

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Laurens County

Honorable G. Thomas Cooper, Circuit Court Judge

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S.C. SUPREME COURT

ERICA LEIGH ANDERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-001888

APPENDIX

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

JUSTIN J. HUNTER
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

INDEX

INDEX	i
TRIAL TRANSCRIPT (JUNE 5, 2014).....	1
APPLICATION FOR POST-CONVICTION RELIEF (SEPTEMBER 16, 2014)	47
RETURN (JANUARY 7, 2015)	54
POST-CONVICTION RELIEF HEARING TRANSCRIPT (JUNE 7, 2017)	58
APPLICANT’S EXHIBIT NO. 1 (VOLUNTARY STATEMENT).....	129
APPLICANT’S EXHIBIT NO. 2 (EMAIL AND TRIAL DOCKET)	130
APPLICANT’S EXHIBIT NO. 3 (EMAILS).....	132
APPLICANT’S EXHIBIT NO. 4 (NOTES-ATTORNEY).....	134
APPLICANT’S EXHIBIT NO. 5 (EMAIL)	138
APPLICANT’S EXHIBIT NO. 6 (ACKNOWLEDGMENT OF RIGHTS)	139
APPLICANT’S EXHIBIT NO. 7 (TRANSCRIPT)	142
APPLICANT’S EXHIBIT NO. 8 (NOTES/ANDREW HODGES).....	147
APPLICANT’S EXHIBIT NO. 9 (TRANSCRIPT)	152
ORDER OF DISMISSAL (AUGUST 28, 2017).....	160
INDICTMENTS	180
FIRST AMENDED APPLICATION FOR POST-CONVICTION RELIEF (JUNE 7, 2017)	188

1 State of South Carolina
 2 County of Laurens

Court of General Sessions

3
 4 State of South Carolina) Transcript of Record
)
 5 vs.) 2012-GS-30-0375
) 2012-GS-30-0376
 6 Erica Anderson,) 2012-GS-30-0377
) 2012-GS-30-3078
 7 Defendant.)

8 State of South Carolina)
)
 9 vs.) 2012-GS-30-0449
) 2012-GS-30-0450
 10 Jason Lawson,) 2012-GS-30-0451
) 2012-GS-30-0452
 11 Defendant.)

12

13 June 5, 2014
 14 Laurens, South Carolina

15 B E F O R E:

16 The Honorable Frank R. Addy, Jr., Judge

17

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

19 C. Dale Scott, Deputy Solicitor
 Attorney for the State

20 Andrew M. Hodges, Esquire
 Attorney for Defendant Erica Anderson

21 Daniel J. Farnsworth, Sr., Esquire
 22 Attorney for Defendant Jason Lawson

23

24

25

Stacy S. Johnson, RPR
 Circuit Court Reporter

1	<u>I N D E X</u>	
2		PAGE
3	CERTIFICATE OF REPORTER	46
4		
5	<u>E X H I B I T S</u>	
6	<u>NO.</u>	<u>DESCRIPTION</u> <u>ID.</u> <u>EVD.</u>
7	**NO EXHIBITS WERE INTRODUCED**	
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1 (The following proceedings were held on June 5,
2 2014.)

3 **BAILIFF:** Thank you. Let's all rise. Court will
4 come to order, please.

5 **THE COURT:** Thank you. Have a seat, please. Y'all
6 can sit back down there, please. Don't feel like you
7 need to stand. Thank you.

8 All right, Solicitor. At your leisure.

9 **MR. SCOTT:** Thank you, Judge. This is State
10 versus Jason Lawson and State versus Erica Anderson.
11 The indictments that Mr. Lawson is pleading to is
12 12-GS-30-0449, attempted murder. Indictment
13 12-GS-30-0450, that's an armed robbery. On that
14 particular indictment, he's gonna plead to a common
15 law robbery. 12-GS-30-0451, that's possession of a
16 weapon during the commission of a violent crime. And
17 12-GS-30-0452, that's a true-billed kidnapping
18 indictment.

19 Erica Anderson is pleading on four indictments as
20 well. 12-GS-30-0375, attempted murder. 12-GS-30-0376,
21 that is an armed robbery. She is also pleading down to
22 a common law robbery on that indictment. 12-GS-30-0377,
23 possession of a weapon during the commission of a
24 violent crime. And 12-GS-30-0378, that's the kidnapping
25 charge.

1 Mr. Lawson is represented by Dan Farnsworth and
2 Ms. Anderson is represented by Andrew Hodges, Your
3 Honor.

4 **THE COURT:** All right. Mr. Hodges, you're
5 representing Ms. Anderson?

6 **MR. HODGES:** I am, Your Honor.

7 **THE COURT:** And, Mr. Farnsworth, you're representing
8 Mr. Lawson; is that correct?

9 **MR. FARNSWORTH:** Yes, Your Honor.

10 **THE COURT:** Gentlemen, I'm told that they want to
11 plead guilty to four charges; attempted murder, which
12 would carry from zero to 30 years; common law robbery,
13 which would be up to 15; the kidnapping charge would
14 also be up to 30 years, and the weapon's charge five.
15 Is that correct, gentlemen?

16 **MR. FARNSWORTH:** That's correct.

17 **MR. HODGES:** That's correct, Your Honor.

18 **THE COURT:** Each of you have advised your
19 respective clients concerning penalties involved with
20 these offenses, the elements of these crimes and all
21 their constitutional rights?

22 **MR. HODGES:** I have, Your Honor.

23 **MR. FARNSWORTH:** I have, Your Honor.

24 **THE COURT:** Do you agree with their decisions?

25 **MR. HODGES:** I do, Your Honor.

1 **MR. FARNSWORTH:** Yes, Your Honor.

2 **THE COURT:** From your-all's investigation of the
3 facts and the circumstances surrounding this incident,
4 do you believe that the State possesses sufficient
5 credible evidence to prove their guilt beyond a
6 reasonable doubt and that if they were to stand trial
7 their convictions would be probable?

8 **MR. HODGES:** I do, Your Honor.

9 **MR. FARNSWORTH:** Yes, Your Honor.

10 **THE COURT:** All right. Mr. Anderson -- or
11 Ms. Anderson, Mr. Lawson, if y'all will just raise your
12 right hands, please. I have to put y'all under oath.

13 (Whereupon, Erica Anderson and Jason Lawson were
14 duly sworn by the Court.)

15 **THE COURT:** I'm gonna ask you a series of questions.
16 If we could, let's have Ms. Anderson answer first and
17 then, Mr. Lawson, if you would answer, okay, just so
18 that the record is straight.

19 You are Erica Anderson, ma'am?

20 **DEFENDANT ANDERSON:** Yes, sir.

21 **THE COURT:** And you are Jason Lawson?

22 **DEFENDANT LAWSON:** Yes, sir.

23 **THE COURT:** I'm told that you each want to plead
24 guilty to four charges. The attempted murder charge
25 carries up to 30 years; the common law robbery charge

1 carries 15; kidnapping, 30 years, and the weapons
2 offense, five years. Is that your understanding, ma'am?

3 **DEFENDANT ANDERSON:** Yes, sir.

4 **THE COURT:** Sir?

5 **DEFENDANT LAWSON:** Yes, sir.

6 **THE COURT:** Now in this case according to the
7 sentencing sheets, apparently there are no
8 recommendations or negotiations in these cases; is that
9 right, Mr. Scott?

10 **MR. SCOTT:** Judge, we just have -- we have no
11 opposition to them running concurrent. We have reduced
12 the mandatory minimum charge, that would be the armed
13 robbery, down to a common law robbery and so there will
14 also be a number of indictments related to this case
15 that are being dismissed, Your Honor.

16 **THE COURT:** Okay. You understand, Ms. Anderson,
17 Mr. Lawson, that there are no negotiations or
18 recommendations in this case except that whatever time
19 you receive would run concurrent. Additional charges
20 are being dismissed. They'll be put on the record at a
21 later point in time, but you understand that whatever
22 sentence you receive is entirely up to me, so you're
23 looking at anywhere between zero and 30 years. Do you
24 understand that, ma'am?

25 **DEFENDANT ANDERSON:** Yes, sir.

1 **THE COURT:** Sir?

2 **DEFENDANT LAWSON:** Yes, sir.

3 **THE COURT:** Additionally, the attempted murder
4 and kidnapping charges are classified as 85 percent
5 offenses. That means whatever sentence you receive on
6 those charges you have to do 85 percent of that. Do you
7 understand, ma'am?

8 **DEFENDANT ANDERSON:** Yes, sir.

9 **THE COURT:** Sir?

10 **DEFENDANT LAWSON:** Yes, sir.

11 **THE COURT:** So just by way of an example, if I were
12 to give you ten years, not that I'm gonna give you ten
13 years, but just by way of an example because the math is
14 easy, if I sentence you to ten years on the kidnapping
15 and/or the attempted murder, you'd have to serve eight
16 and a half years of that. Do you understand, ma'am?

17 **DEFENDANT ANDERSON:** Yes, sir.

18 **THE COURT:** Sir?

19 **DEFENDANT LAWSON:** Yes, sir.

20 **THE COURT:** Additionally, those are also classified
21 as most serious offenses. What that means is after you
22 get done serving whatever time, if you're convicted
23 again of a -- or if you're charged again with a most
24 serious offense and you're convicted, the State can seek
25 life without the possibility of parole against you. Do

1 you understand that, ma'am?

2 **DEFENDANT ANDERSON:** Yes, sir.

3 **THE COURT:** Sir?

4 **DEFENDANT LAWSON:** Yes, sir.

5 **THE COURT:** Now in the last twenty-four hours, have
6 either of you taken any medication, drugs, alcohol or
7 any substance that affects your thinking right now,
8 ma'am?

9 **DEFENDANT ANDERSON:** No, sir.

10 **THE COURT:** Sir?

11 **DEFENDANT LAWSON:** No, sir.

12 **THE COURT:** And have either of you ever been treated
13 for any mental illness issues or mental retardation or
14 problems understanding what's going on, ma'am?

15 **DEFENDANT ANDERSON:** (Shakes head.)

16 **THE COURT:** No? If you could, answer out loud
17 because she needs to write down --

18 **DEFENDANT ANDERSON:** No, sir.

19 **THE COURT:** Thank you. And how about you, sir?

20 **DEFENDANT LAWSON:** No, sir.

21 **THE COURT:** Ms. Anderson, are you, in fact, guilty
22 of these charges?

23 **DEFENDANT ANDERSON:** Yes, sir.

24 **THE COURT:** Do you want to plead guilty?

25 **DEFENDANT ANDERSON:** Yes, sir.

1 **THE COURT:** Mr. Lawson, how do you plead on these
2 charges?

3 **DEFENDANT LAWSON:** Guilty.

4 **THE COURT:** I'm going to ask that each of you
5 listen to the Solicitor. He's gonna give me the facts..
6 After he's done speaking, I'll then ask you if that's
7 what you did, so please pay very close attention to what
8 Mr. Scott has to say in the next few minutes, okay?

9 **DEFENDANT ANDERSON:** (Nods head.)

10 **DEFENDANT LAWSON:** (Nods head.)

11 **THE COURT:** Mr. Scott?

12 **MR. SCOTT:** Judge, December 15th of 2011 is our
13 incident date. At approximately 7 AM law enforcement
14 responded to the Travelers Inn on Highway 56, that's
15 the one just right off I-26 in Clinton, in reference to
16 a subject running around in the parking lot naked. He
17 was covered in blood. They arrive and find Mr. John
18 Paragon wrapped in a blanket, covered in blood, holding
19 his neck. While attempting to get medical attention,
20 he advised that a white female and a white male had
21 tied him up and then they robbed him, stabbed him and
22 shot him. He indicated that they were still in Room
23 Number 12, or he thought they were. Law enforcement
24 responded to Room 12 with the understanding that they
25 were still in there. They actually shot tear gas in

1 through the window, entered the room. Mr. Lawson and
2 Ms. Anderson were no longer there; however, there were
3 identification, I guess, documents regarding both of
4 them. I know that Mr. Lawson's driver's license was in
5 there, a marriage certificate with both of their names
6 was in there, a W-2 belonging to Ms. Anderson was in
7 there, the knife was still in there that the victim
8 described. Furthermore, they found that -- they found
9 an ID belonging to another individual that was in the
10 room and Ms. Anderson had checked into that room using
11 that alias identification card. Officers generated a
12 six-pack photo lineup. Mr. Paragon was able to identify
13 Ms. Anderson and Mr. Lawson.

14 The victim, Mr. Paragon, indicated that he was on
15 his way from Florida back to his home in New York, and
16 it was an annual thing. He would visit his, I think,
17 mother down in Florida during the holidays and on his
18 return trip back to New York he would stop at a friend's
19 house in Laurens to go on an annual hunting trip
20 together. That particular morning he had driven to the
21 Waffle House just about 200 yards away from this
22 Travelers Inn to get breakfast before, I guess, getting
23 to the deer stand. At that point, Ms. Erica Anderson
24 was also eating in the restaurant and we've gotten
25 surveillance video that confirms pretty much his story.

1 He enters the restaurant, eats. At some point he
2 and Ms. Anderson strike up a conversation. They're
3 seen leaving together. Mr. Paragon would tell law
4 enforcement that she asked for a ride back to the
5 Travelers Inn, he obliged. He has admitted to me that
6 there was talk about a sexual proposition, I guess, that
7 would occur back at the Travelers Inn. At any rate, as
8 coincidence would have it, he was checked into Room 8
9 and Ms. Anderson, as I said, was checked into Room 12.

10 He indicated that after driving her back to the
11 Travelers Inn he went into his room, she went into
12 hers. At some point he says that she called his room
13 and asked him to come to Room 12. He did so. She had
14 a pet snake in the room. They talked about the snake
15 for some time. At some point he took his shirt off and
16 she asked him to take all of his clothes off. He asked
17 her to take her shirt off and she did. At that point,
18 he felt comfortable enough to take his pants off. This
19 is when Mr. Lawson comes into the bedroom area of the
20 hotel from the bathroom. He had concealed himself in
21 the back bathroom.

22 Mr. Paragon tells law enforcement that he has a
23 Maglite, he shines it in Mr. Paragon's face, says turn
24 around or I'll blow your head off, hits him in the head
25 with the Maglite. At this point, he and Erica Anderson

1 rip the phone cord out of the wall and wrap him up with
2 the phone cord, tying him up. He says that one thing
3 rang out in his head over and over was Ms. Anderson
4 yelling "kill him" and at the same time Mr. Lawson
5 screaming "don't look at me, don't look at me". He
6 tells me he looks over and sees a rolled up blanket on
7 the bed and what went through his mind was they were
8 gonna kill him, wrap him in the blanket and he would
9 never be heard from again.

10 At this point he begins fighting back. He was
11 able to free himself from the cords. He's fighting
12 with Mr. Lawson at this point trying to get to the
13 door. Erica Anderson had -- during this struggle
14 comes up from behind him and slashes his throat with a
15 knife. John's able to grab the knife from her at the
16 same time he's wrestling with Mr. Lawson. Mr. Lawson
17 has a 22-caliber pistol, fires it, hitting him in the
18 shoulder, the rear shoulder. He's still fighting with
19 Mr. Lawson at this point trying to get the gun and
20 trying to get to the door. He finally gets to the door,
21 opens it. As he's leaving, Mr. Lawson fires a second
22 time hitting him pretty much square in the back at this
23 point. He runs out into the parking lot. He's unsure
24 of where Mr. Lawson and Ms. Anderson are going, but
25 Mr. Paragon runs to the office trying to get in to get

1 help. Eventually he kind of just passes out towards the
2 tire of his truck.

3 Erica Anderson and Jason Lawson at this time flee
4 from the scene. They find a van that is running in a
5 nearby parking lot, they get in the van and drive off.
6 There was actually a second victim in this case who is
7 in the rear of the van. It was a --

8 **MR. HODGES:** Your Honor, if I may, the charges from
9 this point on are being dismissed. I don't know that
10 that's relevant in this plea.

11 **THE COURT:** All right.

12 **MR. SCOTT:** If you care to hear how they were
13 eventually arrested, it was kind of an on-going event.

14 **THE COURT:** I'm assuming they were taken into
15 custody fairly shortly after?

16 **MR. SCOTT:** They were. In Newberry County, Your
17 Honor.

18 **THE COURT:** Okay.

19 **MR. SCOTT:** As I said, Your Honor, the -- well,
20 eventually when they're taken into custody, the pistol
21 used is found where they're eventually caught in
22 Whitmire. I think that's all the substantive facts,
23 Your Honor, related to the plea today.

24 **THE COURT:** All right. Do they have a prior
25 criminal history that's been reflected on the guilty

1 plea information sheet? Mr. Farnsworth and Mr. Hodges,
2 y'all have had a chance to review that. Is that
3 accurate?

4 **MR. HODGES:** If you'll note on Ms. Anderson's, I've
5 marked through one possession charge. It's a possession
6 of Ectasy.

7 **THE COURT:** Okay.

8 **MR. HODGES:** That's the only felony that shows
9 on her record. I've actually looked into that and
10 that was not a conviction. I've actually sent
11 documentation though the Laurens probation office.
12 That was apparently something that was keyed in
13 incorrectly and they're working on getting that taken
14 off. So other than that, the rest of it is accurate.

15 **THE COURT:** All right. And, Mr. Farnsworth, you're
16 happy with the --

17 **MR. FARNSWORTH:** Your Honor, it is consistent with
18 the NCIC that I've had all along.

19 **MR. HODGES:** And, Your Honor -- I know the question
20 is coming to my client and I just want to preface that
21 question by saying that I know she disagrees with some
22 of the factual presentation. In fact, I'll have some
23 comments about that in my presentation about some of the
24 differences, but I know that she substantively agrees
25 with the conducts and the elements of these crimes;

1 although it may differ somewhat with the presentation
2 that was made by the State.

3 **THE COURT:** All right.

4 **MR. FARNSWORTH:** And, Your Honor, to the extent,
5 the same here. I've explained what the facts were gonna
6 be and what, you know, the discovery showed. There
7 might be a few little factual differences, but we've
8 talked and he understands, notwithstanding that, he is
9 still guilty of the charges and he understands that.

10 **THE COURT:** All right. Ms. Anderson, you heard
11 what the State alleges happened. I understand
12 Mr. Hodges explained to me that maybe there are bits and
13 pieces of that narrative that you would disagree with or
14 take issue with, but is that essentially what happened
15 on that particular occasion?

16 **DEFENDANT ANDERSON:** Yes, sir.

17 **THE COURT:** All right. So you do feel that you are
18 guilty of the four charges that you're facing?

19 **DEFENDANT ANDERSON:** Yes, sir.

20 **THE COURT:** Mr. Lawson, the same question to you.
21 I understand that you might have issue with a fact or
22 two as presented by the State, but do you essentially
23 agree that that's what took place on that day?

24 **DEFENDANT LAWSON:** Yes, sir.

25 **THE COURT:** And you are guilty of these four

1 charges?

2 **DEFENDANT LAWSON:** Yes, sir.

3 **THE COURT:** All right. I need to ask you each
4 some questions as they relate to your constitutional
5 rights, so if at any time I say something and you have
6 difficulty understanding what I'm telling you or you
7 need further clarification, I want you just to stop me.
8 I'll give you as much time as you need to talk to your
9 attorneys, okay? So if you don't understand something
10 I'm telling you, just stop me.

11 Now, Ms. Anderson, Mr. Lawson, you understand that
12 each you have the right to a jury trial in these cases,
13 you don't have to plead guilty. Do you understand,
14 ma'am?

15 **DEFENDANT ANDERSON:** Yes, sir.

16 **THE COURT:** Sir?

17 **DEFENDANT LAWSON:** Yes, sir.

18 **THE COURT:** At that trial, you and your attorneys
19 would help pick twelve people from Laurens County. They
20 would be the jury. They'd sit right behind where you
21 now stand. The State of South Carolina would have the
22 burden of proving your guilt beyond a reasonable doubt
23 to the satisfaction of all twelve of those jurors. That
24 means all twelve of them would have to agree. Do you
25 understand, ma'am?

1 **DEFENDANT ANDERSON:** Yes, sir.

2 **THE COURT:** Sir?

3 **DEFENDANT LAWSON:** Yes, sir.

4 **THE COURT:** All twelve would have to agree that
5 you're guilty of these charges before you could be
6 punished in any way. What the State would do to try to
7 meet this burden is they'd call witnesses to testify
8 against you. One by one they'd come forward, they'd
9 be sworn, they would take the stand and you and your
10 attorney would be able to ask them any questions that
11 were relevant to any issue involved in these four cases.
12 Do you understand, ma'am?

13 **DEFENDANT ANDERSON:** Yes, sir.

14 **THE COURT:** Sir?

15 **DEFENDANT LAWSON:** Yes, sir.

16 **THE COURT:** And you have no burden of proof in a
17 criminal trial. The burden is always on the State to
18 prove your guilt beyond a reasonable doubt. If you
19 wanted to, however, you could call your own witnesses
20 to testify. If you wanted -- if those witnesses didn't
21 want to come to court, you could subpoena them to force
22 them to come in and they wouldn't have a choice in the
23 matter. Additionally, at trial you could take the stand
24 in your own defense, tell the jury in your own words
25 what happened. Understand that you'd be treated the

1 same way as any other witnesses for purposes of
2 impeachment and cross-examination and perhaps the
3 Court would allow the State to explore some of these
4 prior convictions just for purposes of attacking your
5 credibility. So if you decided that you didn't want
6 to take the stand, I would explain to the jury they
7 couldn't hold that against you or use it as evidence of
8 guilt. Do you understand, ma'am?

9 **DEFENDANT ANDERSON:** Yes.

10 **THE COURT:** Sir?

11 **DEFENDANT LAWSON:** Yes, sir.

12 **THE COURT:** That's your Fifth Amendment right
13 against self-incrimination, so if you didn't take the
14 stand, I'd tell the jury not to even talk about it, not
15 to even discuss it, not to consider it in any way, shape
16 or form when deciding whether you're guilty of these
17 particular offenses. Do you understand, ma'am?

18 **DEFENDANT ANDERSON:** Yes, sir.

19 **THE COURT:** Sir?

20 **DEFENDANT LAWSON:** Yes, sir.

21 **THE COURT:** At trial you would also be presumed
22 innocent. The way that this is typically explained to a
23 jury is that you would be -- you would be clothed in a
24 robe of righteousness basically and it would be placed
25 about your shoulders and only the jury could strip it

1 from you. If you plead guilty though, you waive your
2 presumption of innocence. You understand that, ma'am?

3 **DEFENDANT ANDERSON:** Yes.

4 **THE COURT:** Sir?

5 **DEFENDANT LAWSON:** Yes, sir.

6 **THE COURT:** Additionally, at trial you would be able
7 to present any defenses you might have. Understand,
8 Ms. Anderson, Mr. Lawson, I've got no way of knowing if
9 you have any defenses to these charges or not, okay?
10 I'm sure that's something that y'all have talked to your
11 attorneys about. Right, ma'am?

12 **DEFENDANT ANDERSON:** Yes.

13 **THE COURT:** Sir?

14 **DEFENDANT LAWSON:** Yes, sir.

15 **THE COURT:** If you plead guilty, you waive your
16 right to present any defense, whatever that defense
17 might be. Do you understand, ma'am?

18 **DEFENDANT ANDERSON:** Yes.

19 **THE COURT:** Sir?

20 **DEFENDANT LAWSON:** Yes, sir.

21 **THE COURT:** Now at trial, finally, I don't know
22 what evidence they have against you. I hear they
23 searched your apartment, they discovered some evidence
24 there. If you plead guilty, you waive your right to
25 contest any of the evidence that was seized, any

1 evidence that was collected, any statements that you
2 may have given to the police, anything that they found
3 in your hotel room that might be incriminating. By
4 pleading guilty, you waive your right to challenge any
5 of that evidence. Do you understand, ma'am?

6 **DEFENDANT ANDERSON:** Yes.

7 **THE COURT:** Sir?

8 **DEFENDANT LAWSON:** Yes, sir.

9 **THE COURT:** All these are very important rights.
10 Are you quite certain that you want to give them up and
11 plead guilty, ma'am?

12 **DEFENDANT ANDERSON:** Yes, sir.

13 **THE COURT:** Sir?

14 **DEFENDANT LAWSON:** Yes, sir.

15 **THE COURT:** And are you each satisfied with the
16 State's discovery response in this case?

17 **MR. HODGES:** I am, Your Honor, but the one thing
18 that is outstanding, and my client and I have talked
19 about it, there is a DNA report that has not come back
20 from SLED yet. That's the only thing that I know of
21 that I have not received.

22 **THE COURT:** All right. But what you have received,
23 you've shared with Ms. Anderson to the extent that she's
24 needed to see it?

25 **MR. HODGES:** Yes, sir.

1 **THE COURT:** And, Mr. Farnsworth, the same question
2 of you.

3 **MR. FARNSWORTH:** The same answer, Your Honor.

4 **THE COURT:** Very good. Now, Ms. Anderson, are you
5 happy with the way that Mr. Hodges has represented you
6 in this case?

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

8 **THE COURT:** Do you have any complaints to make
9 against him?

10 **DEFENDANT ANDERSON:** No, sir.

11 **THE COURT:** Has he done everything that you want him
12 to do?

13 **DEFENDANT ANDERSON:** Yes, sir.

14 **THE COURT:** Have you talked to him long enough?

15 **DEFENDANT ANDERSON:** Yes, sir.

16 **THE COURT:** Do you need more time to talk to him or
17 to think about this?

18 **DEFENDANT ANDERSON:** No, sir.

19 **THE COURT:** So you're totally satisfied with his
20 help?

21 **DEFENDANT ANDERSON:** Yes, sir.

22 **THE COURT:** Mr. Lawson, are you happy with
23 Mr. Farnsworth, sir?

24 **DEFENDANT LAWSON:** Yes, sir.

25 **THE COURT:** Have you had enough time to talk to him?

1 **DEFENDANT LAWSON:** Yes, sir.

2 **THE COURT:** And you've understood all your
3 conversations with him, correct?

4 **DEFENDANT LAWSON:** Yes, sir.

5 **THE COURT:** Do you need any more time to talk to
6 him?

7 **DEFENDANT LAWSON:** No, sir.

8 **THE COURT:** And are you totally satisfied with his
9 help?

10 **DEFENDANT LAWSON:** Yes, sir.

11 **THE COURT:** All right. Now aside from the
12 reduction in one of the charges and the dismissal of
13 some of the other charges and the current
14 recommendation, Ms. Anderson, has anybody promised you
15 anything else or held out any other hope of reward to
16 get you plead guilty?

17 **DEFENDANT ANDERSON:** No, sir.

18 **THE COURT:** How about you, sir?

19 **DEFENDANT LAWSON:** No, sir.

20 **THE COURT:** And do you -- has anyone tried to
21 threaten you, force you, coerce you in any way to get
22 you to plead guilty?

23 **DEFENDANT ANDERSON:** No, sir.

24 **DEFENDANT LAWSON:** No, sir.

25 **THE COURT:** Do you have any complaints to make

1 against the Solicitor's office, law enforcement, court
2 personnel or anyone involved in this case?

3 **DEFENDANT ANDERSON:** No, sir.

4 **DEFENDANT LAWSON:** No, sir.

5 **THE COURT:** So you've been treated fairly?

6 **DEFENDANT ANDERSON:** Yes, sir.

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

8 **THE COURT:** Have you had enough time to think about
9 this, have you had enough time to decide whether you
10 want a jury trial or not?

11 **DEFENDANT ANDERSON:** Yes, sir.

12 **DEFENDANT LAWSON:** Yes, sir.

13 **THE COURT:** You're certain you want to plead guilty?

14 **DEFENDANT ANDERSON:** Yes, sir.

15 **DEFENDANT LAWSON:** Yes, sir.

16 **THE COURT:** Have you understood all my questions?

17 **DEFENDANT ANDERSON:** Yes, sir.

18 **DEFENDANT LAWSON:** Yes, sir.

19 **THE COURT:** Anything you need to ask me about
20 anything that we've gone over?

21 **DEFENDANT ANDERSON:** No, sir.

22 **DEFENDANT LAWSON:** No, sir.

23 **THE COURT:** You are pleading guilty then of your
24 own freewill because you did commit these offenses,
25 ma'am?

1 **DEFENDANT ANDERSON:** Yes, sir.

2 **THE COURT:** Sir?

3 **DEFENDANT LAWSON:** Yes, sir.

4 **THE COURT:** I do find there's a substantial factual
5 basis these pleas. They're freely, voluntarily,
6 knowingly and intelligently made. Ms. Anderson is
7 happy with Mr. Hodges and Mr. Lawson is happy with
8 Mr. Farnsworth. I'll accept their pleas.

9 **THE COURT:** Before I turn to y'all, I'm going to --
10 I see Mr. Wiltshire up there and I've been presented
11 with the victim impact statement. Obviously this was
12 a harrowing situation for Mr. Paragon, but is there
13 anything that he wants to relate to me? I know you've
14 been in communication with him I'm assuming.

15 **MR. WILTSHIRE:** Yes, sir. Many times. In fact,
16 Mr. Hammack and I met with Mr. Paragon two or three days
17 after he was released from hospital way back and he
18 basically was a mess of bandages and neck braces and
19 looked a real mess. His verbiage at that time was
20 purely, and he kept repeating it, was "I'm just lucky to
21 be alive, I should be dead". He has bought his plane
22 ticket. This was to be a trial starting on Monday and
23 he does not want the Court to hold it against him that
24 he is not here. He was fully wanting to be here, but
25 his plane ticket was bought for Monday, and so he's

1 allowed us to go ahead with the plea, but he's ready and
2 willing to be here at the drop of the hat, if necessary.
3 As you would imagine, he would like the 30 years. Thank
4 you.

5 **THE COURT:** All right. And, Solicitor, I'm assuming
6 that you've spoken with Mr. Paragon with regard to these
7 charges and how this resolution is coming about today?

8 **MR. SCOTT:** Yes, sir.

9 **THE COURT:** The record should reflect that I have
10 also reviewed the victim's impact statement and what
11 Mr. Paragon stated in that.

12 All right. Mr. Hodges? Or Mr. Farnsworth, do you
13 want to go first?

14 **MR. FARNSWORTH:** If I could have one word.

15 **THE COURT:** Certainly.

16 **MR. FARNSWORTH:** Your Honor, may it please the
17 Court?

18 **THE COURT:** Yes, sir.

19 **MR. FARNSWORTH:** Thank you very much. I'll go
20 first. Your Honor, Mr. Lawson has a bunch of family,
21 a bunch of friends, here. His parents are here in
22 support of him and these are his parents here. I'm
23 gonna first -- I'm gonna be as brief as I can today,
24 Your Honor, considering this is a very, very serious
25 case and it's very important to him as well as to me.

1 Judge, he's -- Jason's 36 years old. He's a
2 lifelong resident of Laurens County. His parents and
3 -- both family members also lived here most all their
4 lives. As far as his education and work history, I
5 think he's got a GED. Went to the 11th grade, if I
6 remember. He got a GED. His work history, he worked in
7 -- as a welder and electrician, done some fabrication
8 work.

9 Judge, he in 1977 {sic}, '78 {sic} when he would
10 have been about 19 or 20 years old, he developed a
11 serious medical condition called pancreatitis and it
12 required major surgery at the medical university in, I
13 believe, 1999, and subsequent to that there was four
14 other procedures done and there were some complications
15 with those. He had double pneumonia. There were some
16 times when he was close to leaving us and, Your Honor,
17 at that time I failed to mention he was working those
18 particular occupations I told you, plus he had signed up
19 for technical school and had signed up for the National
20 Guard. Your Honor, after -- as this thing progressed,
21 and he did get better, of course, there was a lot of
22 pain involved, and I'm just relating what the family's
23 told me, I don't have any medical records, I'm sure it's
24 true, he developed -- he kind of got addicted on the
25 pain medication and from there it went to other drugs

1 and the extent of his dependency and addiction got
2 pretty bad and continued for several years and has
3 continued on and off since then. And also, Your Honor,
4 at this time was about when he got introduced to the
5 criminal justice system. I think his first offense was
6 like a DUI back in 1997 and then he didn't have anything
7 any more serious or anything at all until 2002, so he
8 was getting along apparently fine then.

9 Now, as I said, his family has just been a -- just a
10 great support system for him. His parents particularly.
11 I met with them. I got involved in this case the first
12 week of December and he had had a lawyer, an appointed,
13 lawyer, for two years and had only seen him two times he
14 says for about a total of two minutes. I got involved
15 in this case in December and I met with his parents, I
16 don't know, you know, probably a half a dozen times,
17 met with him probably six or eight times and, you know,
18 these are good people, his parents, as Jason is, except
19 for what he did.

20 You know, I've developed a liking for him and he's
21 been very cooperative with me and from day one of my
22 representation he's maintained all along he did not want
23 a trial. Every time I saw him, "I do not want a trial".
24 He began accepting responsibility even before I got
25 involved in the case, but he's continued to, you know,

1 tell me that he accepts responsibility and he wants to
2 do what's right and he's up here, I think, as best he
3 can to do that not forgiving what he did or making an
4 excuse for what he did.

5 As I said, his parents are -- they really care
6 about him, you know. It's not that they're mad about
7 what -- mad at him so much, but they're mad at what
8 he did. And despite that, they're up here, they've
9 supported him all along, and they're -- in talking with
10 them, even Jason, their thoughts and prayers have been
11 with Mr. Paragon. They've wished and have continued to
12 wish for his full and complete recovery and I understand
13 he's fairly well recovered and, thank goodness, and
14 that's a good thing.

15 Judge, Mr. Lawson's been in jail continuously,
16 since I think, December 15, 2011. He -- and you've got
17 his record up there. His record is not the greatest
18 record in the world, but he has one -- I think the worst
19 thing is a burglary third and a common law robbery, as
20 I remember, a couple of drug charges, but, Your Honor,
21 I -- you know, I have, you know, every confidence
22 in the world that you'll give him a fair sentence,
23 there's no question about that, based on the facts
24 and circumstances.

25 His mother and father are here today and his --

1 well, when he comes back, he went to the restroom.

2 **THE COURT:** That's fine. Sure.

3 **MR. FARNSWORTH:** And another thing, Your Honor,
4 just to show you what coincidence you see in this
5 world, it just so happens that Mr. Paragon's longtime
6 friend, who's name is Ronnie Craig, his wife's named
7 Perky, are neighbors and friends of these people for
8 over 20 years and knew Jason growing up. Mr. Craig's
9 wife was over at Ms. Seymour's house yesterday, and
10 they were talking and have talked about this case, and
11 actually told her that she could tell the Court they
12 would have actually been here today not to excuse what
13 he did, to be in support of him, that notwithstanding
14 that, you know -- I mean, they knew him growing up and
15 never had a problem with him.

16 And do you want me to -- just come back to me? I
17 just -- Jason just wanted to briefly address the
18 Court --

19 **THE COURT:** Yes, sir.

20 **MR. FARNSWORTH:** -- and then the parents would talk
21 for just a few minutes.

22 **THE COURT:** That will be fine. Why don't we wait
23 on him to get back into the courtroom and then I'll
24 ask your client if he has anything say. I'll move over
25 to Mr. Hodges at this point and do the same for your

1 client's family, et cetera.

2 **MR. FARNSWORTH:** Okay.

3 **MR. HODGES:** Thank you, Your Honor.

4 **THE COURT:** Go ahead, Mr. Hodges.

5 **MR. HODGES:** I'd like to get just a couple of legal
6 issues out of the way. Number one, Your Honor, you
7 heard, I think, when the victim advocate was speaking
8 that Jack Hammack -- Deputy Solicitor Jack Hammack was
9 involved in this case. I worked at the Eighth Circuit
10 Solicitor's Office when this case first occurred. I was
11 in charge of Greenwood County, I didn't have anything to
12 do with Laurens County, didn't have any knowledge of
13 this case, but I did disclose that to Ms. Anderson when
14 I was hired. I've got a signed waiver in my file. I
15 just wanted to put that on the record.

16 **THE COURT:** Thank you. I had forgotten to address
17 that, but you are correct.

18 **MR. HODGES:** The other legal issue, Your Honor,
19 is that statutes for kidnapping indicate that there's
20 a requirement for mandatory sex offender registry
21 unless the Court makes a specific finding on the record.
22 I've talked to Deputy Solicitor Scott about this. He
23 agrees this is not a case where sex registry would be
24 appropriate, but I would ask that Your Honor make a
25 specific finding on the record and on the sentencing

1 sheet that Ms. Anderson not be required to register as
2 a sex offender.

3 **THE COURT:** That had occurred to me and I was quite
4 aware that this is not the type of case that I think was
5 envisioned for sex offender registry, so that will be
6 the same for both individuals.

7 **MR. HODGES:** Thank you, Your Honor.

8 Your Honor, I'd like to give a little bit of the
9 background of the facts as Ms. Anderson has related
10 them to me just for a couple of reasons. Number one,
11 Your Honor, they had both gotten dropped off at this
12 motel the night before by a friend. They had no
13 transportation. You know, they were there. The
14 friend was actually planning on coming and picking
15 them up the next morning at checkout time. They spent
16 the night there and Erica woke up early that next
17 morning and went over to the Waffle House, walked over
18 to the Waffle House at about 5:00 that morning. Jason
19 was supposed to be coming over and meeting her there.
20 As the Deputy Solicitor said, there's a surveillance
21 video where you can see her sitting there drinking a cup
22 of coffee and waiting and waiting and waiting and she's
23 positioned where she could watch the door and watch for
24 him to come in.

25 At some point while she's there, Mr. Paragon comes

1 in, smiles at her. She asks him, you know, "Do I know
2 you?" because he's smiling at her and they strike up a
3 conversation basically that no, he's from New York and
4 whatever. He goes and sits at his table and eats.
5 She continues to sit there drinking coffee and waiting
6 on Mr. Lawson to show up. She gets up to leave and
7 Mr. Paragon is leaving about the same time. He sees
8 her walking across the parking lot, it's December and
9 obviously it's chilly out, and asks her where she's
10 headed and she tells him back to the motel and he offers
11 to give her a ride. While he's driving her over there,
12 he indicates that he's been looking for a girlfriend all
13 night. She basically tells him you've got the wrong
14 idea and changes the subject to talk about this pet
15 snake that she's got in the room. When they had gotten
16 dropped off the night before, they got dropped off with
17 their worldly possessions and as the Deputy Solicitor
18 said the room was full of their stuff, papers with their
19 names on it and ID's, boxes of stuff, and even an
20 aquarium with a pet snake in it.

21 They get back to the motel and she finds out as
22 they're pulling into the parking lot that he's staying
23 there as well. She goes to her room. Mr. Lawson {sic},
24 he goes on down to his room. She discovers that she's
25 missing her cigarettes and her jacket, you know, things

1 that she may have dropped in his truck. She doesn't
2 know what room he's in. She calls a couple of rooms
3 and finally gets him and says hey, I think I may have
4 dropped my cigarettes in your truck. He says I'll be
5 glad to check and hangs up. About fifteen minutes later
6 there's a loud knock on the door.

7 And as you heard Mr. Farnsworth say, there had
8 been some drug use going on. Mr. Lawson was paranoid
9 apparently that it might have been the police at the
10 door because of this loud knock on the door, so he runs
11 and hides in the bathroom because he thinks it might be
12 the police. Erica goes and answers the door and it's
13 Mr. Paragon saying he didn't find her cigarettes, but he
14 wanted to come and see her snake.

15 So she gets the snake out for him to pet it and
16 when she turns to put the snake back in the aquarium
17 and turns back around, he's got his pants off and she's
18 like, well, wait a minute, you've got the wrong idea.
19 At that point is when Mr. Lawson comes out of the
20 bathroom with a gun and they start struggling over it
21 and that's when this whole thing spins out of control.

22 I tell you those things for a couple of reasons,
23 Your Honor. Number one, this was not a premeditated
24 situation, you know. They had no transportation to make
25 a getaway. All of their worldly possessions, including

1 lots of identifying information, were in this room.
2 Mr. Lawson is a diabetic. All of his insulin shots and
3 everything were in the room. You know, it does not
4 make sense that this was a premeditated robbery type
5 of situation when they are leaving out of there with
6 all -- leaving all of their worldly possessions and
7 identifying information in this room with no ride, so
8 just understand that this was not a premeditated
9 situation.

10 I noted in the discovery of the crime scene
11 photographs that Your Honor may be familiar with folks
12 who on their pick-up truck will put their name on the
13 driver window and their wife's name on the passenger
14 window. Well, I know that the victim's first name was
15 on the driver's window and there was a female's name on
16 the passenger window. We noted some inconsistencies
17 in what was related about this incident. Erica and I
18 talked about potential defenses with regard to those
19 inconsistencies and to her credit she's waiving any
20 potential defenses there. She's standing here and
21 owning up to what she did, but I think that there's --
22 you know, there's potential here that some of this may
23 have been embellished by the victim to try to cover for
24 what he was trying to engage in that morning in the
25 room.

1 I did get a copy of the victim's medical records
2 from the State in discovery. Thankfully, he was not
3 hurt severely. He only spent two days in the hospital
4 and I assume he's made a full recovery, so thankfully
5 the injury itself did not turn out to be terribly
6 severe.

7 Your Honor, after my client was arrested, she did
8 cooperate. She gave a videotaped statement to law
9 enforcement implicating both herself and Mr. Lawson
10 and laying out what had happened. Again, there's some
11 possible defenses there. She asked for a lawyer a
12 couple of times during that videotaped statement. She
13 and I talked about potential defenses and the potential
14 for trying to get that suppressed. Again, to her
15 credit, she's waiving any defenses that she has and is
16 standing here accepting responsibility for what she's
17 done.

18 I would point out in terms of the facts again, Your
19 Honor, my client did not have the gun. If you look at
20 her prior record, she only has misdemeanors on her
21 record. There are no crimes that have anything to do
22 with any kind of violence on her record. It's all
23 basically driving and a drug charge. I would ask that
24 Your Honor take that into consideration. As far as
25 credit, Your Honor, she has spent 26 months and 5 days

1 in pre-trial custody. I would ask that Your Honor give
2 her credit for that time that she's spent in pre-trial
3 custody. Judge, she was released out on bond after that
4 26 months and 5 days earlier this spring. She has been
5 out on an ankle monitor for about 105 additional days.
6 I think it would certainly be within the Court's power
7 since she was on an ankle monitor to give her credit for
8 that 105 days and I would ask you to consider doing that
9 as well.

10 And I'd like to talk about that 105 days that she's
11 been out. She has been, as I indicated, on a monitor
12 and Eagle Eye Monitoring is the company that monitored
13 her, and I'd like to pass up a letter from them.

14 **THE COURT:** Thank you.

15 **MR. HODGES:** I'll give you a moment to look over
16 that.

17 **THE COURT:** Very good.

18 **MR. HODGES:** Your Honor, also in the last 105 days
19 while she's been out, she has been living at the
20 Foundation Recovery House in Greenwood and has actually
21 completed a program there at the Foundation Recovery
22 House, and I would pass forward a letter in that regard.
23 And, Your Honor, they think enough of her that there are
24 a number of her housemates here today at the plea in
25 support of her and Brian Burton and Kim Ousley, who are

1 the home manager and in charge of work, are both here as
2 well and would like to speak to the Court and, if I
3 could, at this time just over it over to them and then
4 I'll go back to my comments.

5 **THE COURT:** Sure. I'll be happy to hear from
6 Mr. Burton and Ms. Ousley. Go ahead, sir.

7 **MR. BURTON:** Judge Addy, I just wanted to say we
8 started -- me and my wife started Foundation House four
9 years ago and we've seen a lot of women come through
10 with court problems or law problems and losing their
11 kids and different things and what we try to do is
12 rehabilitate them back into a member of society instead
13 of taking from it. I'm sorry I'm a little emotional. I
14 get like that sometimes, but when we started, we started
15 out with one house and now we have four. We've got
16 thirty-five women and Erica has -- she has been from day
17 one when we came over here to get the ankle monitor on,
18 she started work that day and she got into the program,
19 what we do at the Foundation House, and has been just an
20 asset at work and at the house there. I just -- you
21 know, if we if we had -- if we had thirty of Erica's
22 there, our jobs would be much easier, but I just -- she
23 works for me. I own a lawn care business, too, and
24 she's been with me since day one of her getting out and
25 I've never had any problem with her wanting to disobey

1 the Eagle Eye Monitoring Service or -- or out of the way
2 to anybody. We love her.

3 **THE COURT:** Thank you, Mr. Burton.

4 **MS. OUSLEY:** I'm Kim Ousley. I'm the house manager.
5 Erica came on 2-25. As soon as she got there, she --
6 of course, she had her mom -- I talked with her mother
7 for months before she got there as we were trying to
8 get things in place for her to come with the ankle
9 monitor. She came there and she was assigned someone
10 to take her through the 12 Steps. She immediately
11 started reading her book, went through the Steps, you
12 know, looked at what she's done and her part in
13 everything and tried to make right everything she could,
14 spent a lot of time with her children when she could,
15 was a -- you know, she was -- helped the other women at
16 the house, and she's been like a rock there. Knowing
17 that she's got this to face, I think it's been an
18 inspiration for other women in the house, you know,
19 who have children that are gonna be able to have an
20 on-going, on and on, and so she's done a lot for the
21 house. And like Brian said, if everybody was as easy
22 as she, would we would have a lovely job. But, anyway,
23 if there's anything that I can do for her. She has been
24 a bright spot at Foundation House, very cooperative, no
25 trouble, eager to be a volunteer for anything, and I

1 hope you'll have mercy on her.

2 **THE COURT:** Thank you, ma'am.

3 **MR. HODGES:** Your Honor, I guess the point of all
4 that is that, you know, Erica is not a lost cause. I
5 think she has demonstrated over the last three plus
6 months that she can be rehabilitated. You know, I think
7 there could easily have been a temptation knowing that
8 this day was coming. I mean, she knew that at some
9 point she was gonna be standing in front of a judge
10 pleading guilty. I think there could easily have been
11 the temptation of partying it up, taking advantage of
12 that, you know, last taste of freedom. She didn't do
13 that. She's been doing positive things while she's been
14 out. I know she's worked hard. She's showed up at my
15 office a number of times filthy, I mean, from out --
16 being out doing landscaping. I mean, you could tell
17 she's been working hard.

18 Judge, in addition, Erica has got two daughters.
19 Her mother, Ms. Anderson, is here as well to support
20 her, and lots of other family and friends.

21 Judge, just in closing, again, she has demonstrated
22 that she can be rehabilitated.

23 **THE COURT:** I think your client's father might be
24 at the back door. Would somebody mine popping to back
25 and making sure he can get back in, please? I think the

1 bailiff may not be aware that he was trying to get back
2 in here. I apologize, Mr. Hodges. Go ahead.

3 **MR. HODGES:** Thank you, Your Honor. Judge, all of
4 these crimes, the penalty range that has been set by
5 the General Assembly starts at zero. I'm certainly not
6 suggesting that the Court -- that that's the appropriate
7 sentence in this case, but I would ask Your Honor as
8 she's here accepting responsibility, she has been
9 realistic about the kind of sentence that she is facing,
10 but I would ask that you not just warehouse her because
11 she is redeemable. She has done positive things with
12 the time that she's had out.

13 I would -- I would like to quote something that I
14 heard Judge Eppes, Frank Eppes, say at one point. He
15 said ten years is long enough in prison for anybody that
16 didn't kill someone. Judge, all we're asking today is
17 that you temper justice, but mercifully.

18 **THE COURT:** Thank you very much. Since we're
19 already -- do you need a break to go see if his father
20 can be located?

21 **MR. FARNSWORTH:** I think that his mother is gonna
22 try to do his part. He's not feeling well --

23 **THE COURT:** Oh, okay. I'm sorry.

24 **MR. FARNSWORTH:** -- and she's pretty stressed out
25 herself, but I think she would just like to address the

1 Court. Her name is Sheila Seymour. That's Jason's
2 mother.

3 **THE COURT:** All right. Mrs. Seymour, I'm happy to
4 hear from you, ma'am.

5 **MRS. SEYMOUR:** In February of this year, I turned
6 65, and in April of this year, I retired. It is my
7 wish that you would take everything into consideration
8 and have mercy on Jason. I know Jason is a good person.
9 He has had things in his life that has brought him down
10 with the drugs and I know that if he were given an
11 opportunity to prove himself, he can do that. I would
12 like to know that before I leave this world that I can
13 see my son a free man. He is a good person despite the
14 things that have been said here today about him, and I
15 know Erica is, too, and I know they both have a lot of
16 sorrow for the things that happened.

17 **THE COURT:** Thank you, ma'am.

18 **MR. FARNSWORTH:** Judge, I just have one other thing,
19 then I'll conclude.

20 **THE COURT:** Yes, sir.

21 **MR. FARNSWORTH:** Mr. Lawson just wants to briefly
22 address the Court and that will be all from us.

23 **THE COURT:** Certainly. Mr. Lawson, I'm happy to
24 hear anything that you might want to say.

25 **DEFENDANT LAWSON:** Yes, sir. I want to ask you

1 to take most of the burden off of Erica and put it on
2 me. If I were to have done what I was supposed to do,
3 be the man like I'm supposed to be, she wouldn't have
4 been in the situation in the first place, she wouldn't
5 have been there, this wouldn't have happened. So,
6 please, take anything you can off her and put it on me.

7 Second, since I was 17, I've been an alcoholic.
8 Since I was 20, I've been a drug addict. I've been in
9 trouble and I've been sent to prison, but I've never had
10 anybody help me ever. I'm asking you to, please, help
11 me. Thank you.

12 **THE COURT:** Thank you, sir. Ms. Anderson, I'm
13 happy to hear anything that you may want to say, ma'am.
14 If you need a moment --

15 **DEFENDANT ANDERSON:** I don't have anything to say.

16 **THE COURT:** This is your daughter behind you?

17 **DEFENDANT ANDERSON:** Sister.

18 **THE COURT:** Sister. I'm sorry. You both look
19 very young. All right. Anything from anyone else?

20 All right. I sincerely appreciate everything
21 that everyone has said. And I'm not a stranger to what
22 Mr. Burton is trying to accomplish, and obviously his
23 presence here is helpful on Ms. Anderson's behalf. And,
24 Mr. Lawson, the support that you've got is admirable.
25 And I've been doing this job, practicing law in some

1 capacity or another, for about 21, 22 years now, and
2 you're the first person in a situation like this to ask
3 to take some of the load off her and to bear that for
4 her, and I've never had a co-defendant do that before,
5 and I think that that, in and of itself, speaks a lot
6 to your character and by offering that I think that
7 you've showed me and a lot of other people a very
8 valuable part of your character, sir, and has helped you
9 out in terms of what I was inclined to do and helped
10 Ms. Anderson out in what I was inclined to do as well.

11 Neither of you are naive. You understand what
12 happened here is, short of killing someone or raping
13 someone, about as serious as it gets in the eyes of the
14 law.

15 **DEFENDANT LAWSON:** Yes, sir.

16 **DEFENDANT ANDERSON:** Yes, sir.

17 **THE COURT:** And as your attorneys have probably
18 explained to you, I do like to reward individuals who
19 are willing to come in and admit that what they did
20 was wrong and accept responsibility for it. And I'm
21 trying to be as lenient -- I assure you, I'm trying to
22 be as lenient with both of you as I possibly can be,
23 but at the same time speak justice to the person who
24 was injured in this particular case, and I hope this
25 sentence does it -- or these sentences do it.

1 All right. Mr. Lawson and Mrs. Lawson, I hope you
2 get to see him again outside of prison and I'm sorry if
3 you don't, but this is just how it's got to be, okay,
4 ma'am? I'm sorry.

5 Mr. Lawson, your sentences on Indictments 449 and
6 452, those are respectively the attempted murder and the
7 kidnapping charge, the sentence of the Court is that
8 you're committed to the Department of Corrections for
9 23 years. You get credit for the time that you've
10 served since December the 15th of 2011, and I've noted
11 that there's no need to register on the sex offender
12 registry for the kidnapping charge. On Indictment 450,
13 that's the common law robbery, the sentence is 15 years.
14 On Indictment 451, that's the gun charge, the sentence
15 is five years. Again, credit for all time served since
16 December the 15th of 2011, and all sentences will run
17 concurrently, sir.

18 Ms. Anderson, the sentence on your case on
19 Indictment 375 and 376, those are -- and as well as
20 378, those are the attempted murder charge, the common
21 law robbery charge and the kidnapping charge, the
22 sentence of the Court is that you're committed to the
23 Department of Corrections for 15 years. You get credit
24 for the time that you've served since December the 15th
25 of 2011, and I'm giving her credit for these additional

1 three months, but that's nothing compared to the amount
2 of time she's got to do. I've also noted there's no
3 need for you to register as a sex offender once you are
4 released. Also, five years on the weapons charge. All
5 sentences run concurrent with each other.

6 I genuinely wish you both luck. Take care.

7 **MR. FARNSWORTH:** Thank you, Your Honor.

8 **MR. HODGES:** Thank you, Your Honor.

9 **MR. WILTSHIRE:** Thank you, Your Honor.

10 (Proceedings were concluded at 3:16 PM.)
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C E R T I F I C A T E

I, Stacy S. Johnson, 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 of all
the proceedings had and the evidence introduced in the
hearing of the captioned case in Circuit Court on the
5th day of June, 2014.

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

November 5, 2014

Stacy S. Johnson
Stacy S. Johnson, RPR
Circuit Court Reporter

FORM 5

LYNN W. LANCASTER

STATE OF SOUTH CAROLINA

County of Laurens

Erica Leigh Anderson #2014 SEP 16 A 11: 06

Full name and prison number (if any) of Applicant

350142

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

LAURENS COUNTY
CLERK OF COURT

POST-CONVICTION RELIEF

2014 -CP30-232

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 Camille G. Graham CORR. Inst.
4450 BROAD RIVER Rd. Columbia SC 29210
2. Name and location of Court which imposed sentence LAURENS COUNTY
GENERAL SESSIONS
3. Name(s) of co-defendant(s) (if any) JASON SHANE LAWSON
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 12 GS30-0378
 - (b) 12 GS30-0375

RECEIVED

SEP 22 2014

Referred to PCR/dm

(c) 12GS30-0376 / 12GS30-0377

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

(a) JUNE 5th 2014

(b) Attempted murder / Strong arm robbery / Kidnapping

(c) pass. weapon during violent crime (15 years) CONCURRENT
Check whether a finding of guilty was made:

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?**

~~XXXXXX~~ NO

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

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

i. ~~[REDACTED]~~

ii. _____

iii.

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

i. ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

ii.

iii. _____

(c) the date of each such result:

6.4

1

111.

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

ii.

iii.

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

(a) lawyer failed to file 10 day appeal

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INEFFECTIVE COUNSEL
- (b) NEW EVIDENCE
- (c) FAILURE TO REVIEW ALL EVIDENCE
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) _____
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? _____
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. _____
- 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. _____
- 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) lawyer failed to file 10 day appeal
 (b) _____
 (c) _____

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

(a) your arraignment and plea? yes
 (b) your trial, if any? _____
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

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. Andrew Hodges - P.O. box 3094 Greenwood
SC 29648
 ii. Chip Howe - 100 Hillcrest Wg
Lawrence SC 29360 (public defenders office)
 iii. _____

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

i. plea (Andrew Hodges)
 ii. Sentencing (Andrew Hodges)
 iii. Bond arraignment (Chip Howe)

19. State clearly the relief you seek in filing this application:
reduced sentence OR reconsideration +
possible parole eligibility
20. Are you now under sentence from any other court that you have not challenged?
NO

STATE OF SOUTH CAROLINA)
 County of LAURENS)

VERIFICATION

I, Epica Anderson, 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 J. Ash

SWORN to and subscribed before me this 11th
 day of September, 2014.
Robert R. Rabb (L.S.)
 Notary Public

My Commission Expires: 8-12-15

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

I, Erica Anderson, 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.


Applicant

SWORN or affirmed to and subscribed before me this
14th day of September, 2014.


Notary Public

My Commission Expires: 8-12-15

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

Erica Leigh Anderson, #350142,

2014-CP-30-0732

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

Respondent, making its Return to the application for post conviction relief (PCR) filed September 16, 2014, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Laurens County Clerk of Court. The Applicant was indicted by the March 2012 term of the Laurens County Grand Jury for Attempted Murder (2012-GS-30-0375), Kidnapping (2012-GS-30-0378), Armed Robbery (2012-GS-30-0376) and Possession of a Weapon during the Commission of a Violent Crime (2012-GS-30-0377). The Applicant was represented by Andrew Hodges, Esquire. On June 5, 2014, the Applicant pled guilty to Strong Arm Robbery as a lesser included offense of Armed Robbery and to the other charges as indicted. The Honorable Frank R. Addy, Jr. sentenced Applicant to incarceration for fifteen (15), concurrent for each Kidnapping, Strong Arm Robbery and Attempted Murder and five (5) years, concurrent, for Possession of a Weapon during the Commission of a Violent Crime. The Applicant did not appeal her conviction and sentence.

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

II.

In her original Application, Applicant alleges that she is being held in custody unlawfully for the following reasons:

1. "Ineffective Counsel"
2. "New Evidence"
3. "Failure to review all evidence"

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

III.

For purposes of this Return, Respondent interprets Applicant's allegation to be an allegation of ineffective assistance of counsel. In a post-conviction relief action, Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, 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, Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, 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).

Respondent submits 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, 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 on Applicant's allegations.

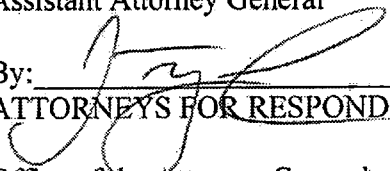
Respectfully submitted.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

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

January 7, 2014

State of South Carolina)
) Court of Common Pleas
 County of Laurens)
 2014-CP-30-00732
 PCR

Erica Anderson)
 vs.) Transcript of Record
)
)
 State of South Carolina)
)
)
)
 State of South Carolina)
)
)
)
 Defendant)

June 7, 2017
 Laurens, South Carolina

B E F O R E:

Honorable G. Thomas Cooper, Jr., Judge

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

Judah N. VanSyckel, Assistant Attorney General
 Attorney for the State

Carson Henderson, Esq.
 Attorney for the Applicant

Joy E. Holston
 Official Court Reporter

I N D E X O F W I T N E S S E S

(IC) - Denotes In Camera
(AW) - Denotes Applicants Witness
(SW) - Denotes State's Witness

(AW) Andrew Hodges

Direct Examination by Mr. Henderson: 6

Cross-examination by Mr. VanSyckel: 51

Redirect examination by Mr. Henderson: 55

(AW) Erica Anderson

Direct Examination by Mr. Henderson: 57

Certificate of Reporter 71

E X H I B I T SApplicant's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>Page#</u>
1	Voluntary Statement		X	19
2	Email and Trial Docket		X	31
3	Emails		X	33
4	Notes-Attorney		X	37
5	Email		X	42
6	Acknowledgment of Rights		X	44
7	Transcript		X	47
8	Notes/Andrew Hodges		X	50
9	Transcript		X	50

1 MR. VANSYCKEL: May it please the Court.

2 THE COURT: Yes sir, you may proceed.

3 MR. VANSYCKEL: Your Honor, this is State v., excuse
4 me, Erica Anderson vs. State of S.C., 2014-CP-30-0732.
5 The Applicant was indicted at the March 2012 term of the
6 Laurens County Grand Jury for attempted murder,
7 kidnapping, armed robbery, possession of a weapon during a
8 violent crime. Your Honor, originally it appeared that
9 she was only challenging the attempted murder, kidnapping,
10 her application for post conviction relief. I just spoke
11 with Mr. Henderson and it appears that they would move to
12 challenge all of her indictments, not just the attempted
13 murder and the kidnapping, but also the armed robbery and
14 the possession of a weapon during a violent crime. Your
15 Honor, Ms. Anderson was represented by Andrew Hodges. On
16 June 5th, 2014 she plead guilty before the Honorable Frank
17 Addy and was sentenced. She got 15 on the attempted
18 murder, 15 on the kidnapping, did not have to register as
19 a sex offender. She got 15 on the armed robbery which
20 plead to strong armed; got 5 on the possession of a weapon
21 during a violent crime. She is now filed a notice of
22 appeal. On September 16th, 2014 the Applicant filed a PCR
23 application alleging the following grounds; ineffective
24 assistance of counsel, new evidence of failure to review
25 all evidence. Ms. Anderson is present today and is

1 represented by Mr. Carson Henderson.

2 THE COURT: Mr. Henderson.

3 MR. HENDERSON: Yes sir, Your Honor. Just to make
4 sure that the record is clear, I am looking at the initial
5 pro se application that Ms. Anderson filed and actually
6 she does list the four indictments. Actually it is listed
7 on two separate pages and that might be some of the
8 confusion here, Your Honor. But also she does set forth
9 all four charges in the pro se application. It might not
10 be wonderfully done but they are all there. So, yes, we
11 are contesting all the indictments that she plead to, Your
12 Honor, as well as I filed a pro se, a first amended
13 petition this morning, not alleging any new grounds but
14 just trying to clean up a couple of things that was in the
15 petition and I have given that to the attorneys, Your
16 Honor. And I think we are ready to proceed.

17 THE COURT: All right, you may proceed.

18 MR. HENDERSON: I call Andrew Hodges, please. And,
19 Your Honor, if I may pass you up a packet of material as
20 well as your Clerk. I will be moving it into evidence,
21 Your Honor. But just right now, kind of just for
22 following along purposes.

23 THE COURT: All right, good.

24 ANDREW HODGES, being
25 first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Henderson:

Q State your name.

A Andrew Hodges.

Q Where do you practice law?

A Greenwood.

Q You represented Ms. Anderson on these underlying criminal charges, didn't you?

A I did.

Q And do you know when Ms. Anderson hired you?

A March 4th, 2014.

Q And she signed a retainer agreement with you?

A She did.

Q And she paid you to represent her?

A She did.

Q And can you tell the Court what she was charged with?

A She was originally charged with the four charges that she entered pleas to. There were also some other charges that were dismissed which was another kidnapping, another armed robbery and grand larceny and another possession of a firearm during the commission of a violent crime.

Q Okay, if I am not mistaken those charges that was dismissed, the Government couldn't find the alleged victim, is that correct?

A That is my understanding.

1 Q And I think the alleged victim was Hispanic, maybe
2 had been an illegal?

3 A Correct.

4 Q Okay. You provided me with a complete copy of your
5 file, is that fair to say?

6 A That is fair to say.

7 Q And I have given you a packet of material and I just
8 want to run through some of these items with you. This
9 top item here is a statement given by a John Paragon,
10 P-A-R-A-G-O-N, is that fair to say?

11 A Yes.

12 Q Who was Mr. Paragon?

13 A Mr. Paragon was the victim of the charges that Ms.
14 Anderson actually plead guilty to.

15 Q And did you ever talk to Mr. Paragon?

16 A I did not.

17 Q So you never met him?

18 A No.

19 Q Not even talked to him by telephone?

20 A Not that I remember.

21 Q And is it fair to say that Mr. Paragon gave a factual
22 scenario that is somewhat different than the factual
23 scenario that Ms. Anderson gave you that happened?

24 A That would be fair to say. Similarities but there
25 was some differences as well.

1 Q Well, a lot of big differences, is that fair to say?

2 A Yes.

3 Q And I agree there is a lot of big similarities but a
4 lot of big differences, is that fair to say?

5 A Yes.

6 Q I want to run down some of Mr. Paragon's statement
7 with you.

8 A Okay.

9 Q And, again, it looks like Mr. Paragon gave this
10 statement, it looks like December 16 of 2011. And I think
11 everybody would agree, is it fair, that the first contact
12 between Mr. Paragon and Ms. Anderson was at the Waffle
13 House?

14 A That is my understanding.

15 Q The Waffle House here, I guess out by the Interstate.

16 A Correct.

17 Q Both were there eating breakfast, drinking coffee?

18 A Right.

19 Q And Mr. Paragon, in his statement, he says I was
20 approached by a white female. I am reading on the third
21 line.

22 A Yes, I see that.

23 Q And according to Mr., Paragon, Ms. Anderson initiated
24 the contact, is that fair to say?

25 A I think that would be fair interpretation.

1 Q And based upon your talking with Ms. Anderson and
2 your investigation in the light most favorable to her, he
3 initiated the contact, that he smiled at her, spoke to
4 her, winked at her or something along those lines.

5 A Yes, my recollection was and I have got notes when I
6 talked to her. But, yes, she indicated that when he came
7 into the Waffle House, he had smiled at her. And I think
8 maybe she asked if she knew him, was wondering why he was
9 smiling at her. And I think that he indicated, no, that
10 he didn't know her, that he was from New York. So they
11 struck up this quick conversation as he was kind of
12 interested.

13 Q Right, and based upon the allegations of what
14 subsequently happened, who initiated the contact could be
15 a big deal, couldn't it?

16 A I don't know that it would be necessarily. I know
17 that the State's theory of the case was that this was a
18 premeditated situation where Ms. Anderson had gone to this
19 Waffle House and tried to lure him to this motel to get
20 robbed.

21 Q Right.

22 A And she certainly disagreed with that theory of the
23 case. And if you read the transcript from the plea, I go
24 fairly deeply into her disagreeing with this, that part
25 of the fact scenario that, you know, that it didn't really

1 make sense that this was premeditated. If it had been it
2 was very in-artfully planned because all of their worldly
3 possessions were in this motel room, they would have been
4 easily identifiable so it wouldn't have made sense that
5 that was the plan. But the bottom line is the State
6 didn't have to prove premeditation. So, you know, that
7 didn't really matter necessarily.

8 Q I understand that but obviously if they are looking
9 at she is trying to lure him in back to her hotel room.
10 And Mr. Paragon is saying that she initiated the contact.
11 And she is saying, heck, I have got all of my worldly
12 possessions, I am living in this hotel room. He is the
13 one that approaches me. Those are two totally diversion
14 stories, aren't they?

15 A Yes. I mean, her position was that she had gone over
16 there to get breakfast and was waiting for her codefendant
17 to join her for breakfast.

18 Q Right, right, right. And I don't think there is any
19 dispute that Mr. Paragon gave her a ride back to the
20 hotel?

21 A Right.

22 Q And let His Honor know that the Waffle House and this
23 hotel are probably within a football field of one another?

24 A They are very close together. But I think it was
25 December, it was cold outside. And she had been on foot

1 walking from the hotel so she got a ride from him back to
2 the hotel.

3 Q Right and Mr. Paragon says that when they get back, I
4 think Erica's position is too, that when he drops her off
5 at the hotel, he goes to his room, she goes to her room.
6 Is that correct?

7 A Correct.

8 Q There is no hookup, so to speak?

9 A Right.

10 Q Okay. And I am looking at his statement again, that
11 she is saying, that according to Mr. Paragon, he called
12 her wanting her, that she called him wanting him to come
13 to her room basically for sex?

14 A Right. She told me that she had called him because
15 she had left cigarettes and a jacket, I think, in his
16 truck. Didn't know which room he was in and actually
17 called multiple different rooms until she got him and
18 basically said, I think I left some of my stuff in your
19 truck. And he, I guess, got it and was bringing it to
20 her.

21 Q Okay. And according to him she invited him to her
22 room, is that fair to say?

23 A That is fair to say.

24 Q And I think according to Erica, Erica is saying, I
25 called looking for my cigarettes but I never invited him

1 to my room.

2 A I don't remember that specifically.

3 Q Okay. I mean I have looked through your notes, I
4 have looked through the, everything I see, I see nothing
5 where Erica said that she invited him to the room.

6 A I can't say that she did. She told me that she had
7 called him about cigarettes and a leather jacket.

8 Q Right, right, right. And sooner or later he showed
9 up, is that fair to say?

10 A Yes.

11 Q And I believe there was a loud banging on the door?

12 A Right.

13 Q And according to Mr. Paragon's statement here, he is
14 saying that he got partially undressed and that Erica got
15 partially undressed.

16 A Right.

17 Q And, again, looking through your notes and
18 conversations with Erica, Erica has denied vividly that
19 she ever got undressed. Is that fair to say?

20 A Yes.

21 Q Again, we are looking at two totally different fact
22 patterns here of what happened in this, leading up to why
23 they are in this hotel room, is that fair to say?

24 A I would agree with you that her version of the events
25 was different than his statement.

1 Q Right. At some point and time the codefendant, Mr.
2 Lawson, Jason Lawson, he attacked Mr. Paragon, is that
3 fair to say?

4 A Yes. What Ms. Anderson had told me was that there
5 had been some drug activity going on in the room and that
6 when this loud knocking on the door, I guess he got
7 paranoid that maybe it was the police or maybe they had
8 warrants out for him or something and went and hid in the
9 bathroom. And then she and Mr. Paragon were in the, I
10 guess, the bedroom area having whatever exchanges they
11 were having and then that is when he came out of the
12 bathroom with a gun.

13 Q And you would agree that, according to Mr. Paragon,
14 they, she had a pet snake in the hotel room with her,
15 correct?

16 A Yes, I think everybody agreed that there was a snake.

17 Q And Mr. Paragon wanted to see the snake, is that fair
18 to say?

19 A Yes. Erica told me that when they were in the
20 vehicle on that short ride from the restaurant to the
21 motel that the conversation had come up about the, having
22 a snake. And that he came down to see the snake
23 apparently.

24 Q Right. And Erica even agreed that, that she was
25 showing him the snake when he got undressed?

1 A Yes, I think she told me that when she was putting
2 the snake up she turned back around and he was undressed
3 at that point.

4 Q Right. And according to Erica, your investigation,
5 that this wasn't, that she didn't intend for this to be a
6 sexual encounter at all?

7 A Correct.

8 Q I mean she is living there with her boyfriend?

9 A Right.

10 Q Who sounds like may have been strung out on drugs?

11 A Right.

12 Q Okay. And is it fair to say that the attack that
13 happened was initiated by Mr. Lawson?

14 A It was.

15 Q And I think Mr. Lawson actually pulled a gun and shot
16 this fellow?

17 A Yes. There was, he pulled a gun out and Ms. Anderson
18 indicated that they had struggled over the gun, that he
19 was shot during that struggle with the gun.

20 Q And actually is it fair to say that Ms. Anderson was
21 shot during this struggle, shot in the hand?

22 A I know she had gunshot residue on her hands and the
23 nurse had to clean up an abrasion or a cut on her hand.

24 Q Right. And I think everybody agrees that she didn't
25 have a gun?

1 A Correct.

2 Q Okay. And I know Mr. Paragon gives a story about how
3 Ms. Anderson was involved in this attack, is that fair to
4 say? That she is a perpetrator of this attack.

5 A Yes, I mean she indicated to me she was as well.

6 Q Right. But she also told you that the reason she is
7 joining in the fray is to try to stop this nonsense, I
8 mean there is a gun that is being discharged. Is that
9 fair to say?

10 A Yes. Her position was that the two of them were
11 struggling over the gun and that she picked up a knife, I
12 think she first held it to his genitals and then to his
13 throat to basically try to get the guy to let go of the
14 gun.

15 Q Right, to get him out of there, is that fair to say?

16 A Well, I think it was to get him, because they were
17 struggling over the gun, she was indicating that she was
18 trying to get him to let go of the gun.

19 Q Of the gun?

20 A Of the codefendant's gun.

21 Q Right. And again she got hit during this fray?

22 A Right.

23 Q Okay. And needless to say, Mr. Paragon gets out of
24 the room and calls the police or somebody calls the
25 police?

1 A Right.

2 Q And from your conversations with Ms. Anderson, again,
3 I don't want to put words in your mouth but it sounds like
4 she armed herself in order to stop this gun situation?

5 A Yes. I mean I think that was her position, they were
6 struggling over the gun and so she was, I don't know how
7 you want to characterize, trying to assist the codefendant
8 in being able to take, command this gun back.

9 Q Right. And obviously she has got a right to protect
10 her safety, you would agree?

11 A Certainly.

12 Q And obviously it might not have been the most perfect
13 way to protect her safety but obviously if somebody has
14 got a gun and she has been shot, or at least grazed she
15 can arm herself in an effort to stop what is going on. I
16 mean she had a lawful right to be in the hotel room?

17 A Sure. I don't know that it is a self-defense
18 situation, if that is what you are implying.

19 Q Well, maybe a defense of others?

20 A Well, you know, if he is bringing on the difficulty
21 by coming out and pointing a gun at this guy, you know, I
22 don't think he has got a self-defense argument himself or
23 would not--

24 Q -- again, I am not arguing for Mr. Lawson. I agree
25 Mr. Lawson shouldn't have pulled a gun on this guy. I

1 fully agree with you. But again, under trying
2 circumstances, you know, people tend to react maybe not in
3 the best of ways. But you would agree that she, according
4 to her, she is trying to stop this, trying to get the gun
5 away from this guy.

6 A Right.

7 Q Okay. So even at the point of what happened in the
8 room, now Erica, now he is saying he was tied up. Is that
9 correct?

10 A Yes, he indicated he was tied up with a phone cord
11 and she denied that.

12 Q Erica, again, there was never any proof he was tied
13 up with a phone cord, was it?

14 A I think there was a photograph of, showing the phone
15 cord had been pulled out of the wall. And that is what
16 Paragon had indicated was that they pulled the phone cord
17 out and tied him up with it. That is the only evidence I
18 recall other than just his statement, that that is what
19 happened.

20 Q Right, there wasn't any DNA or genetic evidence that
21 he was ever tied up with this phone cord?

22 A No.

23 Q In fact, Erica vehemently denied that ever happened?

24 A Right.

25 Q Now, is it fair to say, I have looked through your

1 file, it seems to me that Mr. Paragon, either was married
2 or had a girlfriend?

3 A Yes. That is one of the things that Erica and I
4 talked about is looking at the crime scene photos. There
5 was a, Paragon's vehicle was out in the parking lot and as
6 people sometimes do, they have their name in a vinyl
7 sticker on the, one window and their spouse's name or
8 significant other's name on the other window. His truck,
9 I think it was John on his window and then, I don't
10 remember the name, a female name on the passenger window.

11 Q It was Judy?

12 A Judy, okay.

13 Q It was. So I mean, there was some allegations that
14 he might have an incentive not to exactly tell the truth
15 and the whole truth, is that fair to say?

16 A Yes. And Erica and I discussed, you know, the
17 inconsistencies. I think those are in my notes, that we
18 discussed those inconsistencies and that if we were to
19 have a trial that is certainly something that could be
20 explored at a trial, is whether his version of the events
21 was completely forthcoming.

22 Q Now, it is my understanding that Mr. Paragon alleged
23 that he was down here to go hunting with a buddy?

24 A Right.

25 Q I think a Roger Craig, I believe?

1 A Yes, he was apparently down here from New York.

2 Q Did you talk to Mr. Craig about this?

3 A I did not.

4 MR. HENDERSON: And, Your Honor, Mr. Paragon's
5 statement, I would move that in as Petitioner's number 1
6 or Exhibit 1 or Applicant's number 1.

7 THE COURT: Any objection?

8 MR. VANSYCKEL: Without objection.

9 THE COURT: Admitted.

10 (Whereupon, Applicant's Exhibit 1 was admitted into
11 evidence.)

12 Q And looking at the next document, Mr. Hodges, I am
13 just, upper right hand side, it is an email to you from
14 Mr. Mowry here at the Solicitor's office. It looks like
15 it is dated May the 22nd of 2014. I represent to you that
16 is a Thursday.

17 A Okay.

18 Q And that was a trial docket, correct?

19 A Yes, it is an email with an attachment of trial
20 notes.

21 Q Right. It looks like on page two that y'all are
22 first up for trial, it looks like the week of June the 9th
23 of 2014? Is that correct?

24 A I see that it is listed first, I don't know if that
25 means we were called first. But, yes, it is one of, it

1 looks like five different cases that are listed.

2 Q Did you discuss with the Solicitor whether or not
3 y'all were first?

4 A I don't remember, I don't remember specifically.

5 Q It seemed like the process started rolling real
6 quickly after this in an effort to get this case resolved
7 before June 9th?

8 A Right. And once we got, once we got the trial
9 notice, you know, obviously that kind of put us under the
10 gun to make a decision and decide which way to handle it.

11 Q Right.

12 A And Erica and I discussed, you know, the various
13 options, whether it be move for a continuance, try to work
14 out a plea or get her ready for trial.

15 Q Now at this point and time on May 22nd, you said you
16 talked about a continuance. I think your testimony was
17 you hadn't talk to the victim in this matter?

18 A That is true.

19 Q Had you talked to anybody else in the matter besides
20 Ms. Anderson, a witness?

21 A No.

22 Q You hadn't gone to the Waffle House to talk to any of
23 those employees?

24 A I did not.

25 Q In fact there is a Waffle House video, isn't there?

1 A There is a video.

2 Q But like all Waffle House videos, it is muted, there
3 is no audio?

4 A Correct.

5 Q So you can watch?

6 A Right.

7 Q Okay. And you have watched that video?

8 A I have.

9 Q And does that video sport Erica's story?

10 A It basically shows her in there, sitting there
11 drinking coffee, having an interaction with the victim.

12 Q Right. You can't hear it but you can actually see
13 that they are interacting?

14 A Right.

15 Q Okay. Did you talk to anybody at the hotel?

16 A No.

17 Q Okay. I think there were people, rooms on either
18 side of them, at the hotel on the evening of this event.
19 Is that correct?

20 A I don't recollect the specific--

21 THE COURT: Let me just, this timeline. It looks
22 like, I have arrest warrants. But the statement is 2011?

23 MR. HENDERSON: That is correct, Your Honor, December
24 16 of '11.

25 THE COURT: And he got, Mr. Anderson doesn't get the

1 case until 2014, so it has been three years laying around.
2 She has been in jail. Is that fair? Did she get out on
3 bond?

4 MR. HENDERSON: She finally did get out on bond, Your
5 Honor. And if I can let Mr. Hodges clarify again when he
6 was hired.

7 A I was not hired until March of 2014. She had been
8 represented by Chip Howe, Public Defender, for the time
9 previous to that.

10 THE COURT: Oh, okay.

11 A I was hired late in the game.

12 Q And ultimately you got her out on a ankle monitor
13 bond, somewhere done the line.

14 A I think she was actually out already on an ankle
15 monitor. We ended up doing a modification of the
16 conditions of that ankle monitor to ease up the
17 restrictions on it. Actually pretty quickly after I got
18 involved, we got her in a facility in Greenwood called the
19 Foundation Recovery House which is a residential drug
20 treatment facility. Thinking back, that would be good
21 mitigation when we got to, very, very early on in my
22 conversations with her, it was clear to me she did not
23 want a trial, she wanted to do a plea. And that was, that
24 is the direction that my efforts were in to preparing for
25 a plea, preparing litigation. That was part of, getting

1 her into that Foundation Recovery House, that is something
2 she wanted to do. So we got her ankle monitor
3 restrictions eased so we could do that.

4 Q When you were hired and took over for Mr. Howe, did
5 and Mr. Howe sit down and talk about this? Did you get a
6 copy of his file?

7 A I believe Erica brought me, before I got discovery
8 from the Solicitor, I think she brought me what she had
9 gotten from Mr. Howe.

10 Q Do you know if Mr. Howe talked to Mr. Paragon?

11 A I don't.

12 Q Do you know if he talked to anybody?

13 A I don't know.

14 Q Or had anybody talk to him on his behalf?

15 A I don't know.

16 Q Do you recall asking Mr. Howe that?

17 A I don't recall.

18 Q And you get this trial notice, by my calculations is
19 about 18 days before this case is subject for trial. Did
20 you ask for a continuance at all?

21 A I did not. I discussed with Erica whether or not,
22 you know again, we discussed the options of plea, trial or
23 a continuance. And, you know, I felt like if we asked for
24 a continuance we probably had a pretty decent shot at
25 getting one. I had only been on the case since March.

1 There was a DNA test that had not been completed although
2 the Solicitor said that they had intended to go forward
3 without it. But, you know, that was still hanging out
4 there. Part of the, there were things from a strategic
5 standpoint that factored into the decision not to ask for
6 a continuance. One thing was that Mr. Farnsworth, who
7 represented the codefendant, had indicated that his client
8 was going to plead. And he had told ahead of time that
9 his client had indicated to him that he was going to, you
10 know, "take the heat off of Erica." He was going, to be
11 willing to say something during a plea to try to mitigate
12 her involvement. That was part of what factored in, was
13 to do a joint plea at the same time that he was doing. So
14 there would be an opportunity for that to happen.

15 Q Let me stop you there. Hold that thought. But, I
16 think by all agreements, everybody's story or set of facts
17 indicated that Mr. Lawson was the primary perpetrator here
18 or the initial perpetrator here.

19 A Certainly he initiated.

20 Q And Ms. Anderson confirmed that?

21 A I guess that was her position.

22 Q Talking to Mr. Farnsworth, knowing that his client
23 was going to plead, I mean did you ever talk to the
24 Solicitor, did you ever talk to Erica about possibly, say,
25 hey, if he wants to plea, fine. But did you ever try to

1 talk to them about her testifying against Mr. Lawson. You
2 know, her holding out and testifying against him. Because
3 I think everybody agrees he is the initial primary
4 perpetrator, the one with the gun, the one that shot this
5 fellow, Mr. Paragon. Did y'all have those conversations?

6 A I am trying to search my memory. I really, I really
7 don't remember that conversation. I typically explore
8 those kind of things. But I know that she and he were
9 still communicating. I don't know what her willingness
10 would have been anyway. I don't know that the Solicitor
11 would have needed her testimony given the amount of
12 evidence that they had against the two of them.

13 Q And they may not have, I am just trying to figure out
14 whether or not he broached the subject?

15 A I honestly don't remember specifically.

16 Q I am just wondering, it sounds like you threw your
17 lot in with Mr. Farnsworth and his client on kind of a
18 joint plea. And I am just wondering--

19 A I didn't hear you.

20 Q It is almost like you threw yourself in with Mr.
21 Farnsworth trying to develop a joint guilty plea?

22 A Well, I wouldn't say threw in with it. That was one
23 of the factors that, you know, factored into her decision
24 to go ahead and plea. At that point was knowing that
25 Lawson was pleading, there was an opportunity for him to

1 provide this piece of mitigation. That was not the only
2 factor though. The other factor was that, Judge Addy was
3 the Judge that was there that particular week. I had
4 known him for a long time. I felt like he was someone
5 that I could talk to and had an opportunity and actually
6 go in-chambers before the plea, sort of lay things out,
7 got an indication from him what his range of sentencing
8 was likely to be. Was able to go back and explain that to
9 Erica and let her know where he was at.

10 Q And I believe that was, what, 15 to 20?

11 A 15 to 20 was his range and he ultimately, you know,
12 sentenced her at the bottom of the range that he had
13 indicated. But had the case got continued, for instance,
14 to the next term of court, I think it was Judge Early who
15 was the Judge that was scheduled for that term of court.
16 He is an out-of-town Judge, I think I had been in front of
17 him one time, maybe when I was at the Solicitor's office.
18 He was just sort of an unknown quantity. And, you know,
19 the discussion was, I know what Judge Addy says he is
20 willing to do. So that is kind of the bird in the hand.
21 If we get it continued and it goes to the next term of
22 court, potentially I can't say that is going to be the
23 same situation. It was just an unknown factor. So that
24 factored into the decision as well. At least she kind of
25 knew what to expect on that particular date.

1 Q But again, I am just trying to develop, it sounds
2 like you didn't talk to Mr. Farnsworth about whether or
3 not his client would take the hit or take the heat off
4 Erica even if Erica wouldn't plead. Did you have that
5 conversation with him?

6 A I have a note, my note is spoke with Dan Farnsworth,
7 his client would like to plea, will help, willing to help
8 take the heat off of Erica, which he ultimately did.
9 Obviously I am sure you have read the transcript. He made
10 a statement to the Judge to, you know, take as much off of
11 him he could, I mean off of her and put it on him. Judge
12 Addy indicated that he was basically crediting both of
13 them for that comment.

14 Q And I notice too, looking at your notes, I want to
15 talk about your notes here in a little bit too. Around
16 the time of the guilty plea, maybe a couple of days ahead
17 of time, I believe you discussed with the Solicitor about
18 whether or not Mr. Paragon was interested in any
19 restitution?

20 A Yes. That is something that Erica had floated the
21 idea of, you know, if we paid some restitution upfront
22 would that may get some credit or get some leniency. And
23 I had a conversation with the Solicitor, and I don't
24 remember, it didn't go anywhere, I don't remember if the
25 money, I think she was relying on her mother, her mother

1 is the one who actually paid my retainer.

2 Q Right.

3 A I don't know if she was relying on her mother to come
4 up with it or the Solicitor had said it didn't really,
5 that wasn't going to help. It was one or the other and I
6 don't remember which it was.

7 Q Do you know how much the restitution amount was?

8 A No. \$20,000.00 dollar figure sticks in my head. I
9 don't know if that was what Erica thought maybe she could
10 come up with.

11 Q You have been around the block a long time. You know
12 that these victims get recompensed for their pain and
13 suffering and injuries, sometimes softens their heart.

14 A Absolutely. That is why I explored that idea, that
15 is why I floated to the Solicitor, it didn't work in this
16 particular situation.

17 Q But my concern is, you didn't float it to Mr.
18 Paragon, did you?

19 A I did not discuss it with Mr. Paragon. And I know
20 you asked about me talking to Mr. Paragon several times.

21 Q Right.

22 A This was always a plea. I mean from early, early on
23 she did not want a trial. Our discussions were that,
24 these facts were egregious enough that this is the kind of
25 case you go to trial and lose and you get 40 or 50 years.

1 She didn't want to take that risk. And so my focus was
2 try to get charges dismissed, reduced, line up mitigation,
3 do whatever I could to try to get the best sentence that
4 we could get at a plea. As you know, I worked for the
5 Solicitor's office for 16 years before I went into private
6 practice. And there were many times where there were
7 victims in cases that I was handling to where the defense
8 attorney or a PI working for the defense attorney had
9 called the victim, and in many cases it just really makes
10 them angry and they don't understand why they are being
11 contacted by somebody representing the Defendant. It gets
12 them stirred up. From my perspective, the Solicitor's
13 office made it more difficult to work cases out because
14 the victims are now sort of, from their perspective,
15 re-victimized by me contacting. I don't think there was
16 anything to be gained by talking to him but the evidence
17 was overwhelming. And I was focused on trying to get the
18 best plea we could get. I just didn't want to get him
19 stirred up.

20 Q But my concern is, even if you are looking to
21 mitigate from the getgo, obviously you agree that one form
22 of mitigation would be to pay this guy some money for his
23 pain and suffering and restitution?

24 A If that would work and that is why I talked to the
25 Solicitor.

1 Q But you didn't talk to Mr. Paragon about it?

2 A I did not talk to Paragon about it.

3 Q And you didn't, sounds like you didn't explore
4 whether or not, if Ms. Anderson could throw, help throw
5 Mr. Lawson under the bus, you know, you didn't explore
6 that on the mitigation, did you?

7 A I just don't recall.

8 Q Just don't recall. But you agree that would be one
9 way for her to mitigate her losses, her damages, would be
10 to testify against the codefendant?

11 A Certainly.

12 MR. HENDERSON: And this trial docket, Your Honor, I
13 would make that into number 2, as the Applicant's number
14 2.

15 THE COURT: Any objection?

16 MR. VANSYCKEL: Your Honor, if we are only referring
17 to the trial docket, without objection. That is the
18 docket entitled Laurens County General Sessions Court, at
19 the top of the page?

20 MR. HENDERSON: That's correct, Your Honor, two-page
21 document.

22 MR. VANSYCKEL: Two or--

23 MR. HENDERSON: Two.

24 MR. VANSYCKEL: I have got, are you also including
25 the email connected to it. Without objection.

1 (Whereupon, Applicant's Exhibit 2 was admitted into
2 evidence.)

3 Q And the next document I am looking at, it is on the
4 upper right hand side is May 27, 2014?

5 A I see that.

6 Q It looks like that is some emails between you and the
7 Solicitor's office here in Laurens. It looks like you
8 emailed them on May the 22nd and you got a response back
9 on May 27th?

10 A Yes. It looks like I emailed, it says Dale, that is
11 Dale Scott who was a Deputy Solicitor about the trial
12 notice and about the fact I was lacking a number of pieces
13 of discovery. And it looks like the response is from
14 Walter, who would be Walter Bentley who is the Solicitor's
15 office investigator.

16 Q Right. So on May 27th, which by my calculations
17 would be 13 days prior to the scheduled trial, you are
18 still getting discovery?

19 A Correct.

20 Q And, again, you didn't ask for a continuance?

21 A I did not. I discussed with Erica that, you know,
22 there were certain grounds for a continuance. But, again,
23 you know, there was also the option of doing the plea
24 which ultimately she decided she wanted to do.

25 Q And in fact, some of this discovery you've still

1 never gotten?

2 A The DNA report.

3 Q The DNA.

4 A Right I put that on the record, we did not have that.

5 Q And I think that was the DNA based upon this
6 telephone cord, if I am not mistaken.

7 A The victim had bled every where. There were droplets
8 of blood out in the parking lot and the assumption would
9 be that the DNA would be the victim's.

10 Q I don't think anybody is disputing that the blood is
11 going to be Mr. Paragon's. I am talking there was, no
12 testing has ever come back from that phone cord of Mr.
13 Paragon on it?

14 A Not that I know of.

15 Q And, again, you would agree that is a major fact of
16 contention about what went on in that hotel room? He's
17 saying he got tied up and Erica is saying that just didn't
18 happen. I am over there trying to get the gun away from
19 these folks.

20 A Well, certainly his DNA was on the phone cord, that
21 would be damaging evidence.

22 Q To this day you can't tell His Honor what is on that
23 cord?

24 A I have no idea.

25 Q Don't have any clue. But it is fair to say that even

1 though you put it on the record when she plead, you didn't
2 have all of the discovery, some discovery that could have
3 been exculpatory, many exculpatory to the extent that Mr.
4 Paragon's DNA is not on it.

5 A Again, I don't know how much value the lack of that
6 evidence would have.

7 Q Mr. Paragon said, I got tied up. I got, you know,
8 kidnapped. She tied me up with a phone cord, Erica said
9 that didn't happen. I mean those are two real diversion
10 points. I mean you don't think that would have
11 exculpatory value at trial?

12 A The lack of DNA?

13 Q Absolutely.

14 A It would have something--

15 Q But you, to this day don't know what is on or not,
16 what is or is not on that cord, DNA wise?

17 A No.

18 MR. HENDERSON: Your Honor, these emails, I would
19 move these in as Applicant's number 3.

20 THE COURT: Any objection?

21 MR. VANSYCKEL: Without objection, Your Honor.

22 (Whereupon, Applicant's Exhibit 3 was admitted into
23 evidence.)

24 Q And the next document is upper right hand side, June
25 4th of 2014 which is a Wednesday I would represent to you.

1 It looks like that is an email from you to Solicitor Dale
2 Scott saying Erica will take the plea.

3 A Correct.

4 Q Between you getting the trial notice and this email
5 on the 4th, what conversations had you had with Erica and
6 or her mother about this, you know, this pleaing, trial,
7 continuance. What conversations had you had?

8 A It looks like on May the 22nd which I believe was the
9 same day that I had gotten the trial notice, that I called
10 her, notified her about the trial notice, discussed the
11 options regarding plea, trial, continuance, discussed
12 options with Judge Addy and Hocker. The fact that Judge
13 Early would be here in July. That is what I was
14 mentioning to you before about. I had a relationship with
15 Judge Addy. And I think Judge Hocker was brand new on the
16 bench. And I didn't just have good sense of knowing
17 either one of those other Judges, we talked about that.

18 Q Let me stop you right there. Hold that thought.
19 Talking about relationships. You practice out of Billy
20 Nicholson's office, don't you?

21 A I rent a space.

22 Q You rent a space. And he and Judge Early are
23 brother's-n-law's or former brother's-n-law's?

24 A They are, yes. I don't think, my office was at a
25 different location at this particular time. I was

1 actually on Maxwell Avenue when I represented Ms.
2 Anderson. I had known Judge Addy for 20 years.

3 Q But did you ever talk to Lawyer Nicholson about and
4 say, hey, I might need your assistance, I might want to
5 associate you to take you in front of, to go in front of
6 Judge Early. Did you have that conversation with them?

7 A No.

8 MR. VANSYCKEL: Objection, Your Honor, this line of
9 questioning is speculative and implies something improper.

10 THE COURT: Sustained. Let's move on.

11 Q So go back, I think you said you met with Erica on
12 May the 22nd?

13 A It says I called. I think I talked to her on the
14 phone. I met with her, according to my notes, on May
15 28th. It looks like we went over some of the additional
16 evidence that I had received. According to my notes I had
17 gotten some SLED reports on May 27th. I guess that was
18 the, the email that I had gotten from Walter Bentley, I
19 guess was included in some SLED reports. So I met with
20 her the next day on the 28th. It says discussed options.
21 I am assuming that's the same options to go to trial or
22 continuance. It looks I talked to her mother also on that
23 same day. Called her, called the client two days later on
24 the 30th. I talked to her the second time on the 30th and
25 asked her to meet me at the Court House on Tuesday, which

1 looks like would have been June the 3rd. It looks like I
2 conferenced the case with Judge Addy and then met with Ms.
3 Anderson and her mother. I think they actually met in
4 this conference room here in the back of the courtroom.
5 It looks like I met with her again later that day on June
6 3rd in my office and that was the point when she decided
7 that she wanted to do the plea. And then I had sent this
8 email on the 4th to the Solicitor indicating that she
9 wanted to take the offer.

10 Q And I believe the last document in that packet I
11 handed up to you is a copy of your notes, is that correct?

12 A It looks like you have got a, are you talking about
13 the very back?

14 Q The very back, the last document. If you unclip the
15 packet it might be easier to follow through because the
16 documents are stapled.

17 A It looks like, I see what you are saying.

18 Q I think these are the same notes you are reading
19 from, is that correct?

20 A Right, that is not the bounds of my notes but it is
21 the notes, it looks like May 22nd through--

22 Q --the plea.

23 A Through the plea, right.

24 Q And you agree those are accurate?

25 A Yes.

1 Q And I believe that is the last document in the stack.

2 A It is.

3 MR. HENDERSON: Your Honor, I would move that
4 document in as number 3, and again, that would be the last
5 document in the stack.

6 COURT REPORTER: That would be number 4.

7 MR. HENDERSON: Number 4.

8 THE COURT: Any objection?

9 MR. VANSYCKEL: Your Honor, we object to the
10 relevance of the notes themselves. Any explanation of the
11 notes can be best accomplished by having Mr. Hodges
12 explain them on the stand. However, just having pages and
13 pages of notes in, we don't believe is relevant at this
14 time.

15 THE COURT: Overruled, go ahead.

16 (Whereupon, Applicant's Exhibit 4 was admitted into
17 evidence.)

18 Q On the third page of your notes, under June 5th, I
19 assume this is before the guilty plea, the guilty plea was
20 on June the 5th of '14, correct?

21 A Yes.

22 Q You are taking contemporaneous notes, make sure I am
23 reading you verbatim, client upset because she does not
24 think she is guilty but is worried that she will get 40 to
25 50 years after a trial.

1 A That is my note, yes.

2 Q I mean, obviously she has got some concerns about the
3 lack of guilt?

4 A Let me explain what the full conversation was. She
5 was hung up on this theory that the State had that this
6 was premeditated. And, you know, basically because she
7 was saying, I didn't plan for this to happen, I didn't set
8 this in motion, I didn't go to this Waffle House to lure
9 this guy back to our motel room to be robbed. You know,
10 her position was, I didn't do what the State is saying I
11 did from their theory of the case. And so we had a
12 conversation about the fact that, you know, they didn't
13 have to prove premeditation, based on what she had told me
14 about her involvement. That that was sufficient to meet
15 the elements of the crime without an admission, that, you
16 know, that she did everything that the State was
17 theorizing. And that is why during the plea, if you read
18 the transcript, I am putting on the record what her
19 explanation of the versions events are and it is different
20 than what the Solicitor is saying about her, you know,
21 about this being premeditated. And, you know, part of
22 that was also for mitigation purposes to explain, you
23 know, that she didn't plan for any of this to happen. So
24 that was, that was part of that issue. I also explored,
25 we discussed the possibility of an Alford plea, actually

1 went and talked to Dale Scott and he was fine with, you
2 know, us doing an Alford plea. But, again, knowing Judge
3 Addy, and he does not give as much credit for a plea if
4 someone does it as an Alford as opposed to a guilty plea.
5 And Erica and I discussed the possibility of an Alford
6 plea and she ultimately understood and the distinction
7 between pleading to the elements of the offenses versus
8 agreeing with everything that the State said that was
9 their theory, you know, events and at that point decided
10 that she would enter a guilty plea.

11 Q Now, I understand that your concerns about Erica
12 being hung up on premeditation. I agree with you,
13 premeditation is not an element. But here, even in the
14 hotel room while this incident is going on, there is still
15 a great factual dispute about what has actually happened
16 or happening. Mainly, is he tied up with a cord. He
17 says, yes; she says, no. I mean, is she trying to rob
18 him. Is she trying to protect, get the gun out of his
19 hand. There is still a factual dispute, that is not a
20 premeditation issue. That is in the ongoing. You would
21 agree with me, wouldn't you?

22 A I mean, you had a situation where her boyfriend comes
23 out of the bathroom with a gun, she tells me that she gets
24 a knife, holds it to this guy's genitals, slashes his
25 throat and nearly amputates his thumb. The guy gets shot

1 several times by her boyfriend who is out in the parking
2 lot bleeding. And then they end up going, and these
3 charges got dismissed but end up carjacking and fleeing.
4 I mean, the facts were just really, really ugly and she
5 had told me they she had been involved in all of this.
6 They have a wealth of evidence against her. All of her
7 personal belongings are in there including information
8 with her ID and paper work with her name on it, they have
9 got her on video interacting with the victim. They have
10 got a videotaped confession from her, they got gunshot
11 residue on her hands. It was just an overwhelmingly
12 wealth of evidence against her and identity certainly was
13 not an issue.

14 Q Right, nobody is contesting that she was in the hotel
15 room, I don't think, nobody has ever raised that issue.

16 A So it came down to this decision that she had to make
17 about, does she take this plea or does she take the risk
18 of exploring what you are talking about, a trial. And,
19 you know, she never wanted to take that route because she
20 was worried about the risk of getting a really lengthy
21 sentence.

22 Q Now let me ask you this, I want to make sure I heard
23 you correctly. Didn't you say that Erica said she slashed
24 his throat, admitted that to you? I mean I know that is
25 the Government's theory of the case, Mr. Paragon's theory

1 of the case.

2 A She told me that she is the one that had a knife,
3 that she held it to his genitals and to his throat. And I
4 know the medical evidence indicated that he had a deep
5 laceration to his throat and also his thumb was partially
6 amputated. She indicated she was the one with the knife
7 and Mr. Lawson was the one with the gun.

8 Q And nobody has ever disputed that she picked up the
9 knife, did she, have they?

10 A That is what she indicated to me that she had.

11 Q Right. I understand. I mean, she has never disputed
12 that she picked up the knife, I think the dispute is about
13 why she picked the knife up. Is that fair to say?

14 A Again, she told me she got the knife and was trying
15 to get the guy to quit struggling over the codefendant's
16 gun.

17 Q Right. And the Government's theory was that she
18 picked up the knife to rob him, kidnap him.

19 A Again, pulling the knife on the victim to get him to
20 disengage from the codefendant who has got the gun, I
21 mean, I can certainly see a jury saying that is aiding and
22 abetting, what the codefendant is doing with the gun. I
23 don't see that as a self-defense situation especially when
24 Mr. Lawson's the one bringing on the difficulty by coming
25 out with a gun. I just don't think that would work out

1 for her in a trial. This was not going to go well at
2 trial.

3 Q Going back to this email, the one dated June 4th
4 2014, you told us, like your conversations between getting
5 notice of trial and the plea.

6 MR. HENDERSON: Your Honor, I would move that in as
7 Applicant's number 5.

8 THE COURT: Without objection?

9 MR. VANSYCKEL: Without objection, Your Honor.

10 (Whereupon, Applicant's Exhibit 5 admitted into
11 evidence.)

12 Q Mr. Hodges, I am looking at your, I guess you just,
13 the acknowledgment that you had and Erica signed on the
14 date of the plea, June 5th?

15 A Yes.

16 Q And really, I am looking at the last page.

17 A This is a form that I generated when I went into
18 private practice that just, I use when I go over people's
19 rights with them to make sure they understand what they
20 are doing.

21 Q And, again, at the same time, you know, she is
22 marking down, she is doing it freely and voluntarily. She
23 is also telling you she doesn't believe she is guilty?

24 A This was done, I believe, let me look at my notes.
25 This was done on June 5th which is about the same time

1 that we are having that conversation that you are talking
2 about with her being upset about, you know, not agreeing
3 with the State's version of events, talking about doing
4 the Alford plea versus guilty plea. And then ultimately
5 going over her rights and she indicates she is pleading
6 guilty of her own free will because she is guilty and that
7 she doesn't want a trial.

8 Q Right, and I understand that, I mean it is in her
9 handwriting. I don't think she is disputing that that is
10 her signature, that that is her marks on there. But at
11 the same time she is verbalizing to you, I am not guilty
12 of this.

13 A Well, not exactly. What she is saying is, she is not
14 guilty of what the State is saying she did. She didn't go
15 over to the Waffle House with the intention to lure this
16 guy over to be robbed. It was more of a spontaneous
17 situation when her boyfriend comes out of the bathroom
18 with a gun and she has denied, and then all of this sort
19 of spins out of control. It was a much more spontaneous
20 set of circumstances as opposed to a planned out set of
21 circumstances. And that is what her, that is where her
22 real issue was. You know, after I explained, she doesn't
23 have to admit that it was planned out, at the plea, that
24 is when it became acceptable to her, is my recollection.

25 MR. HENDERSON: This acknowledgment of rights, Your

1 Honor, I would move that in as Applicant's number 6.

2 MR. VANSYCKEL: Without objection.

3 THE COURT: Without objection.

4 (Whereupon, Applicant's Exhibit 6 was admitted into
5 evidence.)

6 Q The next document I have given to you is a portion of
7 the trial transcript. And, again, this is the portion
8 where the Solicitor is stating or giving the recitation of
9 the facts that the Government would rely on at trial, if
10 it went to trial.

11 A Correct.

12 Q And I am looking down on line 21, they are talking
13 about tieing him up. And, again, you didn't ever object
14 to that, did you. I mean, in your recitation of facts
15 because Erica had said that just didn't happen. And,
16 again, there is no DNA, this cord I assume has never been
17 tested for DNA or the results are out there some place,
18 something to back her story up.

19 A I mean, the State had evidence that they reduced.
20 There was sufficient facts the State could produce to find
21 her guilty of that charge. The victim said that it
22 happened. They had no evidence to convict her of that
23 charge.

24 Q You agree that there was an altercation in the hotel
25 room, the gun got fired at least twice.

1 A Sure. Had this case been tried there could have been
2 alternate theories of how this thing played out to the
3 jury. Offered explanations that the phone cord got jerked
4 out of the wall because there was a fight going on versus
5 some intentional. Again, she didn't want a trial, she
6 wanted to do a plea.

7 Q And, again, I am looking and going through the
8 State's recitation of the facts, like on page 11 where,
9 again, the issue is that she brought, sounds like she is
10 propositioning him for sex. Whereas again, Erica is
11 adamant that he's the one that initiated a sexual
12 encounter or tried to initiate a sexual encounter.

13 A If I remember correctly, I talked about that. I laid
14 out to the Court, basically, her version of what had
15 happened, explained that it was, while she agreed that she
16 was guilty of the offense that she was pleading to, that
17 her perspective on things had happened very different than
18 what the State is presenting.

19 Q And, again, they are talking about the State's
20 recitation goes into Erica talking off some of her
21 clothes. And, again, she is adamant that that never
22 happened.

23 A Right.

24 Q And, again, there is this talk about the phone cord,
25 on page 12 at the top, ripped the phone cord out of the

1 wall and wrap him up with the cord, tie him up. And,
2 again, that's greatly disputed. I mean, again, that would
3 be a basis for the kidnapping, is that fair to say, you
4 tie somebody up?

5 A That certainly would be one basis for it. I don't
6 think it would, I don't think that fact alone has to stay
7 in order to establish kidnapping.

8 Q And he is saying Ms. Anderson said, kill him?

9 A Which is the expressed malice.

10 Q I mean, did she ever tell you that she wanted him
11 dead?

12 A She never told me.

13 Q That is a great dispute about what was going on in
14 that hotel room, is that fair to say?

15 A I would agree with you that what her version of the
16 events were, were different than what the victim said
17 happened.

18 Q So, There is no physical evidence or DNA evidence
19 that supports his story over her story?

20 MR. VANSYCKEL: Your Honor, objection. This has been
21 asked and answered numerous times.

22 THE COURT: We are not retrying the case.

23 MR. HENDERSON: I understand.

24 THE COURT: We are here on ineffective assistance of
25 counsel.

1 MR. HENDERSON: Okay. And, Your Honor, that portion
2 of the transcript I would move in as Applicant's 7.

3 THE COURT: Without objection?

4 MR. VANSYCKEL: Without objection, Your Honor.

5 (Whereupon, Applicant's Exhibit 7 was admitted into
6 evidence.)

7 Q And this next packet of stuff, again, these are some
8 of your other notes, is that correct to say?

9 A Are you looking at the ones that has got the drawing
10 on the first page?

11 Q Correct, yes. It has got the drawing in the middle
12 of the, it has got an 8 1/2 x 14 sheet.

13 A Yes. These, I believe, are the notes that I took in
14 talking with her. I think I had, sort of an initial
15 meeting with her, we just got some background information
16 and then I had a much longer meeting with her. Here we
17 go, on March 25th, my note says met with client for about
18 two hours, went over background. I believe these are the
19 notes from that particular meeting on March 25th.

20 Q And, again, on this first page of your notes, you are
21 talking about, basically all of their worldly possessions
22 are in this hotel room or Mr. Lawson's.

23 A Yes, it is my understanding from talking to her that
24 some friend of their's had dropped them off and they
25 didn't have any transportation. This person who was

1 suppose to be picking them up early the next morning. So
2 basically they were stuck there and had all of their
3 worldly possessions with them which is part of what I
4 argued to the Court during the plea, that it doesn't make
5 any sense at all that this was a planned out robbery when
6 they had no means of transportation and nothing, all of
7 their stuff was in this motel room.

8 Q ID's and their mail.

9 A Right, it doesn't make any sense that this was a
10 premeditated robbery, it made much more sense what she
11 said, that this is just a spur of the moment that spun out
12 of control. And that is what I presented to the Court.

13 Q And also on the second page of your notes, that Erica
14 never told you there was a plan or a discussion about a
15 robbery, did she?

16 MR. VANSYCKEL: Objection, Your Honor, this is
17 cumulative and irrelevant.

18 MR. HENDERSON: I don't think I have asked that
19 question.

20 THE COURT: Overruled, go ahead.

21 Q I will repeat it. Did Erica ever tell you that there
22 was a robbery planned?

23 A She always adamantly denied that anything was
24 planned.

25 Q Right.

1 A It just, he came out of the bathroom with a gun and
2 sort of set this whole thing in motion and it went way
3 down hill from there.

4 Q According to Erica, again, that she is telling you
5 that this guy propositioned her and she told him, not
6 interested.

7 A Right. She said that they, when he gave her this
8 ride from the Waffle House to the motel room that he made
9 some comment about that he had been looking all night for
10 a girlfriend or something like that. She told him he had
11 the wrong idea. That is when she changed the conversation
12 talking about the snake that she had. And I guess that is
13 how he knew that she had a snake in the room. Then I
14 think that she told him when he came back down to the room
15 and took his pants off, she was like, whoa, you got the
16 wrong idea.

17 THE COURT: I think we are getting far afield from
18 your amended application. I am not sure and can't tell
19 where it is going other than what I am hearing are fairly
20 typical discussions with your client and realizing that
21 the State has something else to say. There is no question
22 that, I can understand that. I wondered if you can focus
23 on your allegations.

24 MR. HENDERSON: I will move it along, Your Honor. I
25 am about to wind up. Your Honor, Mr. Hodges notes, I

1 would like to move in as Applicant's 8.

2 THE COURT: Without objection?

3 MR. VANSYCKEL: Without objection, Your Honor.

4 THE COURT: Just consider all of your evidence as
5 being admitted.

6 MR. HENDERSON: Okay, and that last one would be
7 number 9 and actually this is Mr. Hodges soliloquy to the
8 Court, to the Court in mitigation during the plea.

9 (Whereupon, Applicant's Exhibits 8 and 9 were
10 admitted into evidence.)

11 Q And to wrap things up, let me ask you, did you spend
12 any money on any type of investigation, did you hire a
13 private investigator, did you do anything along those
14 lines?

15 A I did not hire a private investigator, no. Again,
16 very, very early on with my conversations with her, this
17 was a plea. Had she said that she wanted a trial I would
18 have done things differently, I would have gone different
19 directions. But she wanted a plea and so that was really
20 my focus, was trying to gather the evidence, see what they
21 had and work the best deal that I could out for her.

22 Q But you would agree with me, even if you are planning
23 for a trial, there is still a lot of investigation you
24 need to do, isn't that fair to say?

25 A Well, as you see, I was still getting discovery, the

1 case was in March and I am still getting discovery right
2 up to the point where we are doing the plea. Which is
3 what we discussed, look, you know, if you want a trial, if
4 you want to put this thing off, I am sure we can get it
5 continued. I just got involved in the case, I am just
6 getting all of this evidence. But here is this offer that
7 you got, here is what this particular Judge is saying he
8 will do. Your codefendant is willing to take the heat off
9 of you during the plea and she ultimately decided to go
10 ahead and do the plea as opposed to moving for a
11 continuance.

12 Q Let me ask you, in anticipation of the Court date or
13 the trial date, had you issued any trial subpoenas, I am
14 just curious. I mean, did you do anything along those
15 lines? Had you gotten notice of being, say first up on
16 that second week?

17 A I had not.

18 MR. HENDERSON: One moment, please, Your Honor.
19 Nothing further, Your Honor.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 By Mr. VanSyckel:

23 Q Mr. Hodges, the decision to treat this as a plea was
24 at your client's wishes?

25 A Yes. Looking back at my notes, bear with me one

1 second. I had met with her, it looks like a number of
2 times before this particular meeting, but I met with her
3 on April 29th. My notes say, watched video, she had given
4 a videotaped confession, watched that together. Discussed
5 the strategy, the State used the video to get her version
6 into evidence without her having to testify. I will
7 cross-examine, save for argument. Strategy decision for
8 later if there is a trial. And my last note, she agreed
9 it would be better to work the case out. And I had
10 several conversations with her thereafter where there was
11 this discussion of the way that the evidence against her
12 and the potential penalties if she were to go to trial and
13 lose. And she always said, I don't want to take that
14 risk, I want to work out a plea.

15 Q Even though Ms. Anderson had a different version of
16 events maybe than Mr. Paragon, were there things about her
17 statement that you believe the jury would see as making
18 her less credible?

19 A Well, again, I thought, I thought the evidence
20 against her was overwhelming.

21 Q Let me ask you this, did the, if the drug use had
22 come in, if the prior drug use had come in that evening,
23 do you believe that the jury would have held, could have
24 held that against Ms. Anderson?

25 A Certainly. I mean the surrounding circumstances of

1 what was going on in that motel room really didn't have
2 anything to do with the allegations of the crime. It
3 didn't look good, I don't think the jury would have looked
4 favorably upon her because of those things.

5 Q Do you think that her flight would have been an
6 indicator, possible indicator of guilt to the jury?

7 A Certainly.

8 Q Okay. And do you believe that the lack of contacting
9 911 could have been an attack on her statement or on her
10 version of the facts?

11 A You say the fact that she didn't contact 911 to
12 notify them?

13 Q Yes.

14 A Certainly, the Solicitor could have made that
15 argument.

16 Q And were you concerned that even if the State's
17 position, let me rephrase it. Were you concerned that
18 even if Ms. Anderson had not been acting as the honey-pot,
19 (phonetic), she could still have been found guilty in her
20 theory of accomplice liability?

21 A Certainly. Ms. Anderson indicated she didn't have a
22 gun but her codefendant did. The case law of the hand of
23 one is the hand of all, certainly she would have been at
24 risk for his actions.

25 Q So you believe based on her own statements to you,

1 based on her version of events that she still had a high
2 likelihood of being convicted?

3 A Absolutely.

4 Q Okay. So regardless of the difference in the stories
5 there was still an overwhelming amount of evidence against
6 her?

7 A Yes. I mean they had, she had gunshot residue on her
8 hands, the victim picked her out of a photo lineup. They
9 had the Waffle House video where she is on video
10 interacting with the victim. They had a video tape
11 confession from her. It was just an overwhelming amount
12 of evidence.

13 Q Let me ask you this, did you believe there was any
14 further investigation that you needed to do based on what
15 Ms. Anderson had told you?

16 A No, I did not.

17 Q Okay. And so there was no investigation that you
18 knew that you should do, correct?

19 A No, I didn't know of anything that was going to
20 better the situation. She had already admitted that she
21 was involved and I knew the evidence was weighing against
22 her. It was a situation where she couldn't, she was going
23 to spend part of the rest of her life in prison. And my
24 advice was to get the best plea that she could.

25 Q No further questions.

1 THE COURT: Redirect?

2 MR. HENDERSON: Very briefly, Your Honor.

3 REDIRECT EXAMINATION

4 By Mr. Henderson:

5 Q Did you tell Erica that even taking the story or the
6 facts in the light most favorable to her that you still
7 thought there was a high likelihood of her being
8 convicted?

9 A Sure I did. The discussions all along were, if she
10 went to trial I thought she was going to lose and she was
11 going to lose big. I remember a case when I was in the
12 Solicitor's office that was a very similar situation. The
13 Defendant's name was Tammy Dixon who was, similar kind of
14 allegations where she refused to kind, inveigling her way
15 in to get some codefendants in to rob the guy. She went
16 to trial and lost and she is doing 45 years. That is the
17 sort of thing that was in the back of my mind, was trying
18 to compare this to other cases that I had that were
19 similar. And I really felt like that was the kind of
20 category she was in if she went to trial and lost.

21 Q Again, just a couple of things you said there. You
22 talk about your overwhelming evidence. The gunshot, I
23 don't think anybody is disputing that she had gunshot
24 residue on her. She got shot, actually it grazed her
25 hand, in your records it talks about the nurse actually

1 cleaning it up. Is that fair to say?

2 A Right. But it is also evidence that she is right
3 there in the middle of this struggle where the victim gets
4 shot.

5 Q I don't think, she wasn't denying that, was she?

6 A No.

7 Q She told you why she was in the middle of why all of
8 this was going on. Is that fair to say?

9 A Right but I don't think that gets her out of being
10 found guilty is the problem.

11 Q And you said she got picked out of a lineup. Again,
12 she never disputed that she was there, had she, did she?

13 A No.

14 Q Okay. So again, I am not sure how that is
15 overwhelming evidence of guilt when she has never denied
16 that that was her there.

17 A I guess when you have got a victim who is shot, had
18 his throat cut and there is evidence that she was right
19 there in the middle of it, it seems pretty overwhelming to
20 me.

21 Q You said this Waffle House video, you can't hear
22 anything, you just see it.

23 A Right.

24 MR. VANSYCKEL: Objection, Your Honor, not covering
25 anything new.

1 MR. HENDERSON: I am about to wrap it up, Your Honor.

2 THE COURT: It is not that you are not restricted to
3 anything new, it is just, it is repetitive. I mean, I
4 have heard it.

5 Q Again, you just didn't do any further investigation,
6 you didn't think there was a need to?

7 A I did not.

8 Q I don't have anything further.

9 THE COURT: You may come down, thank you very much.
10 Can this witness be excused?

11 MR. HENDERSON: Yes sir, Your Honor.

12 MR. VANSYCKEL: Without objection from the State,
13 Your Honor.

14 THE COURT: Next witness.

15 MR. HENDERSON: Your Honor, I call Erica Anderson.

16 ERICA ANDERSON, being
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Henderson:

20 Q Erica, please state your name for the record.

21 A Erica Anderson.

22 Q Where are you housed at, Erica.

23 A I am sorry?

24 Q What prison are you at?

25 A Lee Correctional.

1 Q Here in Greenwood?

2 A In Greenwood.

3 Q Now you filed a pro se PCR application, didn't you?

4 A Yes, sir.

5 Q And I will go through what you alleged in your pro se
6 application. You said ineffective counsel?

7 A Yes, sir.

8 Q You said new evidence?

9 A Yes, sir.

10 Q You said failure to review all evidence?

11 A Yes, sir.

12 Q And then you said, you asked for a reduced sentence
13 or reconsideration and possible parole?

14 A Yes, sir.

15 Q Now you understand that the PCR Judge can't grant you
16 that relief?

17 A Yes, sir.

18 Q And in your amended application, you incorporated
19 those allegations and also, I just want to read that you
20 are claiming that Mr. Hodges was ineffective because he
21 failed to interview the victim and other witnesses? Is
22 that correct?

23 A Yes, sir.

24 Q Was not prepared for trial?

25 A Yes, sir.

1 Q And failed to introduce significant material,
2 mitigating facts at the guilty plea hearing?

3 A Yes, sir.

4 Q You also alleges, allege he was ineffective because
5 he failed to attempt to make restitution to the victim
6 prior to the guilty plea hearing?

7 A Yes, sir.

8 Q Okay. And you are also alleging that he was
9 ineffective because he failed to ask for a continuance?

10 A Yes, sir.

11 Q Now, Erica, I want you, you know your story better
12 than anyone. I want you to talk real slow and tell His
13 Honor exactly what happened during the course of this
14 representation because, if I am not mistaken, you hired
15 Mr. Hodges in March of '14?

16 A Yes, sir.

17 Q Plead guilty in early June of '14?

18 A Yes, sir.

19 Q So he is actually your attorney for less than three
20 months?

21 A Yes, sir.

22 Q Walk the Court through the history there, if you
23 will, please. And talk slow and clearly so that Madam
24 Court Reporter can take it down.

25 A It took me like two and a half years almost to get a

1 bond set on these charges. And February 20th my mother
2 posted bond, \$150,000.00 dollar surety bond. And I was
3 released and I had to wear an ankle monitor. I went from
4 there to the Foundation House in Greenwood trying to seek
5 drug treatment while I was out on bond waiting to go back
6 to court. And Chip Howe wasn't doing a lot for me at the
7 time. So, we discussed hiring a paid attorney.

8 Q Let me stop you right there. To the best of your
9 knowledge, did Mr. Howe ever talk to Mr. Paragon?

10 A No, sir.

11 Q Or do you know?

12 A I have no idea.

13 Q You have no idea. Did he ever tell you he did?

14 A No, sir.

15 Q Did Mr. Howe tell you he talked to any witnesses?

16 A No, sir.

17 Q Did Mr. Howe tell you he got a private investigator
18 to go out here and talk to people at the Waffle House and
19 the hotel?

20 A No, sir.

21 Q Okay. Continue with your story.

22 A So, I was, part of the people that owned the
23 Foundation House, one of their names is Brian Burton and
24 he suggested Mr. Hodges to my mother. So we went and had
25 a meeting with him and discussed, you know, my case and

1 everything and the possibility of what can you do for me.
2 So my mother, I think then wrote him a \$10,000.00 check
3 and I was under the, and I made it very clear that I was
4 not willing to take a plea for 20 years or something like
5 that. That I would take it to trial, you know. In fact
6 it was going to be a substantial amount of time. And like
7 I said, it wasn't long before I had taken that at court
8 and when I asked about the continuance he said, if I asked
9 for a continuance I would be going the following month to
10 a, "Judge", that would bury me. So, did you ask me a
11 question or something?

12 Q Right, I am curious. You said Mr. Hodges told you
13 what he could do for you. Describe to the Court what your
14 conversations were. I mean, from day one Mr. Hodges'
15 position was that you wanted to plead guilty. Is that
16 correct?

17 A That, I assume that that, he was assuming I wanted to
18 do but that was not at all my intention was to plead
19 guilty from day one. I would had much rather had plead
20 guilty if it would have been a reasonable plea. Just to
21 say, faced from having to go to court and having to put my
22 family through this. You know, the money situation and
23 stuff like that. But, you know, if I would have known
24 ahead of time that I was going to be sentenced to 15 years
25 of my life I wouldn't have taken the plea. I was under

1 the impression, he told me when I came in here to take my
2 plea, he said that he had talked to the Judge and the
3 Judge said 15 to 20. And I said, well I'll take it to
4 trial. And he said, but the fact that I had Mr. Burton at
5 the Foundation House coming in here to speak for me on my
6 behalf, that that would help me out and he would do even
7 better. So I was probably looking at around 12 years is
8 what I was told. And I said, I don't, I said, you know, I
9 said I can do 12 way better than I can do 15 or 20. And
10 that is what I was led to believe what was going to
11 happen. And the fact is when I came in to the courtroom
12 to take my plea, before me and him had discussed it again,
13 before I signed the paper work out in the office out
14 there. And I told him that I was not guilty of what I was
15 being charged with. And I was crying with my mother
16 present and point blank asked him if he wanted me to lie
17 to the Judge and he told me, yes. In fact he did want me
18 to lie to the Judge. So, I didn't know what to do but at
19 this point come in and take the plea because I felt like,
20 if it would have been taken to trial at this point that he
21 would have just threw me under the bus. He wasn't, I felt
22 like when he got his check and he got his paper work that
23 was it. He didn't do anything to go out of his way to
24 help me at all.

25 Q Let me ask you. You talk about hiring Mr. Hodges,

1 paying him a retainer fee, did you ever give him any money
2 for any type of investigation? Did he ever ask for
3 anything about that?

4 A No, sir.

5 Q Okay. So no PI?

6 A No, sir.

7 Q And I think his testimony was that you were the one
8 that brought up possibly tracking down Mr. Paragon and
9 paying some restitution?

10 A Yes, sir.

11 Q Did he not suggest that to you?

12 A No, sir. It was my idea. And he told me that, I was
13 told, Robert Craig, the man that Mr. Paragon had came down
14 to visit on his hunting trip.

15 Q His hunting buddy?

16 A Right. His friends with Jason Lawson's family.

17 Q Mr. Lawson is your codefendant?

18 A Mr. Lawson is my codefendant. Well, his mother,
19 Sheila Seymore, went to Robert, Ronnie Craig's house and
20 talked to him in person about this and she explained to me
21 that he had told her that Mr. Paragon was nothing but
22 money hungry. And that that is all he was really after.
23 And that he wasn't a very good person and that they had a
24 big fallen out.

25 Q Mr. Craig is saying that Mr. Paragon has got some

1 credibility issues?

2 A Yes, sir.

3 Q Did Mr. Hodges followed up on that?

4 A He did not.

5 Q He did not. And you have seen the discovery where it
6 looks like Mr. Paragon is married or at least has a
7 significant other?

8 A Yes, sir. And I saw the photos.

9 Q Right, has her name on his vehicle?

10 A Yes, sir.

11 Q So y'all discussed, it sounds like, that he had an
12 incentive to kind of embellish the story to take the heat
13 off of himself?

14 A Yes, sir.

15 Q I mean, he had offered from his wife or girlfriend is
16 what I am getting at.

17 A Right.

18 Q Did Mr. Hodges ever testify with you about, talk to
19 you about testifying against Mr. Lawson?

20 A No, sir.

21 Q You would agree that could have possibly been some
22 mitigation or some help for you?

23 A Yes, sir. And also the fact that Mr. Lawson had
24 said, like months and months and months ago, well, a
25 couple of years ago now, that he would take the charges

1 from me. And Mr. Hodges never discussed this with his
2 lawyer until right before we took the plea. And that was
3 when he said that he would come in and tell the Judge to
4 take the heat off of me or whatever. But he had never
5 mentioned to him prior to the date of the plea.

6 Q So there, it doesn't sound like there was a lot of
7 plea preparation?

8 A No, sir.

9 Q Looks like you met with Mr. Hodges on the day of this
10 plea to sign this wavier form?

11 A I think I saw him one time before that briefly in his
12 office and we talked about it and was when my mother was
13 with me that day too. But that was it.

14 Q Without beating a dead horse, do you agree that the
15 facts as related by Mr. Paragon are significantly
16 different than the facts you have related all along?

17 A Absolutely.

18 Q No doubt about that?

19 A Yes, sir.

20 Q And on the day of your plea you are still telling Mr.
21 Hodges I am not guilty of this?

22 A Yes, sir. May I speak?

23 Q Yes.

24 A We were charged with kidnapping, attempted murder and
25 armed robbery and possession of a weapon. You know, the

1 man came to my room, I didn't invite him, I didn't tie him
2 up. And like you had said before, you know, about the
3 phone cord, if that would be taken into evidence or
4 whatnot. The reason the phone cord was taken out of the
5 wall, and you know, I hate to say this about my character,
6 but it was drug use related. I assume he saw the phone
7 cord laying in the floor and made his own assumption. I
8 don't know what he did. But he was never tied up. There
9 was never anything taken from him. So I don't understand
10 how he got charged with armed robbery.

11 Q That is what I was going to ask you, did y'all steal
12 anything from him?

13 A No, nothing was ever taken from this man. Nothing
14 was found of his on either one of us.

15 Q Do you believe that Mr. Hodges was ineffective in his
16 representation of you?

17 A Yes, sir. I believe that he thought I was guilty
18 from day one and just didn't want to put any time and
19 effort into it.

20 Q And when you, and would you have gladly taken this
21 case to trial?

22 A Not with him. With another attorney, yes.

23 Q I am asking with any attorney, would you have gladly
24 taken this case to trial?

25 A Yes, sir.

1 Q You understand if His Honor grants you a new trial,
2 you are asking for a new trial?

3 A Yes, sir.

4 Q You understand that your sworn testimony could be
5 used against you?

6 A Yes, sir.

7 Q At a subsequent proceeding?

8 A Yes, sir.

9 Q You understand that?

10 A Yes, sir.

11 Q We have discussed that?

12 A Yes, sir.

13 Q You are still asking His Honor for a new trial?

14 A Yes, sir.

15 Q Do you think there is a reasonable likelihood that if
16 this had gone to trial or a jury would see things your
17 way?

18 A I do. I don't feel like Mr. Paragon would have even
19 been present in the courtroom that day.

20 Q I think the talk was that he had bought a plane
21 ticket to be down here that Monday for trial?

22 A Correct.

23 Q Did anybody ever see that plane ticket?

24 A No, sir.

25 Q Do you know if Mr. Hodges ever asked the Solicitor to

1 confirm that he was actually coming down Monday?

2 A No, sir.

3 Q You don't have any proof that Mr. Paragon was coming
4 here?

5 A No, sir.

6 Q Okay, at all?

7 A No, sir. I was told by Mr. Craig, Sheila who had
8 spoken to Mr. Craig, that he didn't want to have anything
9 to do with the whole thing. So this was hearsay, I
10 understand that.

11 Q Do you believe that Mr. Hodges should have talked to
12 all of these people?

13 A I do. I think it would have made a big difference in
14 the decision of taking a plea or going to trial.

15 Q Talked about restitution with Mr. Paragon?

16 A That as well, yes sir.

17 Q Just make some effort to find Mr. Paragon?

18 A Correct.

19 Q It doesn't sound like he made any effort.

20 A No and I had made a statement that I wish that he
21 would get in touch with him, to speak with him directly
22 about restitution or if he had intentions on showing up in
23 court. He told me that the Solicitor, I guess who he
24 spoke to said no. But the Solicitor wanted me to go to
25 court, he wasn't going to tell me that the victim wanted

1 money especially when the victim wouldn't even have
2 anything to do with the whole situation.

3 Q And you understand now that the solicitor doesn't
4 control, control who your lawyer talks to?

5 A Yeah, I was not aware of that.

6 Q You know that now?

7 A I know that now.

8 Q And you believe that Mr. Hodges should have done some
9 more efforts on mitigation?

10 A Correct. I did not know that he could directly
11 contact my victim.

12 Q Anything else you want to tell His Honor, Erica, now
13 is your time.

14 A I am not saying that things that happened, you know,
15 were fair or were right but I never hurt anybody on
16 purpose, I never robbed anybody, I never tied anybody up.
17 And unfortunately when Jason took things in his own hands
18 with the gun, which was fired twice. The first shot
19 grazed my hand, the second shot did hit Mr. Paragon in the
20 shoulder. But, he was never shot again after that. The
21 witnesses that wrote statements can verify that there were
22 two shots fired. When we went to court that day, and he
23 was supposedly shot, the Solicitor said he was supposedly
24 shot like two or three times in the back and all kind of
25 stuff. So the story kept changing like every time I went

1 to court for a different reason. It was like even harsher
2 than it was before. And I just wish that they would have
3 let Jason Lawson take a lot of this because a lot of it
4 wouldn't have happened, like he said, if he would have
5 been responsible in the first place. I am sorry for Mr.
6 Paragon, but at the same time he was trying to violate me
7 and Jason just wouldn't have it. I hope I have said what
8 I needed to say. I hope everybody understands where I am
9 coming from.

10 Q I don't have any more direct.

11 THE COURT: Any cross-examination?

12 MR. VANSYCKEL: Your Honor, the State has none.

13 THE COURT: You may come down. Anything further?

14 MR. HENDERSON: No sir, Your Honor. I think you know
15 our position all too well.

16 MR. VANSYCKEL: Your Honor, the State is not calling
17 any witnesses.

18 THE COURT: That will conclude this hearing. I will
19 expect post orders in thirty days.

20 MR. HENDERSON: Before, Your Honor, I was wanting to
21 get a copy of this.

22 THE COURT: Thirty days after you receive the
23 transcript.

24 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

25

1 CERTIFICATE OF REPORTER

2
3
4 State of South Carolina)
5 County of Newberry)
6
7

8 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Laurens, South
14 Carolina on the 7th day of June, 2017.

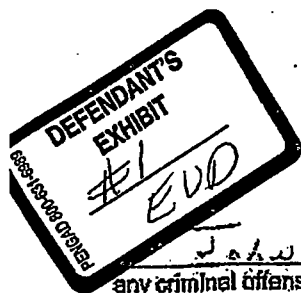
15 I do further certify that I am neither of kin,
16 counsel nor interest to any party hereto.
17

18 November 27, 2017
19

20 *Joy Holston*
21

22 Joy E. Holston, Court Reporter

23 My Commission expires: May 2, 2026
24
25



Laurens County Sheriff's Office
VOLUNTARY STATEMENT
(NOT UNDER ARREST)

PAGE NO. ____ OF ____ PAGES

I, John Paragon, am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to Det. Keith McIntosh. I understand I am free to walk away without saying anything, and I volunteer the following information of my own free will, for whatever purposes it may serve.

I am 50 years of age, and I live at _____

I can cannot read and write and completed the 18 grade in school. DOB: _____

I let Keith McIntosh write statement for Mr. Paragon.
I was staying at the Traveler's Inn on Hwy 56 W, Clinton SC. I went to waffle house about 5:15-5:20 AM for breakfast. I was approached by a white female at the waffle house who asked me if I was from here and I said yes. When I left the waffle house she followed me out. She asked for a ride back to the motel which was the same case, the victim was staying out. I gave her a ride to the motel. Then she made the comment to me that she needed to go to her room to use the bathroom which was room #12. I went to my room (48) and a few minutes later she called my room and ask if I wanted to come over. I left my room and went to her room. Once I was in room we talked about her snake. She said let's get on with this. She wanted me to take my clothes off but I told her no and for her to take her clothes off. We both took our shirts off, I sat on the bed and she pulled my pants off. At this a man came out of the bathroom with a flashlight shining it in my eyes. He told me to lay back on the bed saying don't look at me. The ^{Paragon} ripped the phone cord out of the wall. She attempted to tie me up with the cord. I then turned around and started fighting with the male. I tried to get out of the room. The door was locked. Once at the door I was assaulted by both subjects. I remember two shots being fired. I felt one shot - hit me. The male had the gun. The female had the knife and she cut my throat. I tried to grab the knife with my right hand cutting my thumb. The female kept telling the male to shoot me. I was able to get out of the room and ran for help. Police and EMS showed up to help me.

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

This statement was completed at 1:00 P. M. on the 16 day of December, 2011.

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS _____ DAY OF _____, 20____

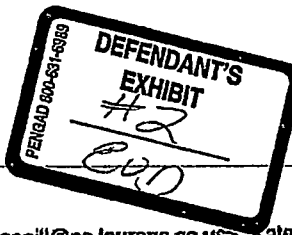
+ John Paragon
Signature of person giving voluntary statement

WITNESS: Det. Keith McIntosh

WITNESS: Sergeant Chuck Sgt.

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: _____

I certify that I have been given a copy of this statement consisting of _____ pages.



May 22, 2014 9:58 AM

Warren Mowry <wmowry@greenwoodsc.gov>

To: Chip Howe <chhowe@bellsouth.net>, Chelsea McNeill <cmcneill@co.laurens.sc.us>, Kate Anderson <kanderson@co.laurens.sc.us>, fredspivey@gmail.com, Eli Wiygul <eli.wiygul@gmail.com>, Andrew Hodges <ahodges@hodes-law-firm.com>, dfarnsworthlaw@att.net

Cc: Dale Scott <dscott@greenwoodso.gov>, Ruston Neely <rneely@greenwoodso.gov>, mboykin@greenwoodsc.gov

June 2014 Trial Docket

1 Attachment, 25 KB

Attached is the proposed trial docket for the June terms of General Sessions Court in Laurens County. If you are receiving this message, you have a case slated for trial.

June 2014 Trial Docket (25 KB)

LAURENS COUNTY GENERAL SESSIONS COURT
June Trial Docket – June 2 and June 9 Terms

The cases listed below are scheduled for trial during the upcoming weeks of General Sessions Court in Laurens County. The order in which they are listed is the order they will be called (subject to change, as necessary). Cases not reached during the first week will automatically roll to the bottom of the docket for the second week.

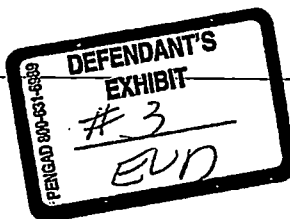
WEEK 1

<u>Defendant</u>	<u>Prosecutor</u>	<u>Charge</u>	<u>Defense Counsel</u>
Roydrelicious Irby	CDS	Burglary	Chip Howe
Marcus Anderson	WM	Drugs	Fletcher Smith
Samuel Gary	MB	Dist/Crack	Kate Kendall
Houston Motes	WM	Manu/Meth	Fred Spivey
Alice Holland	RN	Pointing a Firearm	Chelsea McNeill

WEEK 2

<u>Defendant</u>	<u>Prosecutor</u>	<u>Charge</u>	<u>Defense Counsel</u>
Jason Lawson/ Erica Anderson	CDS	Kidnapping, Att'd Murder, etc.	Dan Farnsworth Andrew Hodges
Stanley Reeder	MB	Burglary	Chip Howe
Maurice Odom	WM	Burglary/Larceny	Eli Wiygul
Sandra Shockley	RN	Drugs	Kate Kendall
Antonio Hill	WM	Pointing a Firearm	Chelsea McNeill

Walter Bentley <wbentley@greenwoodsc.gov>
 To: Andrew Hodges <ahodges@hodge-law-firm.com>
 Re: State v. Erica Anderson



May 27, 2014 11:40 AM

1 Attachment, 1.6 MB

Andrew

Here is the waiver form for your client. Also I went over to the Sheriff's Office and went through their file. I attached a CAD report, motel receipts and some chain stuff I found that I wasn't sure if you had or not. I didn't see the thing I sent you in our file so I sent them also in case you didn't already have them. I will be getting the medical records today and will email them as soon as there in hand.

Thanks
 Walter

On Tue, May 27, 2014 at 8:48 AM, Walter Bentley <wbentley@greenwoodsc.gov> wrote:
 Andrew

Here are the SLED reports for Anderson/Lawson. I'm working on getting the other things you requested and should have them shortly.

Thanks
 Walter

On Thu, May 22, 2014 at 10:50 AM, Andrew Hodges <ahodges@hodge-law-firm.com> wrote:
 Dale -

This is a follow-up to our discussion about the trial notice on Erica Anderson for the week of June 9. As we discussed on the phone, I am still lacking discovery on the case as follows:

- SLED GSR report
- SLED firearms report
- SLED DNA report
- My client's waiver of rights
- Paragon's medical/EMS records
- Photos of the victim's injuries, if any

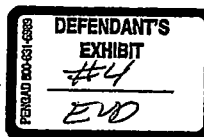
Also, I have the indigent defense contract in Abbeville County to represent indigent parents in DSS and other abuse/neglect type cases. I have a final hearing on a termination of parental rights scheduled for the afternoon of June 10. That case involves Heather Stone representing the Plaintiff and Josh Nasrollahi as the GAL. DSS court cases prosecuted by Robert Cone are scheduled for the afternoon of June 11. I have two merits hearings scheduled that afternoon. Family court is scheduled fairly infrequently in Abbeville so it would be ideal if those hearings did not have to be rescheduled. The two hearings for June 11 have already been rescheduled once - they were on the docket for April 9 but the judge had to cancel court.

I would like to talk to you more about attempting to resolve the case short of trial. Please let me know what you would be willing to do regarding charge reduction or dismissal if she were willing to enter a plea. Please also let me know if anything can be done to accommodate my scheduling conflicts.

Best regards,

Andrew Hodges
 The Hodges Law Firm, LLC
ahodges@hodge-law-firm.com
 tel 864.538.4114
 fax 864.538.4226

Scanner 20 .pdf (1.5 MB)



5/22/14 called client. Notified about trial notice. Discussed options re plea, trial, continuance. Discussed options of Judge Adley, Hocken, fact that Early will be here in July.

6/27/14 reviewed SLED reports

5/28/14 spoken w/ SLED trace "Michael" re GSK results. Dr. Simmons not there anymore. Will call back w/ data.

met w/ client to go over add'l evidence and discuss options

spoken w/ client's mother to update on what's going on

5/31/14 received V's medical records. Walter Bentley states they don't plan to use DNA and will go forward w/o it

called client to update

Spoke w/ Dale Scott

Spoke w/ Dan Farnsworth. His client likely to plea - willing to help take heat off Erica

called Dale Scott and scheduled meeting. Asked him to consider

charge reduction. Also told
his client may be able to
pay restoration of fund for
unlawful bills in exchange for
some money.

Spoke w/ client to up date. Told
her to meet me at courthouse
Tuesday at 10 AM

Reviewed V's med. and Records

6-3-84 met w/ Dale Scott and Ann
Farnsworth in Lawens. Dale
will likely NP charges related
to Hispanic victim and possibly
reduce Ar to 5th degree.

Asked to conference w/ the judge
(Addy)

Conferred w/ Judge Addy 15-20 yes maybe better
met w/ client and mother to notify. She
wants to think about it for a few
hours and then meet.

Meeting w/ client and mother in office.
She will plea. Does not want to risk
trial. Does not want to risk continuance
and end up in front of judge
Early. She is realistic and wants to
cut her losses.

Discussed mitigation and
what to present at plea

6/4/14 called to Dale Scott. Told it's a
plea and that we would be there
tomorrow at 11am to sign up

called Bryan Burton at Foundation
Living House. He, have manager,
girls from house and pastor will
come for plea

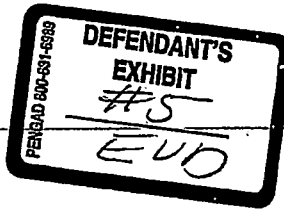
6/5/14 met w/ client and mother.
Went over Rights, Sentencing Sheets
Indictments.

Client upset because she does not
think she is guilty, but is worried
that she will get 40-50 yrs
after a trial

Solicitor Dismissing A.R. Kidnapping,
16-23-490, G.L. Redding & Co
A.R. to Strong Arm Recovery

July plea Judge Adley
75 years
No Reg. etc, credit for
Jail time and ankle monitor

9-2-44 responded to letter from client
regarding motion of disengagement
which all disengaged from Project



June 4, 2014 8:39 AM

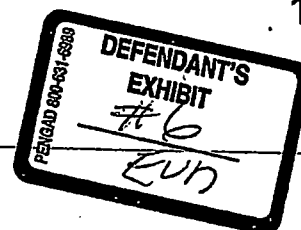
Andrew Hodges <ahodges@hodes-law-firm.com>
To: Dale Scott
Erica Anderson - plea

Dale -

Erica will take the plea. We will plan to be there tomorrow (Thursday) at 11am to get her signed up, etc. I am telling mitigation witnesses to be there at 1:45pm with the assumption that the plea would be sometime after lunch.

Best regards,
Andrew

Andrew Hodges
The Hodges Law Firm, LLC
ahodges@hodes-law-firm.com
tel 864.538.4114
fax 864.538.4226



The Hodges Law Firm, LLC

P.O. Box 3094
Greenwood, South Carolina 29648

Andrew M. Hodges
ahodges@hodges-law-firm.com

Telephone: 864.538.4114
Facsimile: 864.538.4226

ACKNOWLEDGEMENT OF RIGHTS GIVEN UP BY ENTERING GUILTY PLEA

State of South Carolina v. Erica Anderson County of Laurens

Original Charge	Penalty Range	Reduction or NP?	Penalty Range
<u>Attempted Murder</u>	<u>0-30 yrs</u>		
<u>Armed Robbery</u>	<u>10-30 yrs</u>	<u>strong arm</u>	<u>0-15 yrs</u>
<u>Poss weapon</u>	<u>0-5 yrs</u>		
<u>Kidnapping</u>	<u>0-30 yrs</u>		
<u>Kidnapping Armed</u>		<u>NP</u>	
<u>Robbery, 16-23-440, G.L.</u>		<u>NP</u>	

Is there a recommendation or negotiation? none other than charges run concurrent

Has anyone promised you anything else, or threatened or put pressure on you to plead guilty? NO

Would this conviction enhance a second or subsequent conviction? _____

Are there other collateral consequences? Most serious, WOP 65%, C.S.

Is the Defendant waiving Grand Jury action? NO

Are you under the influence of any medications, drugs or alcohol? NO

If yes, explain _____

Are you aware of any physical, mental, emotional or nervous problems you may have that might affect your understanding of this plea or this court proceeding?

If yes, explain NO

Do you understand that if you plead guilty you give up your right to a jury trial? ☒ Yes ☐ No

Do you understand that in a trial you would be presumed innocent? ☒ Yes ☐ No

Do you understand that in a trial you would not have to prove your innocence? ☒ Yes ☐ No

Do you understand that in a trial you would have no burden of proof, and that the burden instead would be entirely on the State to prove you were guilty, and you could only be found guilty if all twelve jurors agreed that the State had proven each and every element of the crime against you beyond a reasonable doubt? ☒ Yes ☐ No

Do you understand that in a trial you have the right to see and hear all the witnesses called to testify against you and to confront, cross examine and question them? ☒ Yes ☐ No

Do you understand that in a trial you have the right to see and confront all the evidence? ☒ Yes ☐ No

Do you understand that in a trial you have the right to take the witness stand and testify, or not take the witness stand as you choose, and that you cannot be required to take the witness stand? ☒ Yes ☐ No

Do you understand that if you plead Not Guilty and if you don't take the witness stand, the judge will tell the jury that you have the absolute right to remain silent, and that your silence cannot be held against you whatsoever? ☒ Yes ☐ No

Do you understand that if you plead Not Guilty you have the right to use the subpoena power of the Court to make witnesses attend your trial and testify, whether they want to or not? ☒ Yes ☐ No

Do you understand that if you plead Guilty you will be found guilty without a trial and you give up all of the rights that we have discussed? ☒ Yes ☐ No

Do you understand that if you plead Guilty you will give up your right to present any defense(s), your right to challenge or contest any of the evidence against you including any searches or seizures done by law enforcement, any statements you may have made, and any testing that was done or should have been done? ☒ Yes ☐ No

Do you fully understand the elements of each crime you are pleading guilty to? ☒ Yes ☐ No

Have I as your lawyer done everything you have asked me to do? ☒ Yes ☐ No

Is there anything else you want me to do for you before you plead guilty? ☒ Yes ☐ No

If yes, explain check w/ solicitor about sex registry

Are you satisfied with me as your lawyer? yes

Are you on probation or parole? ☐ Yes ☒ No

Do you understand that a guilty plea could result in a revocation? ☐ Yes ☐ No

Do you understand that if you are not a U.S. citizen your guilty plea may result in your deportation?
☐ Yes ☐ No

Do you understand what you are doing and all of the rights that you are giving up? ☒ Yes ☐ No

Are you pleading guilty of your own free will? ☒ Yes ☐ No

Are you pleading guilty because you are guilty? ☒ Yes ☐ No

Do you want a jury trial? ☐ Yes ☒ No

DATE:

6/5/14

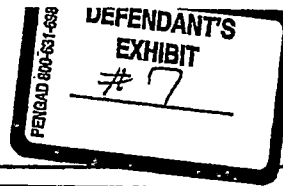

Defendant's Signature

I hereby certify that the above questions were answered by the Defendant after a full explanation of each question by the undersigned and that in my opinion the Defendant understands the elements of the crime(s), the possible punishment(s) and his/her Constitutional rights that will be waived in the plea is accepted.

DATE:

6/5/14


Andrew M. Hodges
Attorney for the Defendant



1 THE COURT: Mr. Lawson, how do you plead on these
2 charges?

3 DEFENDANT LAWSON: Guilty.

4 THE COURT: I'm going to ask that each of you
5 listen to the Solicitor. He's gonna give me the facts.
6 After he's done speaking, I'll then ask you if that's
7 what you did, so please pay very close attention to what
8 Mr. Scott has to say in the next few minutes, okay?

9 DEFENDANT ANDERSON: (Nods head.)

10 DEFENDANT LAWSON: (Nods head.)

11 THE COURT: Mr. Scott?

12 MR. SCOTT: Judge, December 15th of 2011 is our
13 incident date. At approximately 7 AM law enforcement
14 responded to the Travelers Inn on Highway 56, that's
15 the one just right off I-26 in Clinton, in reference to
16 a subject running around in the parking lot naked. He
17 was covered in blood. They arrive and find Mr. John
18 Paragon wrapped in a blanket, covered in blood, holding
19 his neck. While attempting to get medical attention,
20 he advised that a white female and a white male had
21 tied him up and then they robbed him, stabbed him and
22 shot him. He indicated that they were still in Room
23 Number 12, or he thought they were. Law enforcement
24 responded to Room 12 with the understanding that they
25 were still in there. They actually shot tear gas in

1 through the window, entered the room. Mr. Lawson and
2 Ms. Anderson were no longer there; however, there were
3 identification, I guess, documents regarding both of
4 them. I know that Mr. Lawson's driver's license was in
5 there, a marriage certificate with both of their names
6 was in there, a W-2 belonging to Ms. Anderson was in
7 there, the knife was still in there that the victim
8 described. Furthermore, they found that -- they found
9 an ID belonging to another individual that was in the
10 room and Ms. Anderson had checked into that room using
11 that alias identification card. Officers generated a
12 six-pack photo lineup. Mr. Paragon was able to identify
13 Ms. Anderson and Mr. Lawson.

14 The victim, Mr. Paragon, indicated that he was on
15 his way from Florida back to his home in New York, and
16 it was an annual thing. He would visit his, I think,
17 mother down in Florida during the holidays and on his
18 return trip back to New York he would stop at a friend's
19 house in Laurens to go on an annual hunting trip
20 together. That particular morning he had driven to the
21 Waffle House just about 200 yards away from this
22 Travelers Inn to get breakfast before, I guess, getting
23 to the deer stand. At that point, Ms. Erica Anderson
24 was also eating in the restaurant and we've gotten
25 surveillance video that confirms pretty much his story.

1 He enters the restaurant, eats. At some point he
2 and Ms. Anderson strike up a conversation. They're
3 seen leaving together. Mr. Paragon would tell law
4 enforcement that she asked for a ride back to the
5 Travelers Inn, he obliged. He has admitted to me that
6 there was talk about a sexual proposition, I guess, that
7 would occur back at the Travelers Inn. At any rate, as
8 coincidence would have it, he was checked into Room 8
9 and Ms. Anderson, as I said, was checked into Room 12.

10 He indicated that after driving her back to the
11 Travelers Inn he went into his room, she went into
12 hers. At some point he says that she called his room
13 and asked him to come to Room 12. He did so. She had
14 a pet snake in the room. They talked about the snake
15 for some time. At some point he took his shirt off and
16 she asked him to take all of his clothes off. He asked
17 her to take her shirt off and she did. At that point,
18 he felt comfortable enough to take his pants off. This
19 is when Mr. Lawson comes into the bedroom area of the
20 hotel from the bathroom. He had concealed himself in
21 the back bathroom.

22 Mr. Paragon tells law enforcement that he has a
23 Maglite, he shines it in Mr. Paragon's face, says turn
24 around or I'll blow your head off, hits him in the head
25 with the Maglite. At this point, he and Erica Anderson

1 rip the phone cord out of the wall and wrap him up with
2 the phone cord, tying him up. He says that one thing
3 rang out in his head over and over was Ms. Anderson
4 yelling "kill him" and at the same time Mr. Lawson
5 screaming "don't look at me, don't look at me". He
6 tells me he looks over and sees a rolled up blanket on
7 the bed and what went through his mind was they were
8 gonna kill him, wrap him in the blanket and he would
9 never be heard from again.

10 At this point he begins fighting back. He was
11 able to free himself from the cords. He's fighting
12 with Mr. Lawson at this point trying to get to the
13 door. Erica Anderson had -- during this struggle
14 comes up from behind him and slashes his throat with a
15 knife. John's able to grab the knife from her at the
16 same time he's wrestling with Mr. Lawson. Mr. Lawson
17 has a 22-caliber pistol, fires it, hitting him in the
18 shoulder, the rear shoulder. He's still fighting with
19 Mr. Lawson at this point trying to get the gun and
20 trying to get to the door. He finally gets to the door,
21 opens it. As he's leaving, Mr. Lawson fires a second
22 time hitting him pretty much square in the back at this
23 point. He runs out into the parking lot. He's unsure
24 of where Mr. Lawson and Ms. Anderson are going, but
25 Mr. Paragon runs to the office trying to get in to get

1 help. Eventually he kind of just passes out towards the
2 tire of his truck.

3 Erica Anderson and Jason Lawson at this time flee
4 from the scene. They find a van that is running in a
5 nearby parking lot, they get in the van and drive off.
6 There was actually a second victim in this case who is
7 in the rear of the van. It was a --

8 MR. HODGES: Your Honor, if I may, the charges from
9 this point on are being dismissed. I don't know that
10 that's relevant in this plea.

11 THE COURT: All right.

12 MR. SCOTT: If you care to hear how they were
13 eventually arrested, it was kind of an on-going event.

14 THE COURT: I'm assuming they were taken into
15 custody fairly shortly after?

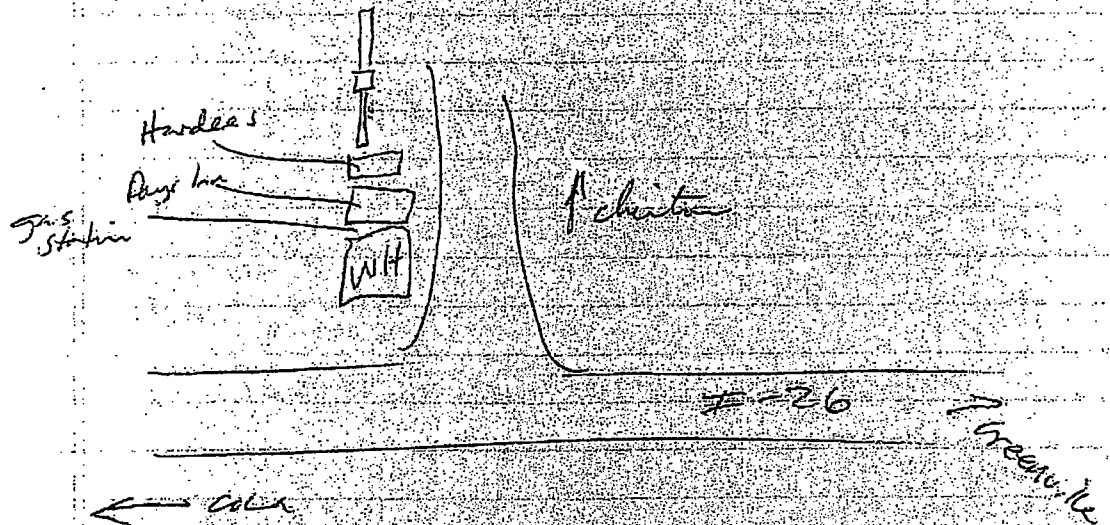
16 MR. SCOTT: They were. In Newberry County, Your
17 Honor.

18 THE COURT: Okay.

19 MR. SCOTT: As I said, Your Honor, the -- well,
20 eventually when they're taken into custody, the pistol
21 used is found where they're eventually caught in
22 Whitmire. I think that's all the substantive facts,
23 Your Honor, related to the plea today.

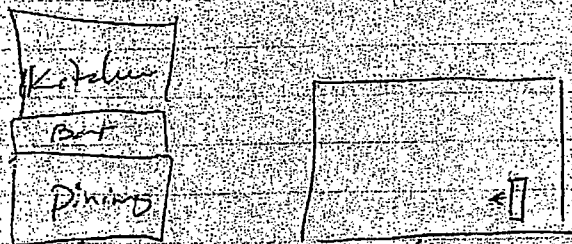
24 THE COURT: All right. Do they have a prior
25 criminal history that's been reflected on the guilty

For a couple days had stayed at hotel, friends houses, cooking meth, getting high. He was selling meth. Had been at friends house (Jeff Walker) the day before. Guy named Brent (now deceased) took them motel in Clinton cheap motel - had stayed there before. Brent was supposed to pick them up next day. Pet snake in hotel room in aquarium, switches of stuff in hotel, wallet w/ ID, his diabetic shots. Dec and don't when they arrived. At Clinton exit w/ 2 waffle houses.



Got high that night. Had to feed him in tank. In diabetic shock. Stayed in room the whole night. Might have walked to drink machine by office. Brent supposed to pick them up next day at check out.

~ 5:00 Am. Decided to get something to eat. Jason gave her \$, he said to go ahead to Waffle House and he would be up there in a bit. Still dark outside. No plan or discussion of any robbing. Sat down in booth.



Chose booth at front window facing the door. Watching for Jason who was supposed to be joining her. Teenagers in there. Some other people came in. John Paragon came in, looked out in all around. He smiled and sat across the aisle behind her.

"Do I know you?" because of the way he smiled.

"No I don't think so" said he.

"Are you from here?"

Looked in his 40s

"Sure, he was from NY."

Pretty much it. Kept drinking coffee. Jason still not showed up. Annoyed he wasn't there. Start to get up. Paragon getting up too. Got in line behind him.

Walked out door in parking lot.
 Started walking toward hotel.
 He asked where she was going - to
 hotel. "You want to give me a ride"
 He agreed. Very close, but cold,
 better to get a ride.
 Got in truck, pulling out of lot.

He said, "I've been looking for a
 girlfriend all night." Didn't say
 anything. Tried to change subject.
 Talked about pet snake in hotel.
 His comment made her nervous.
 He said he'd like to see it. He
 said he was staying there too.
 He mentioned that as he pulled into
 lot. Went into her room. He went
 to his room.

Talked to Jason. Aggravated because
 he didn't show up. Said she had
 to get a ride from some creep who
 was sitting on her. He got funny
 look on his face. Told her not
 to worry about it. Looked for
 cigarettes (big black coat) were
 not there. Thought she dropped it
 there in parking lot or his car.
 Jason didn't like her smoking.
 Told her not to go down there
 but she couldn't call. Called Room
 9 - didn't know what room he was
 in, just rang. Called next room,
 he answered.

"Hey, I think I left my
cigarettes in your truck."

"I don't think you did but
I'll go check." Hang up.
15 min later knock on door.
Could knock, Jasan paranoid
thinking it was police.

Somebody saw you, we've got
warrants. "I've got to get
the door. He said he would
hide in bathroom and to get
rid of them. Open door. Paragon

"You find my cigarettes?"

"No I came to see that snake."

He pushed open door and stepped
in.

OK I'll show it to you real
quick. Took snake out. He
pets it. Turned around to get
snake up. "Well, I've got to
get in the shower." He
turned her around and had his
pants down. Never any talk
about sex. Told him he had
the wrong idea. Jason came
out of bathroom w/ 22 ruger.

"Oh, I'm not from here." "I'm not
from here."

Jason has gun held on him she stepped back. "Get

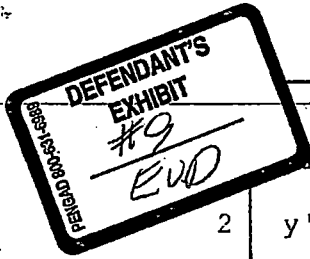
Jason says "Get the fuck out of here" Guy went for gun They struggled over gun. He swung around. She grabbed gun. It went off. Gazed in hand.

* Nurse at County Jail cleaned up hand.

Went to Nightstand and got knife. Picked up knife. Held knife to genitals telling him to let go of gun. Held knife to his neck and told him to let go. Was worried he was going to get gun and shoot them. Guy went off again. Both still have hands on gun over their head. He yelled. Thinks it hit him in shoulder. He turned and ran out the door, naked.

Jason - "We got to get the Rock out of here." Grabbed coat, shoes, left everything else.

Ran woods to Pass Tim parking lot. Van - 16 passengers running still dark early. He felt to get in.



1 lea information sheet? Mr. Farnsworth and Mr. Hodges,
2 y'all have had a chance to review that. Is that
3 accurate?

4 MR. HODGES: If you'll note on Ms. Anderson's, I've
5 marked through one possession charge. It's a possession
6 of Ecstasy.

7 THE COURT: Okay.

8 MR. HODGES: That's the only felony that shows
9 on her record. I've actually looked into that and
10 that was not a conviction. I've actually sent
11 documentation though the Laurens probation office.
12 That was apparently something that was keyed in
13 incorrectly and they're working on getting that taken
14 off. So other than that, the rest of it is accurate.

15 THE COURT: All right. And, Mr. Farnsworth, you're
16 happy with the --

17 MR. FARNSWORTH: Your Honor, it is consistent with
18 the NCIC that I've had all along.

19 MR. HODGES: And, Your Honor -- I know the question
20 is coming to my client and I just want to preface that
21 question by saying that I know she disagrees with some
22 of the factual presentation. In fact, I'll have some
23 comments about that in my presentation about some of the
24 differences, but I know that she substantively agrees
25 with the conducts and the elements of these crimes;

1 although it may differ somewhat with the presentation
2 that was made by the State.

3 THE COURT: All right.

4 MR. FARNSWORTH: And, Your Honor, to the extent,
5 the same here. I've explained what the facts were gonna
6 be and what, you know, the discovery showed. There
7 might be a few little factual differences, but we've
8 talked and he understands, notwithstanding that, he is
9 still guilty of the charges and he understands that.

10 THE COURT: All right. Ms. Anderson, you heard
11 what the State alleges happened. I understand
12 Mr. Hodges explained to me that maybe there are bits and
13 pieces of that narrative that you would disagree with or
14 take issue with, but is that essentially what happened
15 on that particular occasion?

16 DEFENDANT ANDERSON: Yes, sir.

17 THE COURT: All right. So you do feel that you are
18 guilty of the four charges that you're facing?

19 DEFENDANT ANDERSON: Yes, sir.

20 THE COURT: Mr. Lawson, the same question to you.
21 I understand that you might have issue with a fact or
22 two as presented by the State, but do you essentially
23 agree that that's what took place on that day?

24 DEFENDANT LAWSON: Yes, sir.

25 THE COURT: And you are guilty of these four

1 sheet that Ms. Anderson not be required to register as
2 a sex offender.

3 THE COURT: That had occurred to me and I was quite
4 aware that this is not the type of case that I think was
5 envisioned for sex offender registry, so that will be
6 the same for both individuals.

7 MR. HODGES: Thank you, Your Honor.

8 Your Honor, I'd like to give a little bit of the
9 background of the facts as Ms. Anderson has related
10 them to me just for a couple of reasons. Number one,
11 Your Honor, they had both gotten dropped off at this
12 motel the night before by a friend. They had no
13 transportation. You know, they were there. The
14 friend was actually planning on coming and picking
15 them up the next morning at checkout time. They spent
16 the night there and Erica woke up early that next
17 morning and went over to the Waffle House, walked over
18 to the Waffle House at about 5:00 that morning. Jason
19 was supposed to be coming over and meeting her there.
20 As the Deputy Solicitor said, there's a surveillance
21 video where you can see her sitting there drinking a cup
22 of coffee and waiting and waiting and waiting and she's
23 positioned where she could watch the door and watch for
24 him to come in.

25 At some point while she's there, Mr. Paragon comes

1 in, smiles at her. She asks him, you know, "Do I know
2 you?" because he's smiling at her and they strike up a
3 conversation basically that no, he's from New York and
4 whatever. He goes and sits at his table and eats.
5 She continues to sit there drinking coffee and waiting
6 on Mr. Lawson to show up. She gets up to leave and
7 Mr. Paragon is leaving about the same time. He sees
8 her walking across the parking lot, it's December and
9 obviously it's chilly out, and asks her where she's
10 headed and she tells him back to the motel and he offers
11 to give her a ride. While he's driving her over there,
12 he indicates that he's been looking for a girlfriend all
13 night. She basically tells him you've got the wrong
14 idea and changes the subject to talk about this pet
15 snake that she's got in the room. When they had gotten
16 dropped off the night before, they got dropped off with
17 their worldly possessions and as the Deputy Solicitor
18 said the room was full of their stuff, papers with their
19 names on it and ID's, boxes of stuff, and even an
20 aquarium with a pet snake in it.

21 They get back to the motel and she finds out as
22 they're pulling into the parking lot that he's staying
23 there as well. She goes to her room. Mr. Lawson (sic),
24 he goes on down to his room. She discovers that she's
25 missing her cigarettes and her jacket, you know, things

1 that she may have dropped in his truck. She doesn't
2 know what room he's in. She calls a couple of rooms
3 and finally gets him and says hey, I think I may have
4 dropped my cigarettes in your truck. He says I'll be
5 glad to check and hangs up. About fifteen minutes later
6 there's a loud knock on the door.

7 And as you heard Mr. Farnsworth say, there had
8 been some drug use going on. Mr. Lawson was paranoid
9 apparently that it might have been the police at the
10 door because of this loud knock on the door, so he runs
11 and hides in the bathroom because he thinks it might be
12 the police. Erica goes and answers the door and it's
13 Mr. Paragon saying he didn't find her cigarettes, but he
14 wanted to come and see her snake.

15 So she gets the snake out for him to pet it and
16 when she turns to put the snake back in the aquarium
17 and turns back around, he's got his pants off and she's
18 like, well, wait a minute, you've got the wrong idea.
19 At that point is when Mr. Lawson comes out of the
20 bathroom with a gun and they start struggling over it
21 and that's when this whole thing spins out of control.

22 I tell you those things for a couple of reasons,
23 Your Honor. Number one, this was not a premeditated
24 situation, you know. They had no transportation to make
25 a getaway. All of their worldly possessions, including

1 lots of identifying information, were in this room.
2 Mr. Lawson is a diabetic. All of his insulin shots and
3 everything were in the room. You know, it does not
4 make sense that this was a premeditated robbery type
5 of situation when they are leaving out of there with
6 all -- leaving all of their worldly possessions and
7 identifying information in this room with no ride, so
8 just understand that this was not a premeditated
9 situation.

10 I noted in the discovery of the crime scene
11 photographs that Your Honor may be familiar with folks
12 who on their pick-up truck will put their name on the
13 driver window and their wife's name on the passenger
14 window. Well, I know that the victim's first name was
15 on the driver's window and there was a female's name on
16 the passenger window. We noted some inconsistencies
17 in what was related about this incident. Erica and I
18 talked about potential defenses with regard to those
19 inconsistencies and to her credit she's waiving any
20 potential defenses there. She's standing here and
21 owning up to what she did, but I think that there's --
22 you know, there's potential here that some of this may
23 have been embellished by the victim to try to cover for
24 what he was trying to engage in that morning in the
25 room.

1 I did get a copy of the victim's medical records
2 from the State in discovery. Thankfully, he was not
3 hurt severely. He only spent two days in the hospital
4 and I assume he's made a full recovery, so thankfully
5 the injury itself did not turn out to be terribly
6 severe.

7 Your Honor, after my client was arrested, she did
8 cooperate. She gave a videotaped statement to law
9 enforcement implicating both herself and Mr. Lawson
10 and laying out what had happened. Again, there's some
11 possible defenses there. She asked for a lawyer a
12 couple of times during that videotaped statement. She
13 and I talked about potential defenses and the potential
14 for trying to get that suppressed. Again, to her
15 credit, she's waiving any defenses that she has and is
16 standing here accepting responsibility for what she's
17 done.

18 I would point out in terms of the facts again, Your
19 Honor, my client did not have the gun. If you look at
20 her prior record, she only has misdemeanors on her
21 record. There are no crimes that have anything to do
22 with any kind of violence on her record. It's all
23 basically driving and a drug charge. I would ask that
24 Your Honor take that into consideration. As far as
25 credit, Your Honor, she has spent 26 months and 5 days

1 in pre-trial custody. I would ask that Your Honor give
2 her credit for that time that she's spent in pre-trial
3 custody. Judge, she was released out on bond after that
4 26 months and 5 days earlier this spring. She has been
5 out on an ankle monitor for about 105 additional days.
6 I think it would certainly be within the Court's power
7 since she was on an ankle monitor to give her credit for
8 that 105 days and I would ask you to consider doing that
9 as well.

10 And I'd like to talk about that 105 days that she's
11 been out. She has been, as I indicated, on a monitor
12 and Eagle Eye Monitoring is the company that monitored
13 her, and I'd like to pass up a letter from them.

14 THE COURT: Thank you.

15 MR. HODGES: I'll give you a moment to look over
16 that.

17 THE COURT: Very good.

18 MR. HODGES: Your Honor, also in the last 105 days
19 while she's been out, she has been living at the
20 Foundation Recovery House in Greenwood and has actually
21 completed a program there at the Foundation Recovery
22 House, and I would pass forward a letter in that regard.
23 And, Your Honor, they think enough of her that there are
24 a number of her housemates here today at the plea in
25 support of her and Brian Burton and Kim Ousley, who are

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

Erica L. Anderson, SCDC # 350142

Applicant

v.

State of South Carolina

Respondent

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2014-CP-30-0732

ORDER OF DISMISSAL

LAURENS COUNTY
CLERK OF COURT

2017 AUG 28 AM 10:28

LYNN W. LANCASTER

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed September 16, 2014. An evidentiary hearing into the matter was convened on June 7, 2017, at the Laurens County Courthouse in Laurens, South Carolina. Applicant was present at the hearing and represented by Carson M. Henderson, Esquire. Judah N. VanSyckel, Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on her own behalf. Applicant's plea counsel, Andrew M. Hodges, Esquire, also testified. This Court had before it a copy of Applicant's records from the Laurens County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the plea transcript, Applicant's PCR Application, and Respondent's Return:

I. Procedural Posture

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Laurens County Clerk of Court. The Applicant was indicted by the March 2012 term of the Laurens County Grand Jury for Attempted Murder (2012-GS-30-0375), Kidnapping (2012-GS-30-0378), Armed Robbery (2012-GS-30-0376) and Possession of a Weapon during the Commission of a Violent Crime (2012-GS-30-0377).

The Applicant was represented by Andrew Hodges, Esquire. The State was represented by Deputy Solicitor C. Dale Scott, Esquire. On June 5, 2014, the Applicant pled guilty to Strong Arm Robbery as a lesser included offense of Armed Robbery, Attempted Murder, Kidnapping, and Possession of a Weapon during the Commission of a Violent Crime. Pleading at the same time was Applicant's co-defendant, Jason Lawson. Daniel J. Farnsworth, Esquire represented the co-defendant. The Honorable Frank R. Addy, Jr. sentenced Applicant to incarceration for fifteen years, concurrent on the Kidnapping, Strong Arm Robbery and Attempted Murder indictments and five years, concurrent, for Possession of a Weapon during the Commission of a Violent Crime.

The Sentencing sheets reflect that Applicant pled without Negotiation or Recommendation, but that the Applicant received the benefit of having the Armed Robbery reduced to a Strong Arm robbery. Additionally, the State did not object to Applicant's request that she not be put on the sex offender registry. (Plea Tr. p. 31.)

The Applicant did not appeal her conviction and sentence.

II. Facts of the Case from the factual basis for the Guilty Plea

The Applicant, Erica Anderson, and her boyfriend, Jason Lawson, brutally attacked the victim the morning of December 15, 2011 after engaging in the use of illicit drugs the night before. (Trial Tr. p. 9-13, 33.) During the early morning hours of the incident date, Applicant met the victim at a nearby Waffle House after spending the night at a hotel where she had engaged in drug use. *Id.* Applicant talked with the victim and rode back with the victim to the hotel at which they were both staying. *Id.* at 11. The victim went to applicant's room at the hotel shortly thereafter where Applicant allowed him entry. *Id.* Shortly thereafter, Applicant's boyfriend stepped out of another room and pointed a gun at the victim and battered him with a heavy metal

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flashlight on the head. Id. Applicant and her boyfriend tied up the victim with a phone cord. Id. at 11-12. Applicant yelled for her boyfriend to “kill” the victim. Id. at 12. When the victim tried to fight back, Applicant slashed his throat with a knife. Id. As the victim continued to struggle for his life, the Applicant’s boyfriend then shot him twice with a .22 caliber pistol. Id. After the Victim was able to flee his attackers, Applicant and her boyfriend fled the scene in a stolen van. Id. at 12-13.

The Court has also reviewed Plea Counsel’s version of the facts set out in the plea. (Plea Tr. 31-35.)

III. Applicant’s and Co-Defendant’s Statements at the Guilty Plea

At the guilty plea, Applicant did not have anything to say in mitigation. (Plea Tr. p. 42).

The following reflects Applicant’s position as to the facts presented by the State at the guilty plea:

“THE COURT: All right. Ms. Anderson, you heard what the State alleges happened. I understand Mr. Hodges explained to me that maybe there are bits and pieces of that narrative that you would disagree with or take issue with, but is that essentially what happened on that particular occasion?

DEFENDANT ANDERSON: Yes, sir.”

(Plea Tr. p. 15.)

At the plea, Applicant’s co-defendant said the following in mitigation on behalf of Applicant:

DEFENDANT LAWSON: Yes, sir. I want to ask you to take most of the burden off of Erica and put it on me. If I were to have done what I was supposed to do, be the man like I’m supposed to be, she wouldn’t have been in the situation in the first place, she wouldn’t have been there, this wouldn’t have happened. So, please, take anything you can off her and put it on me.

(Plea Tr. p. 41-42.)

IV. Applicant’s PCR Filings

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In her original Application, Applicant alleged that she is being held in custody unlawfully for the following reasons:

1. "Ineffective Counsel"
2. "New Evidence"
3. "Failure to review all evidence."

Additionally, Applicant filed an Amended Application for Post-Conviction Relief, alleging additionally that:

1. Applicant's Counsel was ineffective in allowing Applicant "to plead guilty when her guilty plea was not voluntary, when the Petitioner did not have a complete understanding of the nature of the charges against her, and when the Petitioner did not appreciate the ramifications of the guilty plea."
2. Applicant's Counsel was ineffective because he:
 - a. "failed to interview the victim and other witnesses,"
 - b. "was not prepared for trial," and
 - c. Failed to introduce significant and material mitigating facts at the guilty plea."
3. Applicant's counsel was ineffective because he "failed to make restitution to the victim prior to the guilty plea hearing, when doing so could have reasonably lessened the victim's animosity and ill-will toward the Petitioner.
4. Applicant's Counsel was ineffective because he "failed to request a continuance of the jury trial scheduled to begin the Monday following the Petitioner's guilty plea."

V. Statements from Hearing Testimony

A. Applicant's Testimony

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At the hearing, Applicant's testimony included the following assertions. Applicant testified that she hired Counsel, Andrew Hodges, after being dissatisfied with her previous attorney. Applicant testified that she had Mr. Hodges as her attorney from May of 2014 until her plea in June of 2014. Applicant testified that her mother paid Counsel ten thousand dollars. Applicant testified that Applicant told Counsel that she would not take a plea for twenty years.

Applicant testified that after Counsel met with the plea judge to discuss her potential plea, that she had said she would not plead because the indicated sentencing range was between fifteen and twenty years. Applicant testified that Counsel told her that because she had a Mr. Burton coming in to testify on her behalf, Counsel could do better than fifteen years. Applicant testified that she thought she could do twelve years of incarceration way better than she could do fifteen years. Applicant testified that she would not be unhappy with her plea if she had gotten 12 years, but that she would not have pled if she thought she was getting 15 years.

Applicant testified that she paid a retainer fee, but that she did not pay any money for investigation and that there was no private investigator.

Applicant testified that Counsel never talked to her about testifying against Mr. Lawson. Applicant testified that there was not a lot of plea preparation. Applicant testified that the facts of the case as relayed by the victim were different from the facts she would have presented at trial.

Applicant testified that she would have gone to trial with a different attorney.

Applicant testified that she thought that the victim wouldn't show up to the trial. Applicant also testified that she thought Counsel should have done more to contact the victim about paying restitution ahead of time in order to mitigate his involvement. Applicant also testified that she thought Mr. Hodges should have done more investigation.

B. Counsel's Testimony



Counsel, Andrew Hodges, testified that he was retained on March 4, 2014 by Applicant. Counsel testified that the victim and Applicant had different versions of the facts that occurred during the incident. Counsel testified that he did not speak with the victim in this case. Counsel testified that he watched the video of Applicant's and the victim's interaction at the Waffle House.

Counsel testified that Applicant specifically did not want a trial and that she wanted to take a plea. Counsel also indicated that there were several reasons to not ask for a continuance when the case was scheduled for trial. Counsel testified that he spoke with Applicant about potentially asking for a continuance and that he believed he could get one. Counsel testified that there was an outstanding DNA test that had yet to be completed, but the State had indicated it would move forward without it.

Counsel testified that one reason to not ask for a continuance was because the co-defendant's counsel indicated that the co-defendant was willing to say something regarding Applicant's involvement at the time of the plea. Counsel testified that ultimately the co-defendant did attempt to help mitigate the sentence of the Applicant and that the Applicant received a benefit from the Plea Judge because of it. Counsel also testified that another reason to not ask for the continuance was that he was able to speak with the Plea Judge and was able to give the defendant a range of probable sentences in order to give her an idea of what kind of sentence she would likely receive. Counsel testified that this provided Applicant some assurance before entering into the plea. Counsel testified that he did not think he would have the same situation in front of a different Judge at the next term.

Counsel testified that he did not reach out to the victim about restitution before the plea, but instead reached out to the Solicitor's office. Counsel testified that he thought it would hurt



Applicant's case if Counsel reached out to the victim and it resulted in the victim becoming angry.

Counsel also testified that one reason he did not want to wait on the outstanding DNA test was because he was worried the results could have harmed the victim's case. Had the DNA results reflected that the victim's blood was on phone cord, it could have corroborated the State's version of events. Counsel testified that he felt not having the results back was better for his client because the test could not be used to attack his clients version of events.

Counsel also testified that Applicant was focused on the State's belief that this crime was premeditated and that he was having to explain to her that regardless of if it was premeditated or not, her actions were such that they met the elements of the crime. Counsel testified that he discussed the possibility of a North Carolina v. Alford plea with Applicant. 400 U.S. 25 (1970). Counsel also discussed with her the distinction of pleading to the elements of the offense compared with fully agreeing to the State's facts.

Counsel testified that Applicant was ultimately unwilling to take the risk of trial. Counsel testified that the trial would not have gone well for Applicant. Counsel testified that Applicant told him that she had held a knife to the victim's genitals and throat.

Counsel testified that he was still getting discovery late before the scheduled trial date. Even so, Applicant had always wanted a plea and the continuance was not something they wished to pursue.

Counsel also testified that he and Applicant had met regarding her case on April 29, 2014. Counsel testified that at this April 29 meeting, well before the June 5, 2014 plea hearing, Applicant had wanted a plea.



Counsel also testified that applicant's flight after the crime would have indicated guilt to a jury. Counsel also indicated that Counsel believed that Applicant could have been convicted under a "hand of one, hand of all" theory.

Counsel indicated that he believed there was overwhelming evidence against Applicant based on the gunshot residue on her hands, the video-taped confession that she gave to her version of events, and the Waffle House video.

Counsel also testified that he believed there was no further investigation for him to do based on the evidence he had seen and the statements of Applicant.

VI. Applicable Law

A. Law as to Ineffective Assistance of Counsel

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, 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. 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.

The United States Supreme Court held that the Strickland v. Washington standard applies in guilty pleas. Hill v. Lockhart, 474 U.S. 52 (1985). The Court further held that for guilty pleas, in order to show the prejudice requirement in the second prong of Strickland, "the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." *Id.* at 59. The test for the prejudice inquiry of the Court is dependent upon the particular facts of each claim of ineffective assistance of counsel. Claims of failing to investigate or discover evidence are subject to an analysis by the Court as to the probability that "discovery of the evidence would have led counsel to change his recommendation as to the plea. This assessment, in turn, will depend in large part on a prediction whether the evidence likely would have changed the outcome of a trial." *Id.* But the prejudice analysis changes "where the alleged error of counsel is a failure to advise the defendant of a potential affirmative defense to the crime charged, the resolution of the "prejudice" inquiry will depend largely on whether the affirmative defense likely would have succeeded at trial." *Id.* This is an inquiry that the trial court must make regarding the evidence presented before it as "these predictions of the outcome at a possible trial, where necessary, should be made objectively, without regard for the "idiosyncrasies of the particular decisionmaker.'" *Id.* at 59-60 (quoting Strickland v. Washington, 466 U.S. 668, 695 (1984)).

Additionally, "the reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions. Counsel's actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant." Strickland v. Washington, 466 U.S. 668, 691 (1984)).

B. Law as to Newly Discovered Evidence after a Guilty Plea.

Under S.C. Code § 17-27-45(c), a newly-discovered evidence claim can be timely raised within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could have been ascertained. The South Carolina Supreme Court has held that:

"A party requesting a new trial based on after-discovered evidence must show that the evidence:

- (1) Is such as would probably change the result if a new trial was had;
- (2) Has been discovered since the trial;
- (3) Could not by the exercise of due diligence have been discovered before the trial;
- (4) Is material to the issue of guilt or innocence; and,
- (5) Is not merely cumulative or impeaching."

when ascertaining the test for describing newly discovered evidence. Hayden v. State, 278 S.C. 610, 611 (1978).

When a PCR applicant seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only where the applicant presents evidence showing that (1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea

to be vacated. In other words, a PCR applicant may successfully disavow his or her guilty plea only where the interests of justice outweigh the waiver and solemn admission of guilt encompassed in a plea of guilty and the compelling interests in maintaining the finality of guilty-plea convictions. The Supreme Court has cautioned that it will be the rare case indeed where the interests of justice will require that a knowing and voluntary guilty plea be vacated through post-conviction relief on the basis of newly discovered evidence, for an unconditional guilty plea involving an admission of guilt and a waiver of trial and all defenses will generally preclude any subsequent challenge to factual guilt. See Jamison v. State, 410 S.C. 456 (2014).

A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir.1976). Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007).

"The rule that a plea must be intelligently made to be valid does not require that a plea be vulnerable to later attack if the defendant did not correctly assess every relevant factor entering into his decision." Brady v. United States, 397 U.S. 742, 757 (1970). "A defendant is not entitled to withdraw his plea merely because he discovers long after the plea has been accepted that his calculus misapprehended the quality of the State's case or the likely penalties attached to alternative courses of action." Id.

VII. Findings of Facts and Conclusions of Law

G 11

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the trial transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Counsel's testimony to be credible and persuasive on all matters. Additionally, this Court finds Applicant's testimony to lack credibility and to not be persuasive. These credibility findings have been applied to the Court's findings and conclusions set forth below.

A. Findings and Conclusions as to Ineffective Assistance of Counsel

This Court finds that Counsel demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. 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). The United States Supreme Court held that the Strickland v. Washington



standard applies in guilty pleas. Hill v. Lockhart, 474 U.S. 52 (1985). The Court further held that for guilty pleas, in order to show the prejudice requirement in the second prong of Strickland, “the defendant must show that there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” Id. at 59. The test for the prejudice inquiry of the Court is dependent upon the particular facts of each claim of ineffective assistance of counsel. Claims of failing to investigate or discover evidence are subject to an analysis by the Court as to the probability that “discovery of the evidence would have led counsel to change his recommendation as to the plea. This assessment, in turn, will depend in large part on a prediction whether the evidence likely would have changed the outcome of a trial.” Id. But the prejudice analysis changes “where the alleged error of counsel is a failure to advise the defendant of a potential affirmative defense to the crime charged, the resolution of the “prejudice” inquiry will depend largely on whether the affirmative defense likely would have succeeded at trial.” Id. This is an inquiry that the trial court must make regarding the evidence presented before it as “these predictions of the outcome at a possible trial, where necessary, should be made objectively, without regard for the “idiosyncrasies of the particular decisionmaker.”” Id. at 59-60 (quoting Strickland v. Washington, 466 U.S. 668, 695 (1984)).

Additionally, “the reasonableness of counsel’s actions may be determined or substantially influenced by the defendant’s own statements or actions. Counsel’s actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant.” Strickland v. Washington, 466 U.S. 668, 691 (1984)).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against

CF 13

him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). This Court finds that Applicant has failed to prove that Counsel was ineffective.

1. Findings and Conclusions as to Claim that Counsel was ineffective for failing to review all evidence.

This Court finds that Applicant failed to prove that Counsel was ineffective for failing to review all evidence. Applicant identified no evidence that Counsel had not reviewed that he should have.

Applicant also identified no evidence that Counsel had not reviewed that Applicant had made him aware that he should review before the plea. Counsel reasonably relied upon Counsel's discussions with Applicant in his representation. Strickland v. Washington, 466 U.S. 668, 691 (1984)).

This Court finds that Counsel made the strategic decision not to contact the victim. Counsel reasonably did not want to antagonize the victim. Further, Counsel was aware of the victim's version of events.

This Court finds that Counsel did not want to wait for the DNA test results to come back as it could have further damaged his client's mitigation by showing the victim's DNA on the phone cord. Such a showing would have weakened the Applicant's factual mitigation at the plea. It also would not have been definitive proof of Applicant's innocence at a trial as the absence of DNA on the phone cord would not have been proof that it was not wrapped around the Victim's neck.

2. Findings and Conclusions as to Claim that Counsel was ineffective for allowing Applicant to plead guilty when her plea was not voluntary



This Court finds that Applicant failed to prove her allegation that Counsel was “ineffective in allowing Applicant “to plead guilty when her guilty plea was not voluntary, when the Petitioner did not have a complete understanding of the nature of the charges against her, and when the Petitioner did not appreciate the ramifications of the guilty plea.”” Applicant did not testify that she did not understand the nature of the charges against her nor did she testify that she did not appreciate the ramifications of the guilty plea.

Further, at the Plea, the Applicant answered in the affirmative when asked by the Court if Applicant understood: that the Applicant had a right to a jury trial, that the State would have to prove that Applicant had committed the crime beyond a reasonable doubt to twelve jurors, that the State would have to call sworn witnesses subject to cross-examination to prove Applicant’s guilt, that the State would bear the burden of proof beyond a reasonable doubt, that the Applicant would have the right to testify at the trial, that Applicant would have the right to subpoena and call witnesses, that Applicant would be presumed innocent at trial, and that Applicant would have the right to present defenses on her own behalf. (Plea Tr. 15-22.)

Counsel also testified that as to the sentence that Applicant received, that Applicant was aware that the sentencing Judge had indicated a range in which he would sentence the Applicant, and that the sentence Applicant received was at the bottom of that range.

3. Findings and Conclusions as to Claim that Counsel was ineffective for failing to interview the victim and other witnesses.

Applicant failed to prove her allegation that Counsel was ineffective for failing to interview the victim and other witnesses. The Applicant was correct that Counsel did not interview the victim Counsel had the victim’s version of events as laid out in his report to law enforcement. Counsel’s decision was reasonable in limiting his investigation prior to plea to

statements, particularly when the Applicant indicated to Counsel a reasonable decision to plead. Additionally, Applicant failed to identify any other witnesses whom Counsel should have identified regarding the matter. Strickland v. Washington, 466 U.S. 668, 691 (1984)).

4. Findings and Conclusions as to Claim that Counsel was ineffective for failing to prepare for trial.

Applicant failed to prove her allegation that Counsel was ineffective for failing to prepare for trial. Applicant never testified that she felt like Counsel was unprepared for a trial and that it caused her to plead guilty. Counsel also testified that Applicant expressly instructed him to pursue a plea. Counsel and Applicant also testified that they pled when they did based Counsel's perspective of the scheduling of General Sessions Terms of Court. In addition, Counsel judged that even though Applicant's case was on the docket, Applicant was likely to be granted a continuance due to the missing DNA test. In short, Counsel never was placed in a position to try this case or to prepare for an actual trial. This Court also finds, based on Counsel's testimony and his notes from his case file, that Counsel was very familiar with the case and was well prepared for the potential trial and guilty plea.

5. Findings and Conclusions as to Claim that Counsel was ineffective for failing to introduce certain facts.

Applicant failed to prove her allegation that Counsel was ineffective for failing to introduce significant and material mitigating facts at the guilty plea. Applicant failed to identify any significant and material mitigating facts at the guilty plea which could have affected her plea which were not presented. Additionally, Counsel did make a significant presentation on behalf of Applicant for mitigation purposes. (Plea Tr. 31-40.) Counsel pointed out that Applicant had cooperated by giving a statement after being apprehended. Id at 35. Counsel made the court

aware that Applicant's only prior record was for misdemeanors and that she had no prior crimes of violence on her record. Id. Counsel brought Applicant's participation in a substance abuse program to the courts attention as well. Id. at 36-37. In addition, Counsel made sure that Applicant had numerous individuals in the courtroom to show her community support. Id. at 37-39.

6. Findings and Conclusions as to Claim that Counsel was ineffective for failing to make restitution to the victim.

Applicant failed to prove her allegation that Counsel was ineffective for failing to make restitution to the victim prior to the guilty plea hearing, when doing so could have reasonable lessened the victim's animosity and ill will towards the petitioner. This Court finds, based on Counsel's testimony, that he did contact the Solicitor regarding this issue and that the Solicitor's office rebuffed him. This Court finds that Counsel made a strategic decision not to reach out directly to the victim in order to avoid further irritating the victim which could have further harmed Applicant at the plea.

7. Findings and Conclusions as to Claim that Counsel was ineffective for failing to request a continuance of the scheduled Jury Trial.

Applicant failed to prove her allegation that Counsel was ineffective for failing to request a continuance of the Jury Trial that was scheduled for the week after the guilty plea. Applicant and Counsel both testified that the continuance would have hindered their opportunity to plead in front of the Judge whom they had decided was their best option for sentencing. Additionally, this Court finds, based on Counsel's testimony, that Applicant was emphatic that she wanted a plea. This Court finds that Counsel made a strategic decision to not request a continuance based on that directive from Applicant..

 17

B. Findings and Conclusions as to Newly Discovered Evidence

Under S.C. Code § 17-27-45(c), a newly-discovered evidence claim can be timely raised within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could have been ascertained. The South Carolina Supreme Court has held that:

“A party requesting a new trial based on after-discovered evidence must show that the evidence:

- (1) Is such as would probably change the result if a new trial was had;
- (2) Has been discovered since the trial;
- (3) Could not by the exercise of due diligence have been discovered before the trial;
- (4) Is material to the issue of guilt or innocence; and,
- (5) Is not merely cumulative or impeaching.”

when ascertaining the test for describing newly discovered evidence. Hayden v. State, 278 S.C. 610, 611 (1978).

When a PCR applicant seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only where the applicant presents evidence showing that (1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the “interest of justice” requires the applicant's guilty plea to be vacated. In other words, a PCR applicant may successfully disavow his or her guilty plea only where the interests of justice outweigh the waiver and solemn admission of guilt encompassed in a plea of guilty and the compelling interests in maintaining the finality of guilty-plea convictions. Jamison v. State, 410 S.C. 456, 470 (2014). This Court finds that Applicant has

failed to prove the existence of newly discovered evidence. Specifically, this Court finds that Applicant has failed to show or even offer any evidence discovered after the entry of the plea.

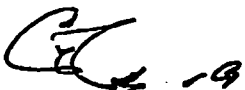
VIII. Conclusion

Based on the foregoing facts, the Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Applicant failed to demonstrate that Counsel's performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). In addition, Applicant has failed to prove the existence of any newly discovered evidence. Hayden v. State, 278 S.C. 610, 611 (1978); Jamison v. State, 410 S.C. 456, 470 (2014). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt 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, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

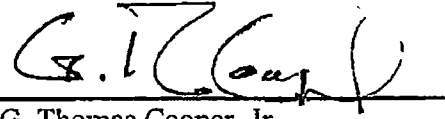
IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and



2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of Applicant's sentence.

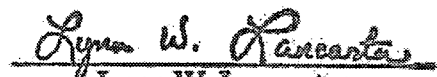
AND IT IS SO ORDERED this 23 day of August, 2017.



G. Thomas Cooper, Jr.
Presiding Judge
Eighth Judicial Circuit

Chander, South Carolina

A TRUE COPY OF ORIGINAL



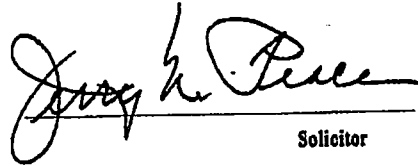
Lynn W. Lancaster
Laurens County CCCP & GS

THE STATE OF SOUTH CAROLINA**COUNTY OF LAURENS****INDICTMENT FOR
ATTEMPTED MURDER
16-03-0029**

At a Court of General Sessions, convened on the 30th day of March, 2012 the Grand Jurors of Laurens County present upon their oath:

That Erica Leigh Anderson, did in Laurens County, state aforesaid, on or about the 15th day of December, 2011 willfully and unlawfully, with the intent to kill and with malice aforethought, attempted to kill John Paragon, in violation of Section 16-3-29 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 cases made and provided.



Solicitor

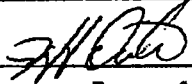
WITNESSES

Keith McIntosh
Laurens County Sheriff

WARRANT NUMBER

M915716

True Bill



Foreman of the Grand Jury

Date: 3-30-12

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

March Term, 2012

Indictment # 12GS30- 0375

THE STATE

vs.

Erica Leigh Anderson

I

**INDICTMENT FOR
ATTEMPTED MURDER
16-03-0029**

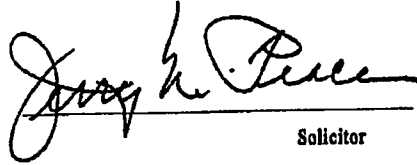
THE STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

INDICTMENT FOR
ARMED ROBBERY
16-11-0330

At a Court of General Sessions, convened on the 30th day of March, 2012 the Grand Jurors of Laurens County present upon their oath:

That Erica Leigh Anderson, did in Laurens County, state aforesaid, on or about the 15th day of December, 2011 willfully and unlawfully while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon, or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take from the person or presence of John Paragon by means of force or intimidation, goods or monies described as follows: a wallet, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 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 cases made and provided.


Solicitor

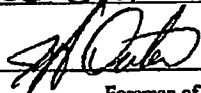
WITNESSES

Keith McIntosh
Laurens County Sheriff

WARRANT NUMBER

M915717

True Bill



Foreman of the Grand Jury

Date: 3-30-12

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

March Term, 2012

Indictment # 12GS30- 0376

THE STATE

vs.

Erica Leigh Anderson

I

INDICTMENT FOR

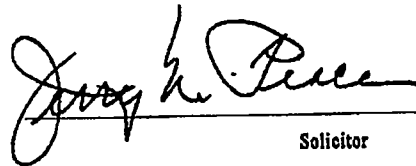
ARMED ROBBERY
16-11-0330

THE STATE OF SOUTH CAROLINA**COUNTY OF LAURENS****INDICTMENT FOR
POSSESSION OF WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
16-23-0490**

At a Court of General Sessions, convened on the 30th day of March, 2012 the Grand Jurors of Laurens County present upon their oath:

That Erica Leigh Anderson, did in Laurens County, state aforesaid, on or about the 15th day of December, 2011 possess a firearm or visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent offense, to wit: Armed Robbery, or any lesser included violent offense, in violation of Section 16-23-490 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 cases made and provided.



Solicitor

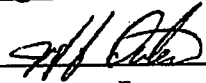
WITNESSES

Keith McIntosh
Laurens County Sheriff

WARRANT NUMBER

M915718

True Bill



Foreman of the Grand Jury

Date: 3-30-12

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

March Term, 2012

Indictment # 12GS30- 0377

THE STATE

vs.

Erica Leigh Anderson

I

INDICTMENT FOR

POSSESSION OF WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
16-23-0490

THE STATE OF SOUTH CAROLINA

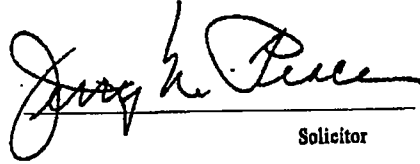
COUNTY OF LAURENS

INDICTMENT FOR**KIDNAPPING**
16-03-0910

At a Court of General Sessions, convened on the 30th day of March, 2012 the Grand Jurors of Laurens County present upon their oath:

That Erica Leigh Anderson, did in Laurens County, state aforesaid, on or about the 15th day of December, 2011 willfully and unlawfully with criminal intent, seize, confine, inveigle, decoy, kidnap, abduct or carry away John Paragon without authority of law, in violation of Section 16-3-910 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 cases made and provided.


Solicitor

WITNESSES

Keith McIntosh
Laurens County Sheriff

WARRANT NUMBER

M915719

True Bill

[Signature]

Foreman of the Grand Jury

Date: 3-30-12

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

March Term, 2012

Indictment # 12GS30- 0378

THE STATE

vs.

Erica Leigh Anderson

INDICTMENT FOR

KIDNAPPING
16-03-0910

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LAURENS	)	EIGHTH JUDICIAL CIRCUIT
	)	
ERICA LEIGH ANDERSON	)	
(#350142),	)	
	)	
Petitioner,	)	FIRST AMENDED APPLICATION FOR
	)	POST-CONVICTION RELIEF
v.	)	
	)	C/A No. 2014-CP-30-0732
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

The Petitioner, while reserving motions filed and to be filed, and while reserving her right to further amend her Application for Post-Conviction Relief, would respectfully allege and show unto the Court as follows:

INCORPORATION OF PETITIONER'S PRIOR PLEADINGS

1. The Petitioner hereby incorporates into this her First Amended Application for Post-Conviction Relief all allegations contained in her pro se Application for Post-Conviction Relief dated September 11, 2014, and filed with the Court on September 16, 2014.

FOR A FIRST ALLEGATION

2. The Petitioner hereby incorporates Paragraph 1 into this her First Allegation as if fully set forth herein verbatim.

3. The Petitioner is informed and believes that her trial attorney, Andrew M. Hodges, was ineffective because he allowed the Petitioner to plead guilty when her guilty plea was not voluntary, when the Petitioner did not have a complete understanding of the nature of the

charges against her, and when the Petitioner did not appreciate the ramifications of the guilty plea.

FOR A SECOND ALLEGATION

4. The Petitioner hereby incorporates Paragraphs 1 through 3 into this her Second Allegation as if fully set forth herein verbatim.

5. The Petitioner is informed and believes that her trial attorney, Andrew M. Hodges, was ineffective because he failed to interview the victim and other witnesses, was not prepared for trial, and failed to introduce significant and material mitigating facts at the guilty plea hearing.

FOR A THIRD ALLEGATION

6. The Petitioner hereby incorporates Paragraphs 1 through 5 into this her Third Allegation as if fully set forth herein verbatim.

7. The Petitioner is informed and believes that her trial attorney, Andrew M. Hodges, was ineffective because he failed to attempt to make restitution to the victim prior to the guilty plea hearing, when doing so could have reasonably lessened the victim's animosity and ill-will toward the Petitioner.

FOR A FOURTH ALLEGATION

8. The Petitioner hereby incorporates Paragraphs 1 through 7 into this her Fourth Allegation as if fully set forth herein verbatim.

9. The Petitioner is informed and believes that her trial attorney, Andrew M. Hodges, was ineffective because he failed to request a continuance of the jury trial scheduled to begin the Monday following the Petitioner's guilty plea.

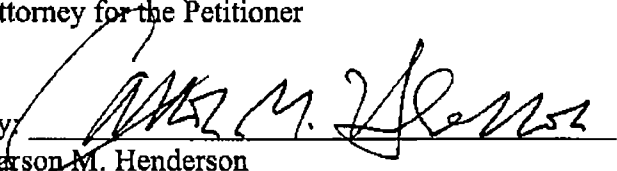
PRAYER

WHEREFORE, the Petitioner prays:

1. That this Court grant judgment to the Petitioner, vacate the Petitioner's conviction, and grant the Petitioner a new trial.
2. For such other and further relief as this Court deems just, proper, and equitable.

THE HENDERSON LAW FIRM, P.C.

Attorney for the Petitioner

By: 

Carson M. Henderson
109-B Oak Avenue
Greenwood, S.C. 29646
Phone: (864) 229-8000
Fax: (864) 229-8001

Greenwood, South Carolina

June 7, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LAURENS)
)
 ERICA LEIGH ANDERSON)
 (#350142),)
)
 Petitioner,)
)
 v.)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

EIGHTH JUDICIAL CIRCUIT

CERTIFICATE OF DELIVERY

C/A No. 2014-CP-30-0732

LAURENS COUNTY
CLERK OF COURT

2017 JUN -7 P 12:58

LYNN W. LANCASTER

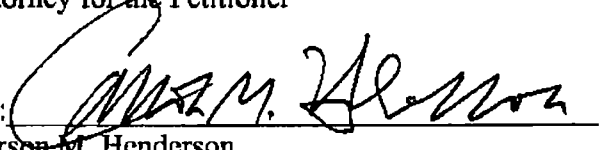
The undersigned does hereby certify that on the 7th day of June, 2017, he served First Amended Application for Post-Conviction Relief, by mailing by first class United States mail from Greenwood, South Carolina, or hand delivering the same to the person(s) listed below at the address(es) listed below:

Justin J. Hunter, Esquire
 S.C. Attorney General's Office
(HAND-DELIVERED AT LAURENS COURTHOUSE)

Erica Leigh Anderson (#350142)
(HAND-DELIVERED AT LAURENS COURTHOUSE)

1. First Amended Application for Post-Conviction Relief
2. Certificate of Delivery

THE HENDERSON LAW FIRM, P.C.
 Attorney for the Petitioner

By: 
 Carson M. Henderson
 109-B Oak Avenue
 Greenwood, S.C. 29646
 Phone: (864) 229-8000
 Fax: (864) 229-8001

Greenwood, South Carolina
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