDANT:* NO, I HAVE -- I DON'T AGREE WITH
9 EVERYTHING THAT WAS SAID.

10 *THE COURT:* OKAY. DO YOU AGREE THAT YOU KILLED
11 THIS LADY?

12 *THE DEFENDANT:* I DON'T REALLY KNOW. I -- I
13 BELIEVE IN ONE OF MY STATEMENTS I SAID THAT IF I WAS
14 THE ONLY ONE IN THERE, I MUST HAVE DONE IT. THAT'S
15 THE KIND OF -- I MEAN, THERE -- THEY'RE RIGHT. I
16 MEAN ABOUT MRS. HORNER, SHE WAS A -- SHE WAS A GREAT
17 LADY. AND...

18 *THE COURT:* WELL, YOU UNDERSTAND IF THIS CASE
19 WENT TO TRIAL, THOSE ARE THE FACTS THE STATE WOULD
20 PROCEED AGAINST YOU WITH. YOU UNDERSTAND THAT?

21 *THE DEFENDANT:* UH-HUH. YES, SIR.

22 *THE COURT:* OKAY. AND YOU HAVE PLED GUILTY TO
23 KILLING THIS LADY AND YOU WANT ME TO ACCEPT THIS PLEA
24 BASED ON THOSE FACTS?

25 *THE DEFENDANT:* COULD YOU SAY THAT AGAIN?

1 THE COURT: YOU HAVE -- YOU ARE HERE BEFORE ME
2 WANTING TO PLEAD GUILTY TO KILLING THIS LADY, IT'S
3 VOLUNTARY MANSLAUGHTER.

4 THE DEFENDANT: YES.

5 THE COURT: THESE ARE FACTS THAT THEY TOLD ME
6 HAPPENED IN THIS CASE. AND I HAVE TO FIND A FACTUAL
7 BASIS FOR THIS PLEA. AND IF THEY -- IF THIS CASE
8 GOES TO TRIAL, AND IT MAY PROCEED TO TRIAL ON MURDER,
9 THAT THESE WERE THE FACTS THAT THE STATE INTENDS TO
10 PRODUCE AS EVIDENCE AGAINST YOU. DO YOU UNDERSTAND
11 THAT?

12 THE DEFENDANT: YES, SIR, I DO.

13 THE COURT: AND THERE'S A STRONG POSSIBILITY
14 THAT YOU WOULD BE CONVICTED AS A RESULT OF THAT
15 TRIAL. DO YOU UNDERSTAND THAT?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: AND THEY HAVE ALLOWED YOU THROUGH
18 NEGOTIATIONS OF YOUR ATTORNEY AND THIS FAMILY TO
19 PLEAD TO VOLUNTARY MANSLAUGHTER. DO YOU UNDERSTAND
20 THAT?

21 THE DEFENDANT: YES, SIR.

22 THE COURT: SO I FIND THAT THERE'S A SUBSTANTIAL
23 FACTUAL BASIS FOR YOUR PLEA. IT'S FREELY AND
24 VOLUNTARILY ENTERED INTO, THAT YOU HAVE HAD ADVICE OF
25 COMPETENT COUNSEL WITH WHOM YOU TELL ME YOU'RE

1 SATISFIED WITH --

2 THE DEFENDANT: YES.

3 THE COURT: -- AND I'M GOING TO ACCEPT YOUR
4 PLEA. ALL RIGHT?

5 THE DEFENDANT: ALL RIGHT.

6 THE COURT: NOW, I WILL HEAR FROM YOU. THANK
7 YOU SIR.

8 MR. BRADEN: YOUR HONOR, I'M MR. BRADEN, AMY'S
9 HUSBAND. AFTER THE HOUSE WAS RELEASED TO US BY THE
10 POLICE, I WENT THROUGH THE HOUSE FOR A COUPLE OF
11 WEEKS TRYING TO LOOK THROUGH THINGS, AND IT WAS KIND
12 OF A MESS. FOR ERIC TO SAY THAT HE TOOK SOMEONE'S
13 LIFE AND THEN DIDN'T HAVE A CARE ABOUT HER IS -- I
14 DON'T -- I DON'T -- I DON'T BUY THAT.

15 I WAS IN THE AIR FORCE FOR 24 YEARS. I'M
16 RETIRED. I AM A SURVIVOR OF CO -- TERROR --
17 TERRORIST ATTACKS. I ALMOST LOST MY LIFE. SO I KNOW
18 THE MEANING OF LIFE. AND FOR ERIC TO SAY I DON'T
19 KNOW THAT I DID IT, I DON'T BUY IT. AND FOR SOMEONE
20 TO TRY TO SAY I HAVE MENTAL ISSUES TO TRY TO GET OUT
21 LEGAL -- I DON'T BUY THAT EITHER, SIR.

22 BUT WE'VE NEGOTIATED THIS, SO I HOPE THAT YOU
23 GIVE ERIC THE MAXIMUM AMOUNT OF TIME AND NOT BE ABLE
24 TO -- BE ABLE TO DO THIS AGAINST ANYONE ELSE AGAIN.
25 THANK YOU, SIR.

1 THE COURT: THANK YOU.

2 MR. CORBETT: YOUR HONOR, IF WE MAY, LIEUTENANT
3 RABON WITH THE SUMTER POLICE DEPARTMENT.

4 THE COURT: YES, MA'AM.

5 OFFICER RABON: YOUR HONOR, I JUST WANT TO SAY
6 JUST ONE THING THAT REALLY SHOWS ME HIS LACK OF
7 REMORSE IS, YOU KNOW, ONCE -- IT'S ONE THING THE
8 TRAGIC DEATH THAT MRS. HORNER SUFFERED, BUT THE FACT
9 THAT HE LIVED THERE WITH HER IN THE RESIDENCE KNOWING
10 THAT HE MURDERED HER, LIVED THERE FOR APPROXIMATELY
11 TWO WEEKS USING HER CAR, SPENDING HER MONEY, WRITING
12 CHECKS ON HER CHECKING ACCOUNT TO ME DEMONSTRATES AND
13 SHOWS THE COURT WHAT TYPE OF PERSON HE IS AND A
14 DANGER HE IS.

15 AND HE EVEN WENT AS FAR AS TO -- JUST SO THERE
16 WAS NOT ANY I GUESS RAPID DECAY OF MRS. HORNER, HE
17 LOWERED THE AC, THE AIR CONDITIONER, IN THERE TO
18 PREVENT THAT IN AN ATTEMPT TO PREVENT THAT. TO ME
19 THAT JUST SHOWS THE TYPE OF PERSON HE IS.

20 AND I THINK THE BREAK HE'S GETTING BEING ABLE TO
21 PLEAD TO VOLUNTARY, THAT SHOULD BE ENOUGH, AND I JUST
22 REALLY BEG FOR THE MAX SENTENCE.

23 THE COURT: THANK YOU. MR. SOLICITOR, DOES HE
24 HAVE A PRIOR RECORD?

25 MR. CORBETT: HE DOES, YOUR HONOR. HE WAS

1 ACTUALLY IN THE DEPARTMENT OF CORRECTIONS AT THE
 2 TIME. HIS RECORD DATES BACK TO 1985 WITH A
 3 POSSESSION OF CONTROLLED SUBSTANCE, CONTROLLED
 4 SUBSTANCE AGAIN IN 1987. YOUR HONOR, MULTIPLE,
 5 MULTIPLE COUNTS OF FRAUDULENT CHECK, SOME -- ABOUT
 6 THREE PAGES OF THOSE. BREAKING INTO VEHICLES.
 7 BREACH OF TRUST IN 2003. I BELIEVE THAT'S THE ONE HE
 8 WAS IN PRISON FOR, AND THEN HE WAS RELEASED ON THAT
 9 CHARGE AND THEN THAT'S WHEN HE COMMITTED THIS CRIME.

10 THE COURT: OKAY. ANYTHING ELSE FROM THE STATE?

11 MR. CORBETT: I BELIEVE THAT'S ALL THAT WE HAVE,
 12 YOUR HONOR.

13 THE COURT: MRS. STEVENS?

14 MRS. STEVENS: YES, SIR, YOUR HONOR. ERIC IS
 15 VERY REMORSEFUL FOR WHAT HAPPENED. THERE IS NOTHING
 16 THAT ANY ONE OF US CAN DO TO BRING MRS. HORNER BACK.
 17 I KNOW THAT IF ERIC HAD AN OPPORTUNITY TO DO THIS ALL
 18 OVER AGAIN, THINGS WOULD HAVE BEEN DIFFERENT. I
 19 APPRECIATE THAT -- THAT MENTAL HEALTH SHOULD NOT BE
 20 AN EXCUSE. AND YOUR HONOR, WE ARE NOT TRYING TO USE
 21 MENTAL HEALTH ISSUES AS AN EXCUSE FOR WHAT HAPPENED.

22 BUT JUST FOR THE JUDGE AND THE COURT AND
 23 EVERYONE HERE TO UNDERSTAND THAT THE ERIC THAT DID
 24 THIS IS NOT NECESSARILY ERIC. HE DID GET OUT OF
 25 PRISON. HE DID IMMEDIATELY GO BACK TO COCAINE, TO

1 CRACK COCAINE, AND UNLESS ANY ONE OF US STANDING HERE
2 OR IN THIS COURTROOM HAS BEEN ADDICTED TO CRACK
3 COCAINE, THEY CAN'T REALLY UNDERSTAND HOW ADDICTIVE
4 IT IS AND HOW EASY IT IS TO GET BACK INTO THAT.

5 BUT AGAIN, NOT OFFERING THE USE OF CRACK COCAINE
6 AS AN EXCUSE, BUT JUST TO LET THE COURT KNOW THAT HE
7 WAS SMOKING CRACK. HE WAS DRINKING. HE WAS ALSO NOT
8 TAKING HIS COURT-ORDERED MEDICATIONS, YOUR HONOR. HE
9 WAS TAKING OR WAS SUPPOSED TO BE TAKING, YOUR HONOR,
10 SEROQUEL, KLONOPIN, AND PROZAC. AND SEROQUEL IS AN
11 ANTIPSYCHOTIC, PROZAC IS AN ANTIANXIETY, WHAT'S
12 THE -- IT'S ALSO ANOTHER ANTIANXIETY, YOUR HONOR.

13 WHEN HE IS PROPERLY MEDICATED, HE IS A DIFFERENT
14 PERSON. HE HAS BEEN DIAGNOSED WITH BOTH -- WITH BOTH
15 POST-TRAUMATIC STRESS DISORDER AS WELL AS BIPOLAR
16 DISORDER, YOUR HONOR.

17 WHEN HE TOLD YOU HE DOESN'T KNOW THAT HE DID
18 THIS, HE'S NOT IN ANY WAY TRYING TO DENY
19 RESPONSIBILITY. HE SIMPLY AT THE TIME THAT THIS
20 OCCURRED DOES NOT REMEMBER EXACTLY WHAT HAPPENED.

21 YOUR HONOR, ONCE HE DISCOVERED THAT HE HAD DONE
22 THIS, HE LOCKED HIMSELF IN HIS ROOM FOR SEVERAL DAYS.
23 TELLS ME THAT THERE ARE TIMES THAT HE DOESN'T
24 REMEMBER BEFORE THIS HAPPENED AND THEN RIGHT AFTER
25 THIS HAPPENED.

1 WHEN WE HAD HIM EVALUATED, YOUR HONOR, HE GAVE
2 ME A LIST OF MEDICAL RECORDS THAT WE NEEDED TO
3 SUBPOENA, AND THERE WERE 29. TWENTY-NINE DIFFERENT
4 PLACES THAT WE NEEDED TO GET MEDICAL RECORDS FROM.

5 MR. RHEA WAS IN AN ORPHANAGE FROM THE AGE OF
6 FOUR. AND IF THERE IS SOMETHING BAD THAT CAN HAPPEN
7 TO A HUMAN BEING, IT HAS PROBABLY HAPPENED TO ERIC
8 DURING HIS LIFETIME. THERE WAS SEXUAL ABUSE,
9 PHYSICAL ABUSE STARTING AS EARLY AS AGE FOUR, AND
10 CONTINUING THROUGHOUT HIS LIFE IN VARIOUS PLACES THAT
11 HE WAS.

12 YOUR HONOR, HE HAS TRIED TO COMMIT SUICIDE I
13 WANT TO SAY AT LEAST 16 TIMES. SEVERAL OF THESE
14 ATTEMPTS HAVE BEEN SERIOUS ENOUGH TO PUT HIM IN THE
15 HOSPITAL FOR THAT.

16 YOUR HONOR, I CAN PROMISE YOU THAT I HAVE
17 MEDICAL RECORDS FROM THE FLOOR TO THE TOP OF THIS,
18 THIS PODIUM HERE THAT WILL TELL YOU THAT THERE ARE
19 MENTAL HEALTH ISSUES WITH THIS MAN.

20 WHEN HE IS PROPERLY MEDICATED, HE IS NOT THIS
21 PERSON. AND WHEN HE'S PROPERLY MEDICATED, HE IS
22 GENERALLY INCARCERATED -- OR IN A SITUATION WHERE HE
23 IS -- HIS MOVEMENTS ARE GUARDED. AND WHEN HE TAKES
24 HIS MEDICATION, HE -- HE IS A DIFFERENT PERSON.
25 THERE'S NO CURE UNFORTUNATELY FOR BIPOLAR DISORDER

1 AND THERE'S NO CURE FOR POST-TRAUMATIC STRESS
2 DISORDER. SO THE MEDICATION MERELY KEEPS HIM ON AN
3 EVEN KEEL. IT IS NOT GOING -- GOING TO CURE HIM.

4 WHAT MRS. HORNER DID WAS ADMIRABLE. SHE TOOK
5 SOMEONE INTO HER HOME THAT HAD HAD A BAD -- A BAD
6 SITUATION. MR. RHEA DID NOT INTEND TO KILL HER WHEN
7 HE AGREED TO GO LIVE WITH HER. HE DID NOT INTEND TO
8 KILL HER WHEN HER DEATH ACTUALLY OCCURRED.

9 HE TELLS ME THAT HE WAS SO HIGH ON BOTH CRACK
10 AND ALCOHOL, THEY GOT INTO AN ARGUMENT AND HE -- HE
11 WANTED THE ARGUMENT TO END, AND UNFORTUNATELY FOR
12 EVERYONE HERE THE WAY IT ENDED WAS THAT SHE WAS
13 SMOTHERED.

14 WHEN HE SAYS THAT MRS. HORNER WAS A WONDERFUL
15 PERSON, HE MEANS THAT. HE'S -- HE'S ALWAYS TOLD ME
16 THAT MRS. HORNER DIDN'T DESERVE THIS, AND SHE DID
17 NOT. NO ONE DESERVES WHAT HAPPENED TO MRS. HORNER.

18 AND WE DO HOPE THE FAMILY KNOWS THAT WE -- WE DO
19 GRIEVE FOR THEM AND PRAY FOR THEM. I KNOW THAT ERIC
20 PROBABLY WANTS TO ADDRESS YOU. YOUR HONOR, BEHIND ME
21 STANDS BUD CORSON, THIS IS HIS STEPFATHER. AND I
22 ASKED HIM EARLIER HOW LONG -- OR I ASKED ONE OF THEM
23 HOW LONG HAS HE BEEN YOUR STEPFATHER, AND IT'S BEEN A
24 VERY LONG TIME, SO HE IS THE FATHER-FIGURE IN ERIC'S
25 LIFE AND I KNOW THAT HE ALSO WOULD LIKE TO ADDRESS

1 YOU, YOUR HONOR.

2 THE COURT: OKAY.

3 MRS. STEVENS: BRIEFLY.

4 THE COURT: WHICH ONE WANTS TO GO FIRST?

5 THE DEFENDANT: I WILL, YOUR HONOR. I BY NO
6 MEANS WANTS TO MAKE LIGHT OF EDITH HORNER'S DEATH,
7 AND I DON'T -- I JUST DON'T HAVE A REAL CLEAR VIEW
8 THAT I CAN TELL THEM THAT WOULD SATISFY THEM BECAUSE
9 I DON'T.

10 SHE ALLOWED ME INTO HER HOME. EVEN BEFORE THAT,
11 I MEAN, SHE WOULD WRITE TO ME. AND THIS -- SHE --
12 THIS IS HOW SHE WAS REPAID. NONE OF YOU DESERVE
13 THAT. I -- THAT'S ALL, YOUR HONOR.

14 THE COURT: THANK YOU. YES, SIR.

15 MR. CORSON: ERIC -- I ENTERED IN HIS LIFE WHEN
16 HE WAS FOUR YEARS OLD AND UNFORTUNATELY HIS
17 GRANDPARENTS PUT HIM IN AN ORPHANAGE WHILE HIS MOTHER
18 WAS TRYING TO GET A DIVORCE AND GET HER LIFE PUT BACK
19 TOGETHER, AND IT TOOK THREE YEARS OF OUR MARRIAGE TO
20 GET THIS DONE BECAUSE OF THE WAY THE CIRCUMSTANCES
21 WENT AS FAR AS THE GRANDPARENTS IS CONCERNED.

22 AND TO MOVE FORWARD QUICKLY, SALLY, WHICH IS HIS
23 MOTHER, MY WIFE, HAS TRIED HER BEST TO KEEP HIM, YOU
24 KNOW -- WE KNEW HE HAD TROUBLES AND STUFF AND HE'S
25 IN -- WE'VE LOVED HIM FROM THE GET-GO AND IT'S ALWAYS

1 BEEN THAT WAY. SALLY JUST LOST HER MOTHER. NOW SHE
2 IS LOSING HER SON, AND IT'S JUST BEEN ONE TORMENT
3 AFTER ANOTHER. AND I UNDERSTAND THAT WITH -- WITH --
4 WITH THE FINE FOLKS OVER THERE.

5 AND IT'S, YOU KNOW, ALL I WANT IS HOPE AND PRAY
6 THAT YOU BE A LITTLE BIT LENIENT TOWARDS HIS SENTENCE
7 AND -- AND HOPEFULLY HE CAN GET SOME GUIDANCE IN THE
8 SYSTEM TO HELP KEEP HIM BALANCED. IT'S -- IT'S A
9 HARD ROW TO HANG.

10 AND WHEN YOU, YOU KNOW, I WILL STATE THIS ONE
11 LITTLE THING IF -- THAT, YOU KNOW, WHEN THEY GET OUT
12 OF PRISON LIKE HE DID THE LAST TIME OUT OF LEE, THEY
13 GIVE HIM NO MEDS TO WORK WITH. SO WHEN YOU HAVE THIS
14 KIND OF PROBLEM, HE'S LOOKING FOR SOMETHING TO -- TO
15 RELIEVE HIS PAIN AND HIS ANGER AND ALL OF THE STUFF
16 THAT HE GOES THROUGH, AND HE'S UNBALANCED WHEN HE
17 COMES OUT LIKE THAT.

18 AND I JUST WISHED AT THAT TIME THERE WAS
19 SOMETHING WAS IN AVEND AT THAT TIME INSTEAD OF GOING
20 INTO SOMEBODY ELSE'S HOME. AND TO BE HONEST WITH
21 YOU, I WISH IT WAS US THAT HE CAME HOME TO AND BEEN
22 ONE OF US GETTING KILLED INSTEAD OF THIS LADY OVER
23 HERE.

24 YOU KNOW, IT'S A SAD SITUATION ALL THE WAY
25 AROUND. I WOULDN'T WISH THAT ON ANYBODY NEITHER

1 AND -- BUT LIKE I SAID, SALLY'S DAD DIED THREE YEARS
2 AGO NOW, NOW THE MOTHER IS GONE AND SHE'S LOSING HER
3 OLDEST SON, AND I KNOW IT'S TOUGH. AND I DO HAVE
4 SYMPATHY FOR THESE FINE FOLKS OVER HERE.

5 THE COURT: THANK YOU, SIR.

6 MR. CORSON: THANK YOU. THAT'S ALL I WANT TO
7 SAY.

8 MRS. STEVENS: AGAIN, YOUR HONOR, WE DO
9 APPRECIATE THE STATE LOWERING THE CHARGE TO VOLUNTARY
10 MANSLAUGHTER. I HAVE ALWAYS BELIEVED THAT THAT'S
11 WHAT THIS WAS BECAUSE I TRULY BELIEVE THAT ERIC DID
12 NOT HAVE THE INTENT TO KILL HER.

13 UNFORTUNATELY I DON'T THINK ANYBODY REALLY
14 UNDERSTOOD WHAT IT WAS THAT ERIC NEEDED WHEN HE WAS
15 RELEASED LAST TIME AND HE FELL BACK INTO THE DRUGS
16 AND BACK INTO THE LIFESTYLE, AND THAT IS WHY WE ARE
17 HERE TODAY.

18 I WOULD SIMPLY ASK THAT YOU CONSIDER THAT
19 ALTHOUGH HE DOES HAVE A PRIOR RECORD, THERE ARE NO
20 VIOLENT INSTANCES ON HIS RECORD, THERE'S NO CRIMES
21 AGAINST A PERSON, IT'S ABOUT MONEY AND DRUGS. AND
22 WHEN YOU'RE ADDICTED TO DRUGS YOU DO FRAUDULENT
23 CHECKS, AND WHEN YOU'RE ADDICTED TO DRUGS YOU DO
24 FORGE PEOPLE'S SIGNATURE, AND WHEN YOU'RE HIGH ON
25 DRUGS YOU DO SELL SOMEBODY'S CAR FOR CRACK AND YOU DO

1 GET MONEY OUT OF THEIR BANK ACCOUNT.

2 AND AGAIN, YOUR HONOR, PLEASE DON'T THINK THAT
3 I'M TRYING TO SAY THAT YOU SHOULD EXCUSE HIS BEHAVIOR
4 BECAUSE HE WAS ON CRACK. THAT'S NOT WHAT WE'RE
5 ASKING YOU TO DO. WE'RE ASKING YOU TO CONSIDER THAT
6 THAT WAS A PART OF WHAT CAUSED THIS TO HAPPEN AND
7 UNDERSTAND THAT HE IS MORE OF A DANGER TO HIMSELF
8 THAN TO ANYONE ELSE.

9 THE COURT: OKAY.

10 MR. CORBETT: YOUR HONOR, MAY I ADD FOR THE
11 RECORD THAT MR. RHEA WAS EVALUATED AND WAS FOUND
12 COMPETENT.

13 THE COURT: OKAY. AND I'M TRULY SORRY THAT THIS
14 HAPPENED TO Y'ALL. AND WHAT I HAVE HEARD HERE TODAY
15 THAT I TRULY FEEL IN HIS OWN WAY THAT MR. RHEA IS
16 SORRY, TOO BUT WHAT I HAVE HEARD, A LONG HISTORY
17 BEHIND HIM THAT HE JUST CAN'T FUNCTION OUTSIDE OF
18 SOME INSTITUTION. HE CAN'T -- HE DOESN'T HAVE THE
19 WHEREWITHAL. AND WHEN HE'S NOT IN AN INSTITUTION,
20 HE'S A DANGER TO HIMSELF AND THE COMMUNITY, AND THIS
21 CLEARLY SHOWS THAT.

22 SO -- AND I THINK THE STATE HAS GIVEN HIM A HUGE
23 MEASURE OF LENIENCY. AND THE SENTENCE OF THE COURT
24 IS HE'S COMMITTED THE STATE DEPARTMENT OF CORRECTIONS
25 FOR A TERM OF 30 YEARS. GOOD LUCK TO YOU, MR. RHEA.

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THE DEFENDANT: ALL RIGHT.

THE COURT: AND I THANK Y'ALL FOR COMING, AND
I'M SO SORRY.

(END OF REQUESTED TRANSCRIPT OF RECORD.)

RECORDED

2010 MAR 26 AM 10:37

2010-CP-43-657

JAMES W. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

STATE OF SOUTH CAROLINA

County of SUMTER

In the Court of Common Pleas

DEPT. OF PROBATION
OF ORIGINAL JUDICIAL
DEPT. OF PROBATION
SUMTER COUNTY
SOUTH CAROLINA

ERIC C RHEA #291955
Full name and prison number (if any) of Applicant,

vs.

SUMTER County, STATE OF S.C.
Name of Respondent

APPLICATION FOR
POST-CONVICTION REVIEW
RECEIVED
S. Cr. 100-100-100
General

APR - 1 2010

Referred to M. Wms.

Answered _____

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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention LEE CORRECTIONAL INSTITUTION
990 WISACKY HWY, BISHOPVILLE SC. 29010
2. Name and location of Court which imposed sentence SUMTER COUNTY (GENERAL SESSIONS)
SUMTER SOUTH CAROLINA
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) _____
 - (b) _____
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) APRIL 17th 2009
 - (b) 30 YEARS 85%
 - (c) _____

5. Check whether a finding of guilty was made

- (a) after a plea of guilty YES
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____

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

NO

7. If you answered "yes" to (6), list

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

- i. _____
- 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. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) ASKED ATTORNEY LAUREN STEVENS TO FILE BUT SHE DID NOT.
- (b) _____
- (c) _____

9. 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) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) FAILURE TO FILE APPEAL WHEN REQUESTED! MARTINS VS BIF 32102
- (b) FAILURE TO INFORM DEFENDANT OF DECISION NOT TO APPEAL
- (c) FAILURE TO INCLUDE COMPETENCY EVALUATION FOR COURT SET
- (d) FAILURE TO PROTECT DEFENDANT WHEN MENTALLY IMPAIRED BY MEDICATION
- (e) FAILURE TO OBTAIN PLEA AGREEMENT FOR MENTALLY ILL

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? No
- (d) any other petitions, motions or applications in this or any other Court?
No

12. If you answered "yes" to any part of (11), 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. _____
- ii. N/A
- iii. _____
- iv. _____

(d) the date of each such disposition:

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

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

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

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

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

N/A

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

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

N/A

15. If any ground set forth in (9) 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) ATTORNEY FAILED TO FILE DIRECT APPEAL WHEN REQUESTED
- (b) FAILED TO HAVE PSYCHIATRIC EVALUATION COMPLETED AS ORDERED
- (c) DEFENDANT TOLD ATTORNEY HE DID NOT KNOW IF HE WAS GUILTY
- (d) DEFENDANT WAS UNDER INFLUENCE OF PSYCHIATRIC DRUG MEDICATION

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

- (a) your arraignment and plea? YES
- (b) your trial, if any? YES
- (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

17. If you answered "yes" to one or more parts of (16), list:

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

- i. LAUREN STEPHENS SUMNER COUNTY PUBLIC DEFENDER
OFFICE SUMNER S.C.
- ii. _____
- iii. _____

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

- i. ENTIRE PROCESS
- ii. _____
- iii. _____

18. State clearly the relief you seek in filing this application.

OBTAIN MY GUILTY BUT MENTALLY ILL PLEA AS AGREED
AND TO HAVE MY SENTENCE REDUCED RESPECTIVELY
OR OVERTURNED FOR TRIAL

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

NO

STATE OF SOUTH CAROLINA

County of SUMTER

VERIFICATION

I, ERIC CRHEA, 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.

Eric Crhea

SWORN to and subscribed before me this 25

day of May, 2010

L. Brandy Luna (L.S.)
Notary Public

My Commission Expires: 5/16/11

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

I, ERIC CRHEA, 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 therefor.

Eric Crhea
Applicant
Eric Crhea

SWORN or affirmed to and subscribed before me this 25 day of May, 2010

L. Brandy Luna
Notary Public

II.

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

- I. Ineffective assistance of counsel.
 - a. Failure to file direct appeal.
 - b. "Failure to include competency evaluation for court sentence."
 - c. "Failure to protect defendant when mentally impaired by medication."
 - d. "Failure to obtain plea agreement for mentally ill defendant."

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, SCRCP.

III.

In a post-conviction relief action, the 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, 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 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, 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 that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that 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).

IV.

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

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

HENRY D. McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: *Mary S. Williams*
ATTORNEYS FOR RESPONDENT

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

Oct. 20, 2010.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)
)
 Eric Rhea,)
)
 PLAINTIFF,)
)
 v.)
)
 State of South Carolina,)
)
 DEFENDANT.)

IN THE COURT OF COMMON PLEAS

TRANSCRIPT OF RECORD
CP #: 2010-CP-43-0657

SUMTER COUNTY COURTHOUSE
March 22, 2012

BEFORE:

HONORABLE W. JEFFREY YOUNG, PRESIDING JUDGE.

APPEARANCES:

Assistant Attorney General Mary Williams, Esquire
Attorney for The State of South Carolina

Charles Brooks, Esquire
Attorney for Applicant

Lauren Stevens, Esquire

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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(There were no exhibits marked during this hearing)

PCR Hearing for Eric Rhea

3

1 Ms. Williams: May it please the court.

2 The Court: Yes ma'am.

3 Ms. Williams: This is Eric Rhea. He was indicted
4 for murder and he plead to voluntary manslaughter and
5 received a term of thirty years and he was represented by
6 Ms. Stevens. He is alleged in his application that she
7 didn't follow correct appeal, failed to prove competency
8 evaluation in court, and some other things with the
9 competency issue. He is represented today by Mr. Ross.

10 The Court: Ready to proceed?

11 Mr. Brooks: Yes sir.

12 The Court: Call our first witness.

13 Mr. Brooks: I call Mr. Rhea to the stand.

14 Bailiff: Place your left hand on the Bible. Raise
15 your right hand. State your name please.

16 Witness: Eric Rhea.

17 Bailiff: Do you solemnly swear or affirm the
18 testimony to the court shall be the truth, the whole
19 truth and nothing but the truth so help you God?

20 Witness: Yes sir.

21 Bailiff: Thank you. Have a seat.

22 (Witness Complies)

23 Bailiff: State your full name, spell your last name
24 for the record.

25 Witness: Eric Rhea. R. H. E. A

1 Mr. Brooks: Ready Judge?

2 The Court: Yes, sir.

3 Mr. Rhea - Examination by Mr. Brooks:

4 Q: Mr. Rhea, how you doing today?

5 A: Fine.

6 Q: Alright, good. You pled guilty to voluntary
7 manslaughter is that correct?

8 A: Yes sir.

9 Q: And you had Ms. Stevens as your lawyer?

10 A: I did.

11 Q: With the public defenders office?

12 A: Yes.

13 Q: Alright now, you were raised this application and
14 you said you want a new trial right?

15 A: Yes, sir.

16 Q: And you understand what happens if you get that new
17 trial?

18 A: Certainly.

19 Q: In your case you were charged with murder but you
20 plead to voluntary manslaughter. You could in
21 essence go back and receive a potential life
22 sentence.

23 A: Yes I could.

24 Q: Okay, and you told me it is still your desire to go
25 forward. Is that correct?

PCR Hearing for Eric Rhea

5

1 A: Yes sir that's true.

2 Q: Okay, now you ended up pleading guilty.

3 A: Yes.

4 Q: And my question is why?

5 A: Well there, I was confused that day. There's some
6 confusion in the transcript you can read it. I was
7 heavily medicated. I had been in, I was on a lot of
8 psychosis drugs. Pain medication. I'm not sure if
9 that was made really aware of that in court that
10 day. I thought I was also receiving, I was pleading
11 guilty to a mentally ill plea at the time. There was
12 an independent evaluation that was supposed to have
13 been completed. When I arrived at the court that
14 day, I was informed that it hadn't been completed
15 and there was some issues with that. An operator, I
16 guess. A letter from the independent evaluator was
17 faxed to the court later on that day. So I just
18 don't feel I made a clear decision you know I feel I
19 was medicated very very heavily. The last eighteen
20 months I've been off of all medications.

21 Q: So you think clearer clearer now?

22 A: Yes.

23 Q: Okay. So, if you if you had it all over again you
24 would taken it to trial?

25 A: Yes.

1 Q: Okay. Now, what do you know about your case now that
2 indicates you probably would have taken it to trial
3 as opposed to a guilty plea?

4 A: Well, I mean the psychiatric aspect of it. As well
5 as there were other people involved in it, that
6 never even came. I mean they were never even brought
7 into the court they were never even as far as I know
8 they haven't even been charged they were charged
9 with other crimes, probably about three other
10 people. It's just I feel like the whole focus of the
11 investigation was placed on me and not the crime in
12 and of itself. Not the details and the particulars
13 of the crime.

14 Q: Now these three other people you mention who are you
15 talking about?

16 A: They're, they, they were arrested for various
17 reasons. One was arrested for possession of a car.
18 One was arrested for interfering with some sort of a
19 justice crime and he received a year, I'm not sure
20 what the person the other person received. The third
21 party involved had stolen a cell phone and some
22 other goods from where the crime took place and he
23 was never even pursued that I'm aware of.

24 Q: And why do you think that would be important in your
25 case?

PCR Hearing for Eric Rhea

7

- 1 A: Because I had no, actually I had no memory of the
2 crime that took place. I know there were three other
3 people there within the time the time frame of the
4 crime taking place and so I believe there is a
5 question you know were they involved in committing
6 the crime and that type of thing.
- 7 Q: Do you feel your lawyer should have investigated
8 that?
- 9 A: Yes.
- 10 Q: And basically your position is that she didn't do
11 that. Is that correct?
- 12 A: Yeah I kinda feel, I felt she represented me pretty
13 well when she first began. I'm not sure what
14 happened there at the end. I wasn't even aware that
15 I was scheduled for court that day it was a rush
16 type of thing. I was scheduled for surgery I was at
17 Just Care. I was supposed to have oral surgery that
18 week. It was a Friday. all of a sudden I was
19 transferred up here. I wasn't even aware there was a
20 court date that day.
- 21 Q: So you were unprepared to come to court?
- 22 A: Yeap.
- 23 Q: Is there anything else you want to tell the judge
24 here today about Ms. Stevens representation and why
25 you feel you should get a new trial?

1 A: Well, I feel the main the main the main problem is
2 is I don't I feel I was I don't feel that I was in a
3 state of mind to plead guilty or even not guilty. I
4 believe I was to heavily medicated. And I don't
5 believe I gave a free, I didn't freely plea.

6 Q: Okay. Is there anything else?

7 A: No.

8 Mr. Brooks: Alright, Answer any questions of the
9 attorney.

10 The Court: Ms. Williams.

11 Mr. Rhea - Cross Examination by Ms. Williams:

12 Q: Mr. Rhea, you told Judge Cothran that you were
13 thinking clearly on the day of your plea right?

14 A: Excuse me?

15 Q: You told Judge Cothran you were thinking clearly. Is
16 that correct?

17 A: Today? Or on the day of the trial?

18 Q: On the day of your plea.

19 A: I believe my transcripts show I stutter through and
20 I wasn't sure. He asked me about medication but I
21 was unsure about what the answer should be.

22 Q: But you did tell him ultimately that yes you were
23 thinking clearly right?

24 A: I don't know.

25 Q: You don't know? You don't remember?

PCR Hearing for Eric Rhea

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- 1 A: I'm assuming that I plead guilty. And when he asked
2 me about my plea I said I plead guilty.
- 3 Q: Is that because you don't remember your plea or is
4 that just why you assume you plead guilty?
- 5 A: What are you asking?
- 6 Q: You just told me you assumed you plead guilty. Did
7 you plead guilty or not?
- 8 A: Oh yeah I plead guilty.
- 9 Q: Okay. And, you told the Court at first that you
10 didn't remember anything about the crime?
- 11 A: Yes.
- 12 Q: But you remember there were three people there
13 right?
- 14 A: Three or four people.
- 15 Q: And you remember to tell your attorney that you
16 guys had been in an argument and you wanted that
17 argument to end?
- 18 A: Yes.
- 19 Q: Okay. So you do remember a few things?
- 20 A: Yes.
- 21 Q: Okay. And over the course of the next two weeks you
22 didn't take any action to report this crime?
- 23 A: I'm not sure the time frame but I know it was at
24 least five to seven days.
- 25 Q: I don't have any other questions. Thank you.

1 The Court: Any redirect?

2 Mr. Brooks: No sir Your Honor.

3 The Court: Okay. You may step down.

4 Mr. Brooks: I call Ms. Stevens to the stand.

5 Bailiff: Place your left hand on the Bible. Raise
6 your right hand. State your name for me please.

7 Ms. Stevens: Lauren Boswell Stevens.

8 Bailiff: Do you solemnly swear or affirm the
9 testimony to the court shall be the truth the whole truth
10 and nothing but the truth so help you God?

11 Ms. Stevens: Yes sir.

12 The Court: Please state your full name. Spell your
13 last name for the record.

14 Ms. Stevens: Lauren Boswell Stevens. S.T.E.V.E.N.S.

15 **Ms. Stevens - Examination by Mr. Brooks:**

16 Q: Ms. Stevens, how are you today?

17 A: I'm wonderful Charles. How are you?

18 Q: I'm doing wonderful myself. You represented Mr. Rhea
19 is that correct?

20 A: Yes I did.

21 Q: Can you give a brief summary of what the States
22 evidence was?

23 A: Brief? Mr. Rhea had been living in the home. Mr.
24 Rhea was the only one there when the body was
25 finally discovered after several days. The air

PCR Hearing for Eric Rhea

1 condition had been turned down. The pillow that was
2 covering her face as if there were remorse. He had
3 locked himself in a room for several days where he
4 defecated and urinated. When he came to the door he
5 told them she wasn't home. They had evidence that
6 someone had taken her car. His name is Freddie
7 Wilder. But their main evidence I do believe was
8 his presence in the home, his efforts to cover up
9 the crime, and the fact that he was there. Also,
10 there had been several phone calls from family
11 members in which he had told them, that she was out
12 or unavailable and it was during this time she was
13 laying in bed already deceased.

14 Q: Did you have him evaluated?

15 A: He was evaluated by the State and then I had him
16 privately evaluated.

17 Q: And what were the results of that evaluation?

18 A: They determined based on his efforts to cover up the
19 crime that he was competent to stand trial and under
20 McNaughton that he was aware of his conduct and able
21 to move forward.

22 Q: Was there any discussions about going to trial?

23 A: No.

24 Q: Not at all?

25 A: No.

1 Q: Now, he was originally charged with murder and it
2 ended up being plead down to voluntary manslaughter
3 is that correct?

4 A: Correct.

5 Q: There is no recommendation other than that is that
6 right?

7 A: At one point he was, Mr. Rhea was brought over on at
8 least two occasions if not three, to plead to
9 voluntary manslaughter because he told me he wanted
10 to. He changed his mind. Was negotiated one time and
11 ...

12 Q: Negotiated to what?

13 A: Thirty years. And when the day he actually plead it
14 was zero to thirty. He was brought over that Friday
15 because he was on the trial list for the next week
16 for murder.

17 Mr. Brooks: No other questions.

18 The Court: Ms. Williams.

19 **Ms. Stevens - Cross by Ms. Williams:**

20 Q: Ms. Stevens would it be safe to say you met with Mr.
21 Rhea on several occasions during the course of his
22 representation?

23 A: Yes when he was here at Sumter-Lee Regional
24 Detention Center I met with him several times and I
25 met with him twice when he was at Just Care in

PCR Hearing for Eric Rhea

13

1 Columbia.

2 Q: And during those conversations had he been receiving
3 mental health and other medical treatment during the
4 entirety of the representation?

5 A: Yes.

6 Q: So he was on medications the entire time that you
7 knew him?

8 A: Yes.

9 Q: And was he able to discuss this case with you during
10 that time?

11 A: Yes.

12 Q: Did he give you at any point a version of events,
13 did he ever remember anything about this crime?

14 A: He told me that he had nightmares. That he felt were
15 memories.

16 Q: At some point he had stated that they were in an
17 argument and he wanted the argument to end is that
18 ...

19 A: Yes.

20 Q: Did you discuss an appeal with Mr. Rhea?

21 A: He asked me what would happened if he were to
22 appeal. I told him we that would be back to square
23 one. That the charge would be murder. I explained to
24 him that an appeal involved facts of law and usually
25 appeals for a plea are unsuccessful and he said

1 okay.

2 Q: So he did not ask you to file an appeal.

3 A: No he never asked me to file an appeal.

4 Q: And on the day of his plea did he appear to you did
5 he have the same affect that he had during the
6 course of the representation?

7 A: On the day of his plea we did discuss pleading to
8 not guilty by reason of insanity. We did not have
9 anything in writing that would give the judge or
10 that he felt would give him the ability to do so. I
11 immediately went and called the private psychiatrist
12 who had done the evaluation, spoke to her, tried to
13 get her to write a letter that would satisfy the
14 judge to allow him to plea to not guilty by reason
15 of insanity. She didn't feel it was the appropriate
16 plea and she did not feel he was legally insane but
17 she did write a letter to the Court. The Court was
18 not satisfied that it met the burden of not guilty
19 by reason of insanity and would not take the plea as
20 such.

21 Ms. Williams: Thank you Ms. Stevens.

22 The Court: Any redirect?

23 Mr. Brooks: No other questions Judge..

24 The Court: Thank you. You can step down.

25 (Witness complies)

PCR Hearing for Eric Rhea

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The Court: You may call your next witness.

Mr. Brooks: Judge that's the applicant's case.

The Court: Ms. Williams, anything further?

Ms. Williams: Nothing further from the State, Your Honor.

The Court: I will take this matter under advisement. I will let you know.

Mr. Brooks: Thank you, Judge.

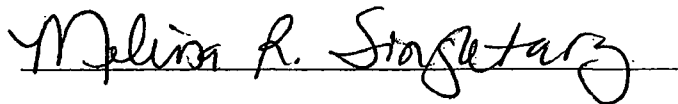
Ms. Williams: Thank you.

CERTIFICATE

This is to certify that the hearing in the matter of Eric Rhea vs. State of South Carolina, consisting of Fifteen (15) pages is a true and correct transcript of the settlement agreement; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 31st day of July, 2012.



Melissa R. Singletary
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

Eric Rhea, #291955,

Applicant,

v.

State of South Carolina,

Respondent.

RECORDED
2012 MAY 18 PM 12:26
JAMES CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.
2010-CP-43-0657

CERTIFIED TRUE COPY
OF ORIGINAL FILED
[Signature]
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 26, 2010. An evidentiary hearing into the matter was convened on March 22, 2012, at the Sumter County Courthouse. The Applicant was present at the hearing and was represented by Charles T. Brooks, III, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Lauren Stevens, Esquire ("Counsel"). This Court had before it the records of the Sumter County Clerk of Court, the guilty plea transcript, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was indicted for Murder (2007-GS-43-0095). Applicant was represented by Lauren Stevens, Esquire. On April 17, 2009, the Applicant pled guilty before the Honorable R.

[Handwritten Signature]

Ferrell Cothran, Jr., to the lesser offense of Voluntary Manslaughter. Applicant was sentenced to thirty (30) years incarceration. Applicant did not appeal his conviction and sentence.

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

1. Ineffective assistance of counsel.
 - a. Failure to file direct appeal.
 - b. "Failure to include competency evaluation for court sentence."
 - c. "Failure to protect defendant when mentally impaired by medication."
 - d. "Failure to obtain plea agreement for mentally ill defendant."

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.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813

(1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland, supra). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland). 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).

Incompetence/Medication

Applicant stated that he was confused at the time of his plea due to medication and does not feel that he made a clear decision. Counsel testified that Applicant was evaluated by both by the State and a private evaluator. Both concluded that Applicant was competent and had capacity to

conform his conduct to the requirements of the law. Counsel also pursued a plea of not guilty by reason of insanity and asked a private psychiatrist to provide an opinion to that effect. However, the psychiatrist did not feel it was appropriate. Counsel testified that she met with Applicant on several occasions to discuss the case. During the plea colloquy, Applicant acknowledged that he took prescribed psychiatric drugs and assured the court that he was thinking clearly and understood what was being talked about. (Tr. p. 5, lines 1-10.) Applicant gave appropriate responses to the court's inquiries during his plea.

To demonstrate incompetence in fact, the applicant bears the burden of showing by a preponderance of the evidence that he was incompetent at the time of his plea. Jeter v. State, 308 S.C. 230, 417 S.E.2d 594 (1992). I find that Applicant's testimony fails to meet this burden in light of the plea colloquy, Counsel's testimony, and the evaluations conducted at the time of the plea. Further, based on the opinions available to Counsel, I find that Counsel's performance was not deficient in failing to seek a guilty but mentally ill plea. Moreover, Applicant has produced no evidence which would contradict the competency and capacity findings at the time of his plea and therefore has failed to demonstrate any resulting prejudice.

Appeal

Applicant alleges that Counsel was ineffective in failing to consult with him about an appeal. Counsel stated that when asked about an appeal she explained that an appeal would place the defendant "back to square one." Counsel testified that Applicant did not request that an appeal be filed. The plea judge informed Applicant that if he wished to file an appeal he would need to do so within ten days of his plea. (Tr. p. 6, lines 20-25.)



When the question is whether counsel was ineffective in failing to file a direct appeal from following a guilty plea, the United States Supreme Court has held that counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000). "By 'consult,' the Court means advising the defendant about the advantages and disadvantages of taking an appeal and making a reasonable effort to discover the defendant's wishes." Id. at 471. When Counsel has consulted with the defendant, Counsel's performance is only unreasonable if she fails to follow the defendant's express instructions with respect to an appeal. Id. I find that Applicant has failed to carry his burden of demonstrating that Counsel's performance was unreasonable in this regard, and I therefore find that Applicant is not entitled to a belated appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

Other Allegations

No other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

CONCLUSION

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

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30)

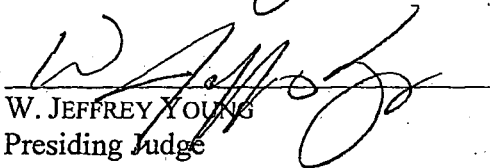


days from the receipt of this Order to secure the appropriate appellate review. His attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be DENIED AND DISMISSED WITH PREJUDICE; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 11 day of May, 2012.


 W. JEFFREY YOUNG
 Presiding Judge
 Third Judicial Circuit

Sumter, South Carolina.

DOCKET NO. 2007-GS-43- 45

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

JANUARY TERM 2007

THE STATE
vs.

ERIC CHRISTIAN RHEA

ARREST WARRANT NUMBER

H977166

D/A: 10/17/05

ACTION OF GRAND JURY

True Bill

T. Chanelle Spotts

Foreperson of Grand Jury

Date: *1-21-07*

VERDICT

Indictment for

MURDER

Foreperson of Petit Jury

Date:

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

63

COUNTY OF SUMTER

INDICTMENT/CASE#: 2007-GS-43-0095

STATE VS.

ERIC CHRISTIAN RHEA

AKA:

Race: White (Caucasian) Sex: Male

DOB: SS#:

Age:

AW#: H977166

Date of Offense: October 01, 2005

S.C. Code §: 16-03-0010, 0020

CDR Code #: 0116

Address:

DL#

SID#

SENTENCE SHEET

COPIES FILED
CLERK OF COURT
SOUTH CAROLINA

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Voluntary Manslaughter

in violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0121117

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

[Signature]
Solicitor 05340

[Signature]
Defendant

[Signature] 950
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus

costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South

Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

set by SCDPPPS

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Recipient:

*Fine: \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§35.13 (Public Def/Prob) \$500 \$ _____

§73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§50-21-114(BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) Plus \$50 \$ 390

TOTAL \$ 13390

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

[Signature]
Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

PRESIDING JUDGE

Judge Code: 2111414

Sentence Date: 04-17-09

[Signature]