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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

—————  
Certiorari to Charleston County

Michael G. Nettles, Circuit Court Judge  
—————

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AUG 29 2018

SC Court of Appeals

WILLIAM LAMONT SEABROOK,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000440

—————  
APPENDIX  
—————

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| STATE OF SOUTH CAROLINA | ) |                           |
| COUNTY OF CHARLESTON    | ) | Court of General Sessions |
| <hr/>                   |   | Case No. 2012-GS-10-7250  |
| STATE OF SOUTH CAROLINA | ) |                           |
| vs.                     | ) | Transcript of Record      |
| WILLIAM SEABROOK,       | ) |                           |
| Defendant.              | ) |                           |
| <hr/>                   |   | DATE: July 24, 2015       |

B E F O R E:

THE HONORABLE KRISTI LEA HARRINGTON

A P P E A R A N C E:

CHAD SIMPSON  
Attorney for the State

LORELLE D. PROCTOR  
Attorney for the Defendant

Karen V. Andersen, RMR, CRR  
Circuit Court Reporter

1 THE COURT: Are you William Lamont Seabrook?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Please swear the defendant.

4 (Whereupon, the defendant is sworn.)

5 THE COURT: Sir, you are here to plead guilty on  
6 indictment 2012-GS-10-7250, which is a true bill indictment  
7 for murder. The State is allowing to you plead to the  
8 lesser-included offense of voluntary manslaughter.

9 And that is, Ms. Proctor, a violent and most serious  
10 offense?

11 MS. PROCTOR: Yes, Your Honor.

12 THE COURT: And you advised your client of what both  
13 of those terms mean?

14 MS. PROCTOR: Yes.

15 THE COURT: Mr. Seabrook, do you understand what  
16 those terms mean to you in your future?

17 THE DEFENDANT Yes, ma'am.

18 THE COURT: How old are you?

19 THE DEFENDANT: 29.

20 THE COURT: I'm going to ask you just some  
21 questions. I have to make a determination that you are  
22 entering into this plea freely, voluntarily, knowingly and  
23 intelligently. So I'm just asking you a series of questions.  
24 So you are 29. What was the last grade you completed in  
25 school?

1 THE DEFENDANT: I have my high school diploma, but I  
2 didn't receive it from the high school I went at.

3 THE COURT: What was the last grade you were in high  
4 school?

5 THE DEFENDANT: 10th.

6 THE COURT: 10th grade? And you do have your GED?

7 THE DEFENDANT: Yes, ma'am.

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

9 THE DEFENDANT: I'm a cook.

10 THE COURT: And I notice you've been in custody  
11 1,082 days; is that correct?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Are you married? Do you have any  
14 children?

15 THE DEFENDANT: I have one child.

16 THE COURT: How old is your child?

17 THE DEFENDANT: Nine.

18 THE COURT: Boy or girl?

19 THE DEFENDANT: Girl.

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

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Ever been treated for mental illness?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: Do you know what you are doing here

1 today?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: What are you doing here today?

4 THE DEFENDANT: Pleading guilty to this charge.

5 THE COURT: And what is -- what do you think is  
6 going to happen to you here today?

7 THE DEFENDANT: I hope you have mercy on me.

8 THE COURT: All right. And do you know what your  
9 sentence is going to be?

10 THE DEFENDANT: Not exactly, ma'am.

11 THE COURT: And so what I understand is, your  
12 attorney, Ms. Proctor, and the State have worked out an  
13 agreement that they wish for me to impose upon you, a 30-year  
14 sentence. Is that what you understand is going to happen  
15 here today?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And because they have done that, I would  
18 allow you to withdraw the plea if I think that that's not a  
19 good sentence for you. But what that means is, I can't give  
20 you any less time, but I also could not give you any more  
21 time. Do you understand? So you are either going to get 30  
22 years active here today, credit for time served, or I'm going  
23 to allow you to withdraw your plea. Do you understand?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: So when you asked me to have mercy, the

1 mercy that I will have, typically, is that I will go along  
2 with this recommendation or negotiation. You understand that  
3 this carries up to a minimum mandatory of two years up to 30  
4 years; do you understand?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And, again, you understand what the  
7 classification of violent and most serious means to you?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: In your own words, explain to me what  
10 the classification of violent means.

11 THE DEFENDANT: You break the --

12 THE COURT: So, typically -- I will ask this way or  
13 explain it to you this way. Typically, an attorney tells me  
14 that they've explained it to their client about parole  
15 eligibility, like 65 percent, 85 percent, something of that  
16 nature. So that's the violent classification. That's what  
17 that means. But I always caution defendants, because there's  
18 nobody in this room that knows what kind of good time credits  
19 and all and how DOC, Department of Corrections, is going to  
20 calculate this sentence. So I think it's always best for the  
21 individual pleading guilty to just assume you are going to  
22 serve all 30 years. Do you understand? And then that way,  
23 if this violent classification gives you any sort of  
24 reduction in percentage of time, then it would be a benefit  
25 to you. Do you understand what I'm saying?

1 THE DEFENDANT: I understand what you are saying.

2 THE COURT: What about most serious, what did Ms.  
3 Proctor tell you about that classification?

4 THE DEFENDANT: Repeat that.

5 THE COURT: The most serious classification, what  
6 did Ms. Proctor tell you about that?

7 MS. PROCTOR: We talked about it being a violent  
8 crime and that he would have to do 85 percent. And then it  
9 would be up to the Department of Corrections.

10 THE COURT: And then as to the most serious  
11 classification, typically, it's explained as strikes. Right?

12 Did you have a discussion with him about strikes?

13 MS. PROCTOR: Because it was such a big sentence and  
14 his age when he gets out, I didn't tell him that two strikes,  
15 you would have life. If you get -- do this again, you would  
16 then have to do life in prison.

17 THE COURT: And it doesn't even have to be this one.  
18 There's a whole list of charges that are serious or most  
19 serious. And if you get a combination now, because you now  
20 have two strikes, in essence, so if you get a combination and  
21 were convicted of another charge that was serious or most  
22 serious, the State could seek to serve you with life without  
23 the possibility of parole.

24 And while I understand, calculating it, you will be  
25 59, perhaps, and most defendants at that age tell me they are

1 too old and tired, but I just must advise you as to how this  
2 would impact you in the future. Do you understand what I'm  
3 telling you?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: You still wish to enter into this plea?

6 THE DEFENDANT: Yes, ma'am.

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

9 THE DEFENDANT: No, ma'am.

10 THE COURT: You know, you do not have to plead  
11 guilty. You have the right to a jury trial. You have a  
12 right to have the jury determine your guilt beyond a  
13 reasonable doubt based upon the evidence the State presents  
14 as well as any evidence you may introduce. Do you understand  
15 that right?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: You also have the right against  
18 self-incrimination, which is the right to say nothing at all.  
19 I'm going to ask you a series of questions, and you wouldn't  
20 have to answer those. But you are giving up that right; is  
21 that correct?

22 THE DEFENDANT: Yes.

23 THE COURT: You also have the right to confront and  
24 be confronted by the witnesses against you, as well as the  
25 right to call witnesses to come testify on your own behalf.

1 Do you understand that right?

2 THE DEFENDANT: Uh-huh. Yes, ma'am.

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

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: You also will give up any defense you  
7 may have to this charge. Do you understand those rights?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And do you waive the defense that you  
10 may have to this charge?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Understanding the rights that you are  
13 waiving, the possible punishment, as well as the consequences  
14 of this plea, how do you plead to voluntary manslaughter?

15 THE DEFENDANT: Guilty.

16 THE COURT: Are you pleading guilty because you, in  
17 fact, did commit this offense?

18 THE DEFENDANT: Yes, ma'am.

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

21 THE DEFENDANT: No, ma'am.

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

24 THE DEFENDANT: Mine.

25 THE COURT: Have you been satisfied with the

1 services of your attorney?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Any complaints about the way she's  
4 handled this matter?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: You have the right to appeal this plea  
7 and the sentence that I will impose, but you or your attorney  
8 must do so within 10 days; do you understand?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Please listen to the facts.

11 Mr. Simpson.

12 MR. SIMPSON: Thank you, Your Honor. This series of  
13 events occurred in the very early morning hours of Saturday,  
14 July 14th, 2012, just after 2 a.m. It occurred in the area  
15 of [REDACTED], around [REDACTED]. As would happen,  
16 that is an area close to a bar called the Recovery Room, just  
17 past the crosstown on [REDACTED].

18 There were a group of sort of college-age students  
19 when the Recovery Room shut down that went to an apartment  
20 nearby the Recovery Room to kind of continue to socialize  
21 after the bar. These people had nothing to do with  
22 Mr. Seabrook, but were hanging out there on the front porch  
23 and near the front door of this apartment building. And I  
24 think today we are very thankful that they were. They had  
25 nothing to do with these individuals. But what occurred very

1 close to that address was the victim, Mr. Deandre Bradley,  
2 age 27 at the time, was just walking alone, by all accounts,  
3 bothering no one, down [REDACTED] close to that apartment  
4 when he was approached from behind by, you know, what we now  
5 know to be the defendant.

6 Brief words were exchanged. Seems like he turned,  
7 heard something behind him and turned. At that point,  
8 several gunshots, he was shot three times, the fatal shot  
9 being to his chest.

10 The individuals at the residence saw this occur.  
11 And, obviously, their attention was drawn by the gunshots.  
12 And also gave statements that they said that the defendant  
13 also, after shooting, punched Mr. Bradley a couple of times,  
14 and then seemed to notice that people were watching from this  
15 residence, and fled.

16 Police arrived pretty quickly. They talked to the  
17 witnesses at the scene. There were several. Three of the  
18 witnesses gave statements about seeing what occurred. They  
19 then quickly went and began talking to members of Deandre's  
20 family, talking to friends of Deandre, and developed  
21 Mr. Seabrook as a suspect.

22 I understand Ms. Proctor may get into this a little  
23 bit, but, essentially, it was the standard questions:  
24 Anybody have any problems with Deandre? Was there any sort  
25 of conflict going on?

1           And they were given two names, Cap and Curt. And  
2 the police pretty quickly determined that Curt was  
3 incarcerated at the time. And Cap was the defendant, William  
4 Seabrook.

5           They then went to the three witnesses who had gotten  
6 the best views. They put Mr. Seabrook in a lineup, went and  
7 talked to these young guys that had seen this. One was  
8 unable to give an ID; didn't have his contacts in. The  
9 second gave a very tentative ID. Picked more than one person  
10 out of the lineup, said it's either one of these. And the  
11 third gave a positive ID of Mr. Seabrook.

12           There may have been some issues there to litigate,  
13 but, obviously, we are moving on.

14           So that's what led to Mr. Seabrook's arrest. But  
15 there was not really what would be considered our best  
16 evidence, Your Honor.

17           Going back to what occurred that evening, police  
18 were responding to the scene when a cop -- an officer saw an  
19 individual matching the description given to him of the  
20 suspect. He went to approach that suspect to do a field  
21 interview. When the individual fled, he jumped some fences  
22 and some yards and was ultimately able to escape. However,  
23 in so doing, in running from that scene, he discarded a  
24 firearm, a T-shirt, and two black gloves right in the area  
25 where the officer saw him flee.

1           It took some time. And I will say this again, but I  
2 do so greatly appreciate this family's patience, it took some  
3 time. The forensics came back on those items. I won't get  
4 into the intricate details, but items, DNA on those items  
5 matched both the victim -- the ballistics on the firearm  
6 matched the ballistics removed from the victim, and had one  
7 by staggering proportions, major contributor of DNA, and that  
8 was Mr. William Seabrook.

9           Ms. Proctor and I have worked on it. I've consulted  
10 with the family, who has -- you know, you see the date. It's  
11 been a long time. It's been a long, hard process on them.  
12 They've been very resilient and wonderful to meet and work  
13 with, even under this horrible circumstance. We've talked to  
14 them about these negotiations. We've talked a lot with Ms.  
15 Proctor about these negotiations. And they are in agreement  
16 with what we are doing here today.

17           We ask you Your Honor, under the circumstances, to  
18 please accept what we've worked out.

19           Oh, I'm sorry, Mr. Moore, the victim's father,  
20 wishes to address you, Your Honor.

21           THE COURT: Happy to hear from you.

22           MR. SIMPSON: Also presence is Alexander Ravenel,  
23 his grandfather, and Mona Lisa Benjamin, his mother. But I  
24 believe one or both would like to address you.

25           THE COURT: I will be happy to hear from Mr. Moore.

1 If you will please state your full name and please spell your  
2 last name.

3 And, Mr. Seabrook, please look towards me.

4 Mr. Seabrook, thank you, this way. Thank you.

5 MS. PROCTOR: Sorry. I told him to move so he can  
6 see the victim.

7 MR. MOORE: My name is Bruce Moore, M-o-o-r-e. I'm  
8 Deandre's father. What I would like to say to Mr. Seabrook  
9 is that he took my son away from me. And he got a second  
10 chance in life. We are not going to extend the stay no more.  
11 He got what he deserved. They apparently have a second  
12 chance to visit him. We don't have a second chance to visit  
13 our son. We don't have no regrets on what happened that  
14 night, because we wasn't there. But he got a second chance  
15 on life.

16 And I hope when he do his time, that he will get  
17 out, have his life the rest of his life. And that's all I  
18 have to say.

19 THE COURT: Thank you. And I'm sorry for your loss,  
20 Mr. Moore.

21 I will be happy to hear -- is that mom?

22 MR. SIMPSON: Yes.

23 THE COURT: State your name.

24 MS. BENJAMIN: My name is Mona Lisa Benjamin. My  
25 life has changed forever, my grandson, my son's girlfriend

1 five years dating. My grandson was three months when my son  
2 was murdered. Now my grandson is three years old. We have  
3 to explain this to my grandson to what happened to his  
4 father.

5 My son never hurt nobody. But we, like Mr. Moore  
6 said, we have no regrets. We will pray for Mr. Seabrook and  
7 his family that they have a second chance to see their child,  
8 but we have to live this pain forever. It will never go  
9 away. It has changed our entire life and affect my entire  
10 life, how I eat, sleep, whether I feel like going to work.  
11 It has changed our entire lives. Our life will never be the  
12 same.

13 Mr. Seabrook, never be the same.

14 THE COURT: Thank you.

15 Mr. Seabrook, you heard the facts as presented by  
16 the State, sir. Are those facts true? Is that what you did?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: I find there's a substantial factual  
19 basis for your plea. Your decision to plead guilty has been  
20 freely and voluntarily, knowingly and intelligently made.  
21 You've indicated to the Court you've had the advice and  
22 counsel of a competent attorney, whom you told the Court you  
23 are satisfied. I hereby accept your plea of guilt.

24 Ms. Proctor, happy to hear from you regarding  
25 sentencing. It appears, based upon the facts, that this was

1 an appropriate negotiated sentence. So thank you. Happy to  
2 hear from you. Anything else I need to know?

3 MS. PROCTOR: Thank you, Your Honor. May it please  
4 the Court. Mr. Seabrook goes by the name of Cap. So that's  
5 what I will be calling him. He will be 30 years old next  
6 week. And as he said, he was a cook at El Cortre downtown  
7 for about three years. After that, he went to Columbia. And  
8 for two years, he worked at the Travinia's Italian Restaurant  
9 in Columbia. And then he moved back here, and he had been a  
10 cook again at El Cortre for two years when this happened.

11 As he said, he has one daughter that's nine years  
12 old. This is -- I know a minute ago, when you were doing the  
13 plea for Ms. Ford, when you asked her client, why did you  
14 shoot him, he said there was no reason. So I'm just going to  
15 give you a quick background what the reason this was, so both  
16 families maybe could understand.

17 He and Deandre had known each other about 10 years.  
18 They went to high school together. Never had problems. They  
19 hung out together. They played cards together. I think his  
20 family said he had been to their house. Everything was fine.

21 And about six months before this incident happened  
22 is when everything seemed to fall apart between the two of  
23 them. And at one point, which was in the discovery and came  
24 from the State's witnesses, she also knew that there had  
25 been -- she said the police said there were problems between

1 the two of them. And then another State's witnesses had said  
2 that about two weeks before the shooting, that Cap and the  
3 victim had gotten into a fight. And at that time, the victim  
4 did get the best of him. And this was just something that  
5 seemed to be ongoing. And he said, when I talked to Cap, he  
6 said it was usually over little things, stupid things.

7 But then about a week later, Mr. Bradley was robbed.  
8 And for some reason, I think he thought Cap had robbed him.  
9 And that seemed to escalate the problems. He wasn't arrested  
10 for it. I think somebody else was. But I think that seemed  
11 to escalate the problems.

12 Your Honor, the night this happened, and it's  
13 something he regrets horribly, they lived in the same  
14 neighborhood. He said he was going to go to the store. It  
15 was late in the evening, as the solicitor stated, and he knew  
16 that he was going to go by the victim's house. He said, I  
17 don't know why I did it, but I took a gun, and I should not  
18 have. He said, I took a gun with me just in case. And he  
19 said, it was a short trip to the store, and I should have  
20 walked around, I could have done that, I could have not taken  
21 a gun, but I did.

22 And he said he was walking down the street. And I  
23 think this is what everybody says. He said he didn't realize  
24 that Mr. Bradley was in front of him. And he said, all of a  
25 sudden, and I think the State says Mr. Bradley turned around

1 and said something and he said, I didn't see a gun, but I got  
2 scared. And he said, I shot, don't know why, I shot and I  
3 ran.

4 And I will say, he's -- he told me this the first  
5 time I met him. The very first time he told me exactly what  
6 happened. And one reason too, and I will take responsibility  
7 for this case having dragged on, is probably my fault, I  
8 think hoping a miracle would happen. But he has said, I did  
9 it. But he's always said, I never got on top of him and hit  
10 him. He said once that gun went off, I ran. And that's when  
11 he threw everything.

12 Your Honor, over the years, I've been here a long  
13 time, I have never, ever had a client that was more polite,  
14 more honest about what he did. He has always said, I did  
15 this, I don't know why, I take responsibility for it. And I  
16 think over the years, I kept talking to the solicitor saying,  
17 he's so nice and so polite. And this is something that  
18 should not have happened. And he has felt horrible about it  
19 because he knew the person. He felt very bad for doing it.

20 And it was a stupid decision made late at night, and  
21 why I'm so opposed to guns. And if people couldn't get guns  
22 so easy, I don't think this would happen.

23 Your Honor, he knows about the sentence. And I  
24 explained to him, yes, that there is somebody that's  
25 deceased. And he still has his life. It will be a long time

1 when he gets out. He will probably have grandchildren that  
2 he will be able to see.

3 And we appreciate the State so much giving us this  
4 offer. I wish it could be less, but he's taking  
5 responsibility for it. And, Your Honor, he would like to  
6 address you and to address the family, but I told him to  
7 address you.

8 THE COURT: Mr. Seabrook, I'm happy to hear from  
9 you, but please address your comments to the Court and not to  
10 the family. They are listening.

11 MR. SIMPSON: Ma'am, I'm sorry to interrupt. We do  
12 have one more family member that would like to address the  
13 Court, Your Honor.

14 THE COURT: Ma'am, please state your name for the  
15 record and spell your last name.

16 MS. GIVENS: Givens, G-i-v-e-n-s. I'm Deandre's  
17 son's mother. Me and Deandre were together for five years.  
18 He wasn't my husband, but I was deeply in love with Deandre.  
19 My son was three months old when Deandre was murdered. I  
20 have a six-year-old child that wasn't with Deandre. Deandre  
21 helped me with my son. I had no complaints with Deandre when  
22 it came down to my kids.

23 As time went by, I started getting dizzy spells. I  
24 was stressed. I was diagnosed with anxiety. I was put on  
25 Zoloft. That, as a parent, for some reason, I just couldn't

1 get happy. My oldest son's father come all the time. The  
2 minute he hang up the phone, my three-year-old will ask me,  
3 mama, can I call my daddy too? There's nothing I can say to  
4 my child, a time he will call him later.

5 I work hard. I take care of my kids. I'm tired. I  
6 don't have no help in my house with my children. I was with  
7 Deandre when Deandre was murdered. On my way downtown to  
8 pick Deandre up, I got the phone call. And I move out of my  
9 house, Victim's House every Thursday. I just couldn't get  
10 right. I went to see several doctors that made me think I  
11 was crazy because how I was feeling. Nothing wrong with me.  
12 I got all my senses. I'm just a volatile person right now  
13 that is going through something.

14 I got two kids at home. I get up every morning to  
15 take them to daycare and my son to school. That is what I've  
16 got to deal with. And I got to live with that until my son  
17 becomes a man and can take care of himself. One day I've got  
18 to explain this to my child. My child is very humble and  
19 very smart. And I never want him to know what happened to  
20 his father. When we cross that bridge, we will get there.

21 I don't know Mr. Seabrook at all. I know from  
22 little things Deandre used to come over and told me about.  
23 Deandre don't be like that.

24 But, you know, I just wanted to express what I have  
25 been through, about how I manage. I know people have been

1 through worse. Thank God I have God on my side. I have  
2 people to pray for me. But I get up every morning. I go to  
3 work. I take care of my children. My son's granny help me  
4 like Deandre never been gone. My mama help me like Deandre  
5 never been gone. But as far as having a father figure and  
6 raising a child, for somebody, that's very hard, very hard.

7 And one day I have to explain it to my child. But  
8 when we cross that bridge, we will get there. And,  
9 hopefully, he can understand. But I would rather him not  
10 have to deal with the pain that I dealt with, then to be  
11 young like he was and not knowing who his father was. And  
12 once he had a chance, but I thank God he didn't have the  
13 pain. And that's all I have to say.

14 THE COURT: Thank you.

15 All right. Mr. Seabrook.

16 THE DEFENDANT: I apologize to the Court for my  
17 actions. This was a situation that got way out of hand,  
18 something that I regret doing, something I can't bring back.  
19 I ask that you, please, forgive me for my actions, because  
20 I'm not perfect. We all make mistakes. And I can't -- I  
21 can't give the family back what I taken (sic).

22 I'm truly deeply sorry for all the people I hurt on  
23 the victim's behalf and my behalf. And I ask that the Lord  
24 please just have mercy on me and forgive me. I wish this  
25 situation never happened.

1 MS. PROCTOR: Your Honor, I think his family --  
2 these are all his family. Did somebody want to speak?

3 THE COURT: I will be happy to hear from one.

4 MS. PROCTOR: Anybody want to speak?

5 THE COURT: If you will state your full name for the  
6 record and please tell me who you are and spell your last  
7 name.

8 MS. SEABROOK: I'm Martha Ellen Seabrook, William  
9 Seabrook's mom, S-e-a-b-r-o-o-k. I'm sorry for the family,  
10 definitely. I know how the boy had grown. Me and his  
11 grandmother were good friends. His grandmother told me he  
12 was a bad boy. But, like I say, I'm sorry for -- I wish my  
13 son had really had come to me. I wish he had did something.  
14 Only come to me, then I would have go to let the grandmother  
15 know, because we was good friends. But I'm deeply sorry for  
16 the family.

17 THE COURT: Thank you, Ms. Seabrook.

18 Anything else, Ms. Proctor?

19 MS. PROCTOR: No, Your Honor.

20 THE COURT: Anything else, Mr. Seabrook?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: I will go along with the recommendation.

23 Order of the Court on 2010-GS-10-7250 is that you be  
24 committed to the State Department of Corrections for a term  
25 of 30 years. I will give you credit for 1,082 days.

1 Good luck to you, sir.

2 (Whereupon, proceedings are adjourned.)

3

4 CERTIFICATE OF REPORTER

5

6 I, Karen V. Andersen, Registered Merit Reporter,  
7 Certified Realtime Reporter, and Notary Public for the State  
8 of South Carolina at Large, do hereby certify that the  
9 foregoing transcript is a true, accurate and complete  
10 Transcript of Record of the proceedings.

11 I further certify that I am neither related to nor  
12 counsel for any party to the cause pending or interested in  
13 the events thereof.

14 Witness my hand, I have hereunto affixed my official  
15 seal this 24th day of June, 2016, at Charleston, Charleston  
16 County, South Carolina.

17

18

19

20

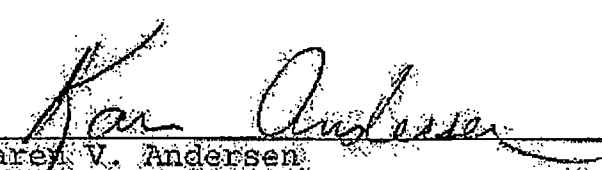
21

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25

  
Karen V. Andersen  
Registered Merit Reporter  
Certified Realtime Reporter  
My Commission expires:  
September 14, 2016

FORM 5

STATE OF SOUTH CAROLINA )  
County of Charleston )

2016-CP-10-2908  
IN THE COURT OF COMMON PLEAS

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

v. )

State of South Carolina )

APPLICATION FOR  
POST-CONVICTION RELIEF

FILED  
2016 JUN -3 PM 12:26  
JULIE J. ARMSTRONG  
CLERK OF COURT

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 ~~at Cannon Det center~~  
Heber Correctional Institution
2. Name and location of Court which imposed sentence Charleston County  
Court of General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:  
(a) 2012 GS 1007250 Voluntary Manslaughter

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

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

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

(a) July 28, 2015

(b) 30 yrs

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

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

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

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

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

NO

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

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

i. N/A

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

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

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

i. N/A

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

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

(c) the date of each such result:

i. N/A

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

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

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

i. N/A

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

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

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

(a) Because of guilty plea

- (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of counsel
- (b) Involuntary Guilty plea
- (c) Brady Violation

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

- (a) ~~to be~~ To be advised by counsel
- (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? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

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

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

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

- i. ~~David Pardo~~ Lorelle Proctor
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. Guilty plea  
Sentencing
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

Vacate sentence and remand for resentencing

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA )  
County of Charleston )

VERIFICATION

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

William Seabrook

SWORN to and subscribed before me this 26<sup>th</sup> day of May, 2016.

Ludwacem Brizant (A.S.)  
Notary Public

My Commission Expires: May 26, 2020

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

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

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

William Seabrook

Applicant

SWORN or affirmed to and subscribed before me this  
26<sup>th</sup> day of May, 2016.

Ludrean Bryant  
Notary Public

My Commission Expires: May 26, 2020

|                            |   |                                   |
|----------------------------|---|-----------------------------------|
| STATE OF SOUTH CAROLINA    | ) | IN THE COURT OF COMMON PLEAS      |
| COUNTY OF CHARLESTON       | ) | IN THE NINTH JUDICIAL CIRCUIT     |
|                            | ) |                                   |
|                            | ) |                                   |
| William Seabrook, #364821, | ) | Case No.: 2016-CP-10-2908         |
|                            | ) |                                   |
| Applicant,                 | ) |                                   |
|                            | ) |                                   |
| v.                         | ) | <b>RETURN AND MOTION FOR MORE</b> |
|                            | ) | <b>DEFINITE STATEMENT</b>         |
| State of South Carolina,   | ) |                                   |
|                            | ) |                                   |
| Respondent.                | ) |                                   |
|                            | ) |                                   |

In response to the post-conviction relief application filed on June 3, 2016, Respondent would show this Court:

I.

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Charleston County Clerk of Court’s orders of commitment. Applicant was indicted at the December 2012 term of the Charleston County Grand Jury for murder (2012-GS-10-7250). Lorelle D. Proctor, Esquire, represented him. Chad Simpson, Esquire, prosecuted the case. On July 24, 2015, Applicant appeared before the Honorable Kristi Lea Harrington and pleaded guilty to the lesser included offense of voluntary manslaughter. Judge Harrington sentenced Applicant to imprisonment for a term of thirty years. Applicant did not appeal his conviction or sentence.

II.

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

1. “Ineffective Assistance of Counsel”
2. “Involuntary Guilty Plea”
3. “Brady Violation”

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

### III.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant

such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

Applicant also asserts his plea was involuntary. In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant 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). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not “within the competence demanded of attorneys in criminal cases.” Hill v. Lockhart, 474 U.S. 52, 56 (1985). Further, “[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing.” McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, “whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on

whether that advice was within the range of competence demanded of attorneys in criminal cases.” Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and “may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both.” Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, “[a] guilty plea is a solemn, judicial admission of the truth of the charges” against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). “In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247

(1983).

V.

Applicant states “Brady violation” as one of his grounds for relief. However, Applicant has set forth no factual basis to support the claim. Brady v. Maryland<sup>1</sup> requires the State to disclose evidence in its possession favorable to the accused and material to guilt or punishment. Clark v. State, 315 S.C.385, 388, 434 S.E.2d 266, 268 (1993). A Brady claim is based on the requirement of due process. The accused must show: “(1) the evidence was favorable to the accused, (2) it was in the possession of or known to the prosecution, (3) it was suppressed by the prosecution, and (4) it was material to guilt or punishment.” Gibson v. State, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999). In the context of a guilty plea, a “Brady violation is material when there is a reasonable probability that, but for the government's failure to disclose Brady evidence, the defendant would have refused to plead guilty and gone to trial.” Id. at 525, 514 S.E.2d at 325 (citations omitted). Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. Clark, 315 S.C. at 388, 434 S.E.2d at 268 (citing U.S. v. Bagley, 473 U.S. 667 (1985)). The Supreme Court of the United States has identified three distinct categories of Brady violations: (1) cases that include nondisclosed evidence of perjured testimony about which the prosecutor knew or should have known, (2) cases in which the defendant specifically requested the nondisclosed evidence, and (3) cases in which the defendant made no request or only a general request for Brady material. Gibson v. State, 334 S.C. 515, 524–25, 514 S.E.2d 320, 325 (1999) (citing United States v. Agurs, 427 U.S. 97 (1976)). Applicant has set forth no facts supporting this allegation, and the State cannot respond. Therefore, Respondent moves for a more definite statement with respect to this allegation.

---

<sup>1</sup> Brady v. Maryland, 373 U.S. 83 (1963).

## VI.

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

## VII.

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "specifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

## VIII.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel and involuntary guilty plea. As to all other allegations,

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 )  
 )  
 WILLIAM SEABROOK, )  
 S.C.D.C. No. 364821, )  
 )  
 Applicant, )  
 )  
 vs )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 Respondent. )

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IN THE COURT OF COMMON PLEAS

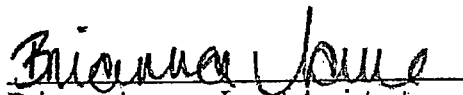
2016-CP-10-2908

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion for More Definite Statement** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Rodney Davis, Esquire**  
**Lowcountry Law Office**  
**4000 Faber Place Drive, Suite 300**  
**Charleston, SC 29405**

DATED this 8<sup>th</sup> day of May, 2017.

  
 Brianna Arnone, Legal Assistant  
 For Respondent

|                          |   |                                |
|--------------------------|---|--------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS   |
|                          | ) | NINTH JUDICIAL CIRCUIT         |
| COUNTY OF CHARLESTON     | ) |                                |
|                          | ) | CASE NO: 2016-CP-10-2908       |
| WILLIAM SEABROOK         | ) |                                |
|                          | ) |                                |
| Applicant,               | ) |                                |
|                          | ) |                                |
| vs.                      | ) | <b>AMENDED APPLICATION FOR</b> |
|                          | ) | <b>POST CONVICTION RELIEF</b>  |
| STATE OF SOUTH CAROLINA, | ) |                                |
|                          | ) |                                |
| Respondent.              | ) |                                |
|                          | ) |                                |

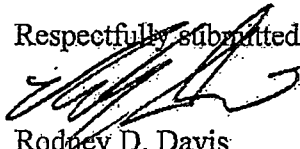
The Applicant, William Seabrook, now having the benefit of appointed counsel, alleges the following:

1. William Seabrook is detained at Lieber Correctional Institution under Inmate Number: 364821.
2. He was convicted and sentenced in Charleston County for Voluntary Manslaughter on July 24, 2015 under Indictment Number: 2012-GS-10-7250.
3. The Honorable Kristi Lea Harrington sentenced the Applicant to thirty (30) years.
4. He was represented by Lorrelle Proctor on this charge (Applicant's attorney).
5. The Applicant's attorney advised the Applicant to plead guilty on the charges.
6. The Applicant's attorney did not file an appeal.
7. The Applicant filed an *in forma pauperis* application for post conviction relief on June 3, 2016.
8. The undersigned counsel, Rodney D. Davis, was appointed to represent the Applicant on July 15, 2016.
9. The State filed a Return on or about May 8, 2017.
10. Applicant's attorney provided ineffective assistance of counsel by advising the Applicant to forego his Constitutional Right to a jury trial and plead guilty.
11. Applicant's attorney provided ineffective assistance of counsel by failing to fully investigate the case prior to the guilty plea.

12. Applicant's attorney provided ineffective assistance of counsel by failing to meet with the Applicant a sufficient amount to adequately advise the Applicant and prepare for a resolution.
13. Applicant's attorney provided ineffective assistance of counsel by failing to discuss strategy for a trial including potential defenses.
14. Applicant's attorney provided ineffective assistance of counsel by failing to adequately complain about the State's Brady violation.<sup>1</sup>

Wherefore, based on this Amended Application, the Applicant requests that a hearing on the merits scheduled.

Respectfully submitted,



Rodney D. Davis  
Attorney for Applicant  
4000 Faber Place Drive, Suite 300  
Charleston, SC 29405  
[Davis@LowcountryLawOffice.com](mailto:Davis@LowcountryLawOffice.com)  
(843) 323-4353

November 27, 2017

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<sup>1</sup> Brady v. Maryland, 373 U.S. 83 (1963).



|    | I N D E X                      | PAGE   |
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| 1  |                                |        |
| 2  | POST-CONVICTION RELIEF HEARING | 3      |
| 3  |                                |        |
| 4  | <u>WITNESS</u>                 |        |
| 5  | <u>WILLIAM SEABROOK</u>        |        |
| 6  | DIRECT BY MS. DAVIS            | 7      |
| 7  | CROSS BY MR. HUNTER            | 24     |
| 8  |                                |        |
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| 10 | DIRECT BY MR. HUNTER           | 26     |
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| 15 | CLOSING ARGUMENT:              |        |
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| 25 |                                |        |

1                   (The following proceedings were held  
2 December 5, 2017, Charleston County, South  
3 Carolina, @ 1:30 p.m.)

4                   THE COURT: Mr. Hunter, you are  
5 recognized.

6                   MR. HUNTER: May it please the Court,  
7 the next case is William Seabrook versus State of  
8 South Carolina, 2016-CP-10-2908. Your Honor, he  
9 was indicted in December 2012 for murder. He was  
10 represented by Ms. Lori Proctor and on July 24th,  
11 2015, he pled guilty before Judge Harrington to the  
12 lesser included offense of voluntary manslaughter  
13 to a term of imprisonment for 30 years. He did not  
14 file a direct appeal. He filed his current action  
15 June 3rd, 2016. He is present today with his  
16 counsel Mr. Rodney Davis.

17                   THE COURT: Mr. Davis, you are  
18 recognized.

19                   MR. DAVIS: May it please the Court,  
20 Judge, I have spoken with him and we are prepared  
21 to go forward today. I would ask out of an  
22 abundance of caution based upon the nature of the  
23 original arrest versus what he pled to, murder  
24 arrest warrant versus the plea of voluntary  
25 manslaughter, we have talked about the risks and

1 benefits, but if you wouldn't mind questioning him  
2 on the record I would greatly appreciate it.

3 THE COURT: Mr. Seabrook, if you would  
4 stand and raise your right hand as the clerk  
5 administers the oath.

6 (Applicant sworn.)

7 THE COURT: Mr. Seabrook, are you under  
8 the influence of any drugs or alcohol here today?

9 THE APPLICANT: No, sir.

10 THE COURT: Are you experiencing any  
11 kind of physical or mental problem that would  
12 prevent you from understanding what's going on  
13 here?

14 THE APPLICANT: No, sir.

15 THE COURT: Have you talked with your  
16 lawyer about your application for post-conviction  
17 relief?

18 THE APPLICANT: Yes, sir.

19 THE COURT: Have you understood your  
20 conversations with him?

21 THE APPLICANT: Yes, sir.

22 THE COURT: And what is your  
23 understanding of the cost and benefits of going  
24 forward here today?

25 THE APPLICANT: I know if I lose this I

1 can't come back. I get a direct appeal, but if we  
2 go forward and I win I am back on the murder  
3 charge.

4 THE COURT: So you understand if I  
5 grant post-conviction relief it starts all over  
6 again. Do you understand that?

7 THE APPLICANT: Yes, sir.

8 THE COURT: And you can end up getting  
9 life imprisonment which means that there would be  
10 no parole. Life imprisonment means just that now  
11 and you are graveyard dead when you are done with  
12 your sentence. Do you understand that?

13 THE APPLICANT: Yes, sir.

14 THE COURT: And you talked with your  
15 lawyer about it?

16 THE APPLICANT: Yes, sir.

17 THE COURT: Do you have any questions  
18 about that?

19 THE APPLICANT: No, sir.

20 THE COURT: Did you need any additional  
21 time to discuss the matter with your lawyer?

22 THE APPLICANT: I am ready.

23 THE COURT: Very good. Do you have any  
24 questions of me?

25 THE APPLICANT: No, sir.

1 THE COURT: Very good. Mr. Davis, you  
2 are recognized. You may call your first witness.  
3 Before we do that, let's delineate what grounds you  
4 are going forward with today.

5 MR. DAVIS: Yes, sir. Judge, in the  
6 amended application we have -- this was a guilty  
7 plea obviously as we said a moment ago. We are  
8 arguing ineffective assistance of counsel, his  
9 attorney advising him to forego his constitutional  
10 rights to a jury trial and plead guilty, by failing  
11 to fully investigate the case prior to that  
12 decision, failure to meet and adequately advise the  
13 applicant prior to that conviction, failing to  
14 discuss trial strategy, potential defenses prior to  
15 that decision, and finally we have an issue of some  
16 late arriving discovery Brady material from the  
17 State. We believe that was handled inappropriately  
18 which led to the decision for the guilty plea.

19 THE COURT: You may call your first  
20 witness.

21 MR. DAVIS: Thank you. We call Mr.  
22 Seabrook to the stand.

23 THE COURT: Mr. Seabrook, please come  
24 forward. I'm going to remind you that you are  
25 still under oath and ask that you have a seat in

1 the witness chair over here and watch your step.  
2 Mr. Seabrook, pull up real close to the microphone.  
3 I'd ask that you speak loudly, clearly and slowly  
4 in order that we can hear everything that you have  
5 to say and let's start with your full name, please,  
6 sir.

7 THE WITNESS: My name is William Lamont  
8 Seabrook.

9 THE COURT: Very good. Mr. Davis.

10 DIRECT EXAMINATION

11 BY MR. DAVIS:

12 Q. Mr. Seabrook, how far did you go in  
13 school?

14 A. Twelfth grade.

15 Q. Did you get your diploma?

16 A. Yes.

17 Q. Now, prior to this case that we are  
18 complaining about today your conviction, had you  
19 ever been in criminal court before that?

20 A. Yes, sir.

21 Q. Had that gone to trial or did that work  
22 out some other way?

23 A. That worked out some other way.

24 Q. Now, in this particular case it was one  
25 charge; is that correct?

1 A. Yes, sir.

2 Q. And was it an original charge for  
3 murder, correct?

4 A. Yes, sir.

5 Q. And after you got arrested did y'all  
6 hire an attorney or was one appointed to you?

7 A. One was appointed to me.

8 Q. Who was that?

9 A. Ms. Lori Proctor.

10 Q. Was she your attorney the entire  
11 process?

12 A. Yes, sir.

13 Q. Now, during the time that she  
14 represented you how many times would you say that  
15 she met with you?

16 A. About six, no more than seven times.

17 Q. How long was it that she represented  
18 you?

19 A. Three years.

20 Q. In fact, when you were sentenced you  
21 had 1082 days credit of time served; is that right?

22 A. Yes, sir.

23 Q. So you never made bond on this arrest?

24 A. No, sir.

25 Q. So almost that entire time Ms. Proctor

1 was your attorney?

2 A. Yes, sir.

3 Q. During any of these meetings with your  
4 attorney did she ever review with you the elements  
5 of murder?

6 A. Yes, sir.

7 Q. During any of these meetings did she  
8 ever review with you the elements of voluntary  
9 manslaughter?

10 A. Yes, sir.

11 Q. During these meetings did she ever  
12 discuss the potential sentence for murder?

13 A. No, sir.

14 Q. During any of these meetings did she  
15 discuss potential sentence for voluntary  
16 manslaughter?

17 A. No, sir.

18 Q. During any of these meetings did she  
19 ever discuss with you that either charge was  
20 categorized as a most serious offense?

21 A. No, sir.

22 Q. In any of these meetings with your  
23 attorney did you discuss possible defenses to the  
24 charge of murder?

25 A. No, sir.

1 Q. Did you ever give any explanation to  
2 your attorney as to why the incident happened?

3 A. Yes, sir.

4 Q. Had you told your attorney about an  
5 altercation with the deceased a couple of weeks  
6 before the incident?

7 A. I told her when I first met her.

8 Q. And to be blunt, in that situation he  
9 beat you up, correct?

10 A. We had a fight, yes, sir.

11 Q. Let me ask this general question. Were  
12 you given -- did your attorney provide you a copy  
13 of discovery or Rule 5 was that given to you?

14 A. Yes, sir.

15 Q. Did you and your attorney talk about  
16 the fact that there was an allegation that the  
17 deceased thought that you had robbed him at some  
18 point previously?

19 A. No, sir.

20 Q. Did you and your attorney talk about on  
21 the incident date the fact that you knew you would  
22 be walking by the deceased's house?

23 A. Yes, sir.

24 Q. Do you remember explaining to your  
25 attorney why?

1 MR. HUNTER: Your Honor, I object to  
2 the leading. You can just ask him what they talked  
3 about.

4 THE COURT: I'm going to allow him some  
5 leeway in this respect.

6 BY MR. DAVIS:

7 Q. Do you recall talking to your attorney  
8 about why you took a weapon with you that during  
9 the incident date?

10 A. We spoke about that.

11 Q. Was there a reason or was it just in  
12 case?

13 A. There was a reason.

14 Q. What was that?

15 A. Because I knew he had a gun.

16 Q. Do you recall talking with your  
17 attorney about the shooting and not denying that  
18 you had shot him, right?

19 A. Yes, sir.

20 Q. But you remember what your emotion was,  
21 what you told your attorney your emotion was when  
22 you did shoot?

23 A. I told her that after I shot him I ran.  
24 I got scared and I ran.

25 Q. Now, do you remember talking about

1 that, about how you were scared when the shooting  
2 happened and then you ran, do you remember talking  
3 with your attorney about the law around  
4 self-defense?

5 A. No, sir.

6 Q. Do you recall her making any statement  
7 about South Carolina law as it applies to  
8 self-defense?

9 A. Yes, sir.

10 Q. What did she say?

11 A. South Carolina doesn't have  
12 self-defense law.

13 Q. So if you were talking with her about  
14 using that in trial how did she tell you that would  
15 work out for you?

16 A. We never spoke about it after she said  
17 that.

18 Q. Now, during the over thousand days you  
19 were in jail were these discussions, would you say  
20 they were more focused on trial and trial defenses  
21 or working some kind of plea out?

22 A. Neither one.

23 Q. Well, if it wasn't to one of those two  
24 things can you tell the judge what your discussions  
25 during these six or seven meetings concerned?

1           A.    We just spoke about me trying to get a  
2 bond, getting out.  Nobody tried to speak about a  
3 plea agreement, that was never brought upon.

4           Q.    Tried to speak about what agreement?

5           A.    A plea agreement.

6           Q.    Okay.  To be clear, was there any  
7 discussion by your attorney to you about any trial  
8 strategy?

9           A.    No, sir.

10          Q.    You had never been to trial previously  
11 in your life?

12          A.    Never.

13          Q.    Did she ever discuss about how trials  
14 are even handled in South Carolina General Sessions  
15 courts?

16          A.    Never.

17          Q.    Were there any discussions about the  
18 State's evidence that you got a copy of?

19          A.    I told her -- well, yes, sir.

20          Q.    What was the discussion about the  
21 evidence you received?

22          A.    It was we waiting on DNA from other  
23 items.

24          Q.    We will get to DNA in a second.  On  
25 what you had received what discussions did you

1 have?

2 A. My evidence was on -- my fingerprints  
3 was on the weapon they receive.

4 Q. So is it a weapon put into evidence and  
5 the evidence showed your fingerprints matched; is  
6 that correct?

7 A. Yes, sir.

8 Q. Early on for a long time you are  
9 waiting on some DNA results; is that accurate?

10 A. Yes, sir.

11 Q. What do you recall about witnesses to  
12 the incident?

13 A. I was told that it was two witnesses,  
14 but really one who identified me.

15 Q. So on that was there any discussion  
16 with your attorney about how she might try to  
17 attack or block the identification by that one  
18 witness at trial or if you went to trial?

19 A. You say this witness said it was me?

20 Q. She told you you had been identified,  
21 but did she -- did Ms. Proctor talk about if you  
22 were going to trial what she might do to try to  
23 block that testimony?

24 A. No, sir.

25 Q. Did she ever refer to a Biggers

1 hearing? Did you ever hear that phrase?

2 A. No, sir.

3 Q. Now, you mentioned that there was some  
4 DNA evidence at some point; is that right? When in  
5 the thousand days were you made aware of the DNA  
6 evidence, the results of the DNA testing?

7 A. The last few days leading up to my  
8 court date.

9 Q. And were you given a copy of that like  
10 you were given a copy of the discovery or was it  
11 simply read to you?

12 A. Was read to me.

13 Q. And did you understand that that seemed  
14 to show that there was DNA from the victim on your  
15 clothing?

16 A. I mean I was going off of her words.

17 Q. That's what you were told?

18 A. Um-hmm.

19 Q. I need you to say yes or no.

20 A. Yes.

21 Q. Thank you. Was there any discussion  
22 about --

23 THE COURT: Can you ask the question  
24 again, last question. Repeat that.

25 Q. Yes, sir. It's your understanding --

1 she told you that the DNA was a match to the victim  
2 on your clothing?

3 A. Yes, sir.

4 Q. Did she discuss any way to try to deal  
5 with that DNA evidence if you had gone to trial?

6 A. No, sir.

7 Q. No discussion about challenging the  
8 testing of the DNA?

9 A. No, sir.

10 Q. We have also alleged in the amended  
11 application she didn't fully investigate the case  
12 for you. Can you tell the judge about any  
13 witnesses you wished for her to speak to?

14 A. Well, the people who said they saw me.

15 Q. Were there any witnesses you wanted her  
16 to talk to though?

17 A. No, just the people say they saw me.

18 Q. You testified a moment ago that you  
19 think that it was just a few days before the court  
20 date that you found out about the DNA; is that  
21 right?

22 A. Yes, sir.

23 Q. And was it about that same time that  
24 offers were being brought to you?

25 A. Yes, sir.

1 Q. Do you recall the date when you  
2 received the first offer?

3 A. Was on a Tuesday. I don't remember the  
4 actual date. Was a Tuesday.

5 Q. Tuesday before you went to court?

6 A. Yes, sir.

7 Q. And did you indicate you wanted to  
8 plead guilty or were you still looking for a trial  
9 on that date?

10 A. I told her I wanted to plead guilty.

11 Q. Was there a discussion next day?

12 A. Yes, sir.

13 Q. Was there a discussion about the offer  
14 as well?

15 A. Same thing.

16 Q. And did you indicate that you wanted to  
17 accept the offer or have a trial?

18 A. I told her I didn't want to plead  
19 guilty.

20 Q. Did not?

21 A. Did not.

22 Q. And then the third day, the day before  
23 your court date, did you have a discussion with  
24 your attorney about the offer?

25 A. Yes, sir.

1 Q. And on that date what did you do?

2 A. Said that I wanted to plead guilty.

3 Q. And then the next day you went to

4 court?

5 A. Yes, sir.

6 Q. The date -- do you recall the day you  
7 went to court was on a Friday of a court week?

8 A. Yes, sir.

9 Q. Now, if you did not plead guilty that  
10 day what was going to happen the next Monday?

11 A. Monday I was going to trial.

12 Q. So when you are talking about the DNA  
13 that you just found out about a few days before the  
14 court date, did Ms. Proctor indicate that she might  
15 be able to get the trial continued because you're  
16 just getting the DNA?

17 A. No, sir.

18 Q. Did she discuss any way to try to block  
19 the State from using it at trial if you went to  
20 trial?

21 A. No, sir.

22 Q. When you made the decision -- guilty  
23 plea was on a Friday. Decision to plea was made on  
24 a Thursday night or Thursday; is that correct?

25 A. Yes, sir.

1 Q. When you made that decision what, if  
2 anything, had Ms. Proctor shown you or told you to  
3 show that she was prepared to go to trial?

4 A. No, sir.

5 Q. Had she shown you anything?

6 A. No, sir.

7 Q. When you met and indicated to her that  
8 you were not going to go to trial, going to accept  
9 the plea, did she indicate anything about what the  
10 judge would do on sentencing?

11 A. We speak about a number, but it wasn't  
12 the number that I receive.

13 Q. Tell the judge what the discussions  
14 were with Ms. Proctor about a number.

15 A. We speak upon 20 years.

16 Q. Do you remember how she said it?

17 A. Not word for word, not exactly word for  
18 word.

19 Q. But that mention of 20 years was on the  
20 Thursday or on the day you went to court?

21 A. That was on a Thursday, but on the day  
22 I went to court when I signed the paper I didn't  
23 even notice the 30 years on the paper.

24 Q. When is the first time you knew of  
25 30 years being the sentence?

1           A.    When Judge Harrington told me I  
2 receiving 30 years.

3           Q.    So you are already in the courtroom and  
4 you're already under oath, correct?

5           A.    Yes, sir.

6           Q.    Once the judge talked to you about the  
7 30-year sentence did you feel like you had to keep  
8 going or that you could stop the plea?

9           A.    I feel that I keep going because --  
10 well, what I had going on in my mind, what I was  
11 told if I didn't take the plea I was going to  
12 receive life and that keep sticking in my mind. I  
13 didn't want to receive life.

14          Q.    Was there any discussion with your  
15 attorney about the fact that until the plea is  
16 completed that you could withdraw a plea? Was  
17 there any discussion about that?

18          A.    No, sir.

19          Q.    Now, you just told the judge that you  
20 had some things that were weighing on you when you  
21 made the decision, right?

22          A.    Um-hmm.

23          Q.    Potential life sentence was weighing on  
24 you when you made the decision?

25          A.    Um-hmm.

1 Q. You need to say yes or no.

2 A. Yes.

3 Q. In addition to that were there some  
4 things that Ms. Proctor brought up to you to try to  
5 persuade you to plead guilty?

6 A. She said if I don't take the plea and I  
7 go to trial and lose I'm going to receive life as  
8 she was reading the DNA evidence to me.

9 Q. Did she discuss other than the  
10 sentencing any effects on your family or anything  
11 like that?

12 A. Yes.

13 Q. Can you tell the judge what she said?

14 A. She was telling me I wasn't going to  
15 see my daughter if I received life and at least for  
16 30 years I got another chance to see her.

17 Q. At the time of the guilty plea do you  
18 recall how old you were?

19 A. At that time I was 29.

20 Q. How old was your daughter?

21 A. She was nine.

22 Q. Rather than going back through  
23 everything I asked you about and whether it was  
24 discussed or not, let me simply ask you this: You  
25 have already testified you didn't feel -- you

1 hadn't been shown anything to indicate Ms. Proctor  
2 was prepared to go to trial. If she had shown you  
3 things to make you believe she was ready to go to  
4 trial back in July of 2015 would you have pled  
5 guilty or would you have gone to trial?

6 A. I would have gone to trial.

7 Q. Judge asked you before you started  
8 testifying that you understand the trial would  
9 likely have been on a murder charge?

10 A. Yes.

11 Q. And that's a potential mandatory 30  
12 years day for day, do you understand that?

13 A. Yes, sir.

14 Q. If convicted. And could go all the way  
15 up to life if convicted?

16 A. Yes, sir.

17 Q. Your Honor, if I could have just one  
18 moment.

19 (Brief pause.)

20 To make that a little clearer, if you  
21 had understood that -- if your attorney told you  
22 self-defense was a potential defense would you have  
23 pled guilty or gone to trial?

24 A. I would have went to trial.

25 MR. DAVIS: Thank you, Mr. Seabrook.

1 That's all the questions I have.

2 THE COURT: Mr. Davis, one of the  
3 things I noticed that you have asked in a number of  
4 these hearings is you asked them what did the trial  
5 counsel do or say to show that they were ready for  
6 trial. I'm not being smart. What does a trial  
7 lawyer tell a client or show a client that shows  
8 they are ready to go to trial?

9 MR. DAVIS: Could be a number of  
10 things, Your Honor. Could be reviewing the  
11 witnesses potential testimony and how those  
12 witnesses might be attacked. It could be as simple  
13 as running through you will be brought in the  
14 courtroom, there will be potential jurors sitting  
15 back here, here's how we pick a jury.

16 THE COURT: I just didn't understand  
17 exactly what you were going at. I thought there  
18 was some secret procedure you are supposed to go  
19 through.

20 MR. DAVIS: No, sir. And despite  
21 leading a lot, I want to ask that open ended so if  
22 the client can think of anything that the counsel  
23 would have shared, you did that, you looked like  
24 you were ready for trial. That's why I usually ask  
25 that.

1 THE COURT: The other question for you  
2 at this juncture would be do you have -- is there  
3 -- have you discovered any legitimate procedural or  
4 substantive challenge to DNA evidence?

5 MR. DAVIS: I have not, Your Honor.

6 THE COURT: Okay. All right. Very  
7 good. Cross-examination, Mr. Hunter.

8 CROSS-EXAMINATION

9 BY MR. HUNTER:

10 Q. May it please the Court. So I want to  
11 go over the plea offer. I believe you testified  
12 Thursday before court, that's when you received the  
13 20-year offer? And was that yes or no?

14 A. Yes.

15 Q. And that's when you told Ms. Proctor  
16 you didn't want to plead guilty?

17 A. I told her Tuesday and Wednesday and  
18 Thursday.

19 Q. Say that again?

20 A. I told her Tuesday and Wednesday I  
21 didn't want to plead and Thursday I plead. I  
22 accepted the plea.

23 Q. So Thursday you told her you didn't  
24 want to plead and on Friday, is that when you were  
25 presented with the paperwork?

1 A. Yes, sir.

2 Q. On this paperwork you didn't happen to  
3 see the number that was written on it?

4 A. No, sir, not at the moment.

5 Q. You're saying that your counsel never  
6 told that you it would be 30 years for voluntary  
7 manslaughter?

8 A. Not until I got inside the courtroom  
9 and I was told I receiving 30 years.

10 MR. HUNTER: That's all I have.

11 THE COURT: Redirect?

12 MR. DAVIS: No, Your Honor.

13 THE COURT: Mr. Seabrook, you may  
14 resume your chair over here.

15 THE WITNESS: Thank you, sir.

16 THE COURT: You may call your next  
17 witness.

18 MR. DAVIS: We would call Ms. Proctor.

19 THE COURT: Please come forward and  
20 bring your paperwork if you would like. You can  
21 set it down and place your left hand on the bible  
22 and raise your right hand. The clerk will  
23 administer the oath.

24 LORI PROCTOR

25 having been duly sworn, testifies as follows:

1 THE COURT: Have a seat in the chair  
2 there and I ask you pull up real close to that  
3 microphone and speak loudly, clearly and slowly in  
4 order that we can hear everything that you have to  
5 say. Let's start with your full name.

6 THE WITNESS: Lorelle Denise Proctor,  
7 P-R-O-C-T-O-R.

8 DIRECT EXAMINATION

9 BY MR. DAVIS:

10 Q. Thank you, Your Honor. Ms. Proctor,  
11 let me start right at the very end of the attorney  
12 general's question there. They were talking about  
13 a number appearing on a sentencing sheet. I will  
14 ask you in general even if it is a negotiated  
15 sentence is the bottom portion of the sentence  
16 sheet where the term -- is it normal that it's not  
17 complete until by the judge?

18 A. Correct. Do you mean is the judge's  
19 sentence already written on the sentencing sheet?

20 Q. That's another way to ask.

21 A. No, the judge fills out the sentencing  
22 sheet.

23 Q. And in this case there was not -- do  
24 you have a copy of the sentencing sheet?

25 A. Yes.

1 Q. In this case on the top portion above  
2 the signature which is the only thing that's filled  
3 out prior to the judge having it, there's no  
4 indication of a term of years?

5 A. No. Just says negotiated so we had  
6 negotiated the sentence before we went in.

7 THE COURT: It was indeed a negotiated  
8 30?

9 THE WITNESS: Yes, sir.

10 BY MR. DAVIS:

11 Q. The guilty plea happened the Friday  
12 before trial, correct?

13 A. No.

14 Q. Okay. When did the guilty plea occur?

15 A. The date of the plea was July 24th,  
16 2015. In my recollection it wasn't the week before  
17 trial. I mean it's been a while. But because  
18 looking through the file I don't have any subpoenas  
19 or anything so I just don't think that it would  
20 have been the week before trial best to my  
21 recollection just from looking at my notes.

22 Q. Prior to the plea on the 24th of July  
23 you had met with Mr. Seabrook a few days in a row;  
24 is that accurate?

25 A. Before the plea?

1 Q. Yes.

2 A. Yes.

3 Q. And each time it was discussed whether  
4 to accept a guilty plea or not, correct?

5 A. Yes.

6 Q. And --

7 A. It could have been set for trial, but  
8 what you are asking me was it so long ago I can't  
9 remember like if it was that week or if we had a  
10 trial date set. I don't recall. It was so long  
11 ago.

12 Q. And is it accurate that the first two  
13 days of discussing the potential plea he said he  
14 wanted a trial, did not want to plea? Do you  
15 recall that?

16 A. I do not recall that.

17 Q. Let's get a simple one out of the way.  
18 Do you recall during the guilty plea indicating  
19 that you had not discussed the fact that this was a  
20 most serious with him? Do you recall that? Have  
21 you had a chance to review the transcript?

22 A. Yes, but if you --

23 Q. Page 6 starting at line 13.

24 A. Yes, I see. I talked -- says we talked  
25 about it being a violent crime and he would have to

1 do 85 percent and then it would be up to the  
2 Department of Corrections. Line 6 line 7.

3 Q. Line 13?

4 A. 13. Because it was such a big sentence  
5 and his age when he gets out I didn't tell him two  
6 strikes. You would have life.

7 Q. Meaning that this voluntary conviction  
8 would be one most serious and if he got another one  
9 it could be life? But you did discuss that based  
10 on the length of the sentence?

11 A. Correct.

12 Q. The DNA evidence that's been testified,  
13 is it accurate that came in late close to this  
14 guilty plea date?

15 A. From -- I don't recall when I received  
16 it, but it says that -- looks like it was done in  
17 2013. So I think the plea was in 2015. If this is  
18 the -- looks like we had different dates because we  
19 had quite a bit other things coming in, but I think  
20 we received I want to say 2013. But I don't have a  
21 date stamp on it when the solicitor gave to it me.  
22 But that's just when it looks like SLED said  
23 November 4th, 2013, and some -- and then unless you  
24 have something, I don't have it stamped. I don't  
25 think we stamped things then like we do now.

1 Q. In murder cases discovery is coming in  
2 as the case progresses?

3 A. Correct.

4 Q. The attorney general has a copy of  
5 this. May I approach the witness, Your Honor?

6 THE COURT: Yes.

7 Q. I am going to show you -- mark this.

8 (Applicant's Ex. 1 marked for  
9 identification.)

10 BY MR. DAVIS:

11 Q. Show you what's applicant's or  
12 Plaintiff's Exhibit No. 1. Do you recognize that  
13 e-mail?

14 A. I do. Well, I don't remember it, but  
15 it's got my name on it so I'm sure I do have it.

16 Q. It appears to be an e-mail from the  
17 solicitor, Mr. Simpson, to you?

18 A. Correct.

19 Q. Dealing with DNA evidence?

20 A. Correct.

21 Q. And tell the Court the date?

22 A. This is 2014. Wait. It's  
23 September 2014 and he said I guess the offer  
24 expires March of 2015.

25 Q. And then the actual guilty plea was

1 July 24th of 2015, correct?

2 A. It's -- yes. I do know that we were  
3 waiting. That's what took this case a long time.  
4 We were waiting for SLED.

5 Q. You indicated at the guilty plea that  
6 one of the delays was the fact you were waiting on  
7 DNA evidence. You also indicated at the guilty  
8 plea that there were long negotiations in trying to  
9 resolve this case short of trial; is that correct?

10 A. Correct.

11 Q. Is it fair to say that you were focused  
12 -- your advice to Mr. Seabrook was to try to work  
13 out some deal other than going to trial on murder?

14 A. Correct.

15 Q. With that being said, do you recall  
16 evidence being provided to you that there had been  
17 a fight between the deceased and Mr. Seabrook  
18 within a couple weeks before the shooting?

19 A. Yes. I think Mr. Seabrook told me  
20 about that if I remember.

21 Q. You during the mitigation at the guilty  
22 plea talked about the fact that there was some  
23 belief on the victim's part that Mr. Seabrook had  
24 robbed him recently prior to the shooting; do you  
25 recall that?

1           A.    I do recall something about when I  
2 first met Mr. Seabrook telling me they had an  
3 altercation because I think they had known each  
4 other for 15 years, might have been the same  
5 neighborhood, but I do remember him telling me  
6 there had been a fight prior.

7           Q.    And then -- but then even to exacerbate  
8 the relationship Mr. Seabrook had shared that  
9 somehow the deceased was confused that he had  
10 robbed him?

11          A.    Correct.

12          Q.    In addition to that, when Mr. Seabrook  
13 talked to you and you shared this with the Court,  
14 when he left his house on the day of the shooting  
15 he indicated he took his gun just in case?

16          A.    Correct.

17          Q.    Can you explain to the Court at the  
18 plea that when you talked to Mr. Seabrook about  
19 this shooting he said I got scared, I shot and I  
20 ran. Do you recall that?

21          A.    Correct.

22                MR. DAVIS: Your Honor, one moment.  
23 Thank you, Your Honor. No other questions.

24                THE COURT: Cross-examination.

25                        CROSS-EXAMINATION

1 BY MR. HUNTER:

2 Q. May it please the Court, so were you  
3 his -- Mr. Seabrook's attorney the entire time  
4 after he was arrested before the plea?

5 A. Yes, I was.

6 Q. And how many times did you meet with  
7 him?

8 A. I do not recall. I'm not the greatest  
9 at documenting files, but at least I have 14 that I  
10 have written down. And I will say this, a lot of  
11 them were I think from the time he got into jail  
12 until after we did have video conferencing. So a  
13 lot of those I can see him from my desk. So it  
14 makes it a lot easier to see people more often  
15 because we can -- we don't have to go to the jail  
16 and wait for two hours for a booth.

17 Q. And during those meetings what did  
18 y'all go over?

19 A. We went over the case. When I reread  
20 the transcript I remember telling the judge he was  
21 one of the nicest, politest clients I ever had. We  
22 always got along. We went over everything. He  
23 always felt very remorseful about this. And as I  
24 said in my plea he didn't go out that night wanting  
25 to hurt somebody. It was something that happened

1 very fast. But the problem is with the jury they  
2 could easily have come back murder and he would  
3 have got a life sentence and that concerned me.

4 Q. So you guys went over I guess the  
5 State's version of the facts?

6 A. Yes.

7 Q. And did you go over I guess possible  
8 trial defenses with him?

9 A. We did.

10 Q. And as far as self-defense goes, is  
11 that something that was explained to him?

12 A. I think we talked about it. I don't  
13 think it was a self-defense case so I can't say how  
14 long we talked about self-defense. But I know that  
15 at sometime it probably did come up when I was  
16 looking at my notes, but I cannot remember exactly  
17 as I said our discussion about it.

18 Q. Did you ever tell him that self-defense  
19 was not a law in South Carolina?

20 A. Pardon?

21 Q. Did you ever tell him that there was no  
22 law of self-defense in South Carolina?

23 A. Well, no, no.

24 Q. And during this discussion did you all  
25 discuss whether or not he should plead guilty or go

1 to trial?

2 A. Oh, yes.

3 Q. And could you explain how the plea  
4 offers came in?

5 A. Probably I just wore Chad down. I  
6 tried to. We kept just waiting and waiting and we  
7 were waiting for DNA evidence. And I just -- I  
8 liked Mr. Seabrook a lot. And we just were waiting  
9 for everything to come in. Sometimes I think I  
10 would see him quickly on video hey, how are you  
11 doing. Is everything okay. And I like said, he  
12 always felt horrible about this because he had  
13 known the victim.

14 And I think this was something that  
15 happened was -- I don't think he left his house  
16 that night thinking I'm going to go shoot somebody.

17 Q. So I believe you testified there was a  
18 20-year offer; do you recall that?

19 A. If there would have a 20-year plea  
20 offer we would have taken it so I don't think there  
21 was one because we would have jumped on that right  
22 away.

23 Q. Can you explain what offers were  
24 presented to you?

25 A. I think it was either go to trial or

1 take the 30 for voluntary and I think that's what  
2 was negotiated.

3 Q. And do you recall when -- I guess when  
4 you discussed this final plea offer with him?

5 A. I don't remember when we discussed it.  
6 I don't think it was right before trial because  
7 looking at my file I would have had all the  
8 subpoenas out and everything and I don't have them  
9 in my file. So I don't think it was like plea on  
10 Thursday, the trial is on Monday.

11 Q. And prior to going into that plea  
12 hearing do you believe that he understood it was to  
13 a 30 year?

14 A. Yes, because it was negotiated and the  
15 judge also explained it to him when she did her  
16 plea.

17 Q. And about the DNA evidence, I believe  
18 you said that e-mail is from September 10th, 2014;  
19 is that correct?

20 A. The e-mail from Chad?

21 Q. From Chad, yes.

22 A. It was Wednesday September 10th.

23 Q. So that was when?

24 A. September 10th, 2014.

25 Q. That was the first time that you had

1 received the DNA evidence in this case; is that  
2 correct?

3 A. Yes, because I see he sent me -- I was  
4 looking at the one from March. Because where he  
5 says DNA results included so I don't know what else  
6 was included in that, but so I assume it was the  
7 DNA kept coming back in 2014.

8 Q. And you discussed what the results were  
9 of that too with Mr. Seabrook?

10 A. Yes, we went over it. I think there  
11 were about three pages of results.

12 THE COURT: So you went over -- the  
13 plea took place in '15, you went over the DNA  
14 results in '14; is that correct?

15 THE WITNESS: Yes.

16 BY MR. HUNTER:

17 Q. And did you discuss I guess challenges  
18 that may exist to the DNA evidence?

19 A. I'm sure that we -- I went over that.

20 Q. And did you discuss with him challenges  
21 to the eyewitness identifications?

22 A. Yes. The witnesses from -- if I'm  
23 correct, I think some -- I think they were out of  
24 state. I can't remember if all of them were from  
25 out of state, but I know that they gave interviews

1 and I think they had taped interviews. So we went  
2 over those if I recall.

3 Q. Beg the Court's indulgence for one  
4 second.

5 (Brief pause.)

6 MR. HUNTER: That's all I have. Thank  
7 you so much.

8 THE COURT: Let me ask you a few  
9 questions. He alleged that you did not investigate  
10 the case. You had the case for almost a thousand  
11 days. Did you investigate the case?

12 THE WITNESS: Yes, I did.

13 THE COURT: And I see an expanding  
14 folder over and it is fairly thick.

15 THE WITNESS: It is, yes.

16 THE COURT: Did an investigator help  
17 you in your investigation?

18 THE WITNESS: Yes.

19 THE COURT: Did you meet and advise the  
20 applicant of his constitutional rights and plea  
21 offer?

22 THE WITNESS: Yes, I did.

23 THE COURT: Did you talk with him about  
24 trial strategy, possibility of going to trial  
25 versus a plea?

1 THE WITNESS: Yes.

2 THE COURT: There's some discussion  
3 about Brady material, some belated Brady material  
4 as he set out in his application. Was there any  
5 problem with any lack of or late Brady material?

6 THE WITNESS: Just that it took --  
7 unless they just mean the DNA it took them a while.

8 THE COURT: I am talking about Brady  
9 material.

10 THE WITNESS: No, not that I know of.  
11 I would have to go through my whole file, but I  
12 don't remember unless it's something specific.

13 THE COURT: He understood the elements  
14 of the offenses as I understand it?

15 THE WITNESS: Yes, sir.

16 THE COURT: And he has indicated that  
17 you did not go over the possible sentences with  
18 him. But is that correct or did he understand it  
19 was a negotiated 30-year sentence?

20 THE WITNESS: We definitely went over  
21 the sentence because it was negotiated on the  
22 sentence sheet that he signed.

23 THE COURT: You did -- I think the  
24 transcript sort of sets it out -- you did go over  
25 the collateral consequences of the most serious

1 offense with him?

2 THE WITNESS: Yes.

3 THE COURT: All right. Any further  
4 questions?

5 MR. HUNTER: No, Your Honor.

6 THE COURT: Any redirect?

7 MR. DAVIS: No, Your Honor, but maybe I  
8 misheard you, but the transcript as to strike  
9 offenses, Ms. Proctor, I did not tell him that two  
10 strikes he would have life. So she's indicating to  
11 the Court that she did not review that with him  
12 prior.

13 THE COURT: Is that correct?

14 THE WITNESS: If that's what I said in  
15 the transcript -- I mean I will be honest. That  
16 was three years ago. If I didn't tell him that he  
17 -- I don't recall. I will be quite honest, I don't  
18 recall.

19 MR. DAVIS: For the record, she begins  
20 by saying because it was such a big sentence and  
21 his age when he gets out I didn't warn him about  
22 the potential. So she was giving an explanation,  
23 but she did indicate. I just want the record to  
24 not be mistaken.

25 THE COURT: What's your understanding

1 -- I think there have been a number of cases that  
2 talk about advising of collateral consequences and  
3 sometimes there is absolutely no mention of it  
4 whatsoever, it's not a grounds for granting  
5 post-conviction relief or an appeal; is that  
6 correct? What is your understanding the law?

7 MR. DAVIS: I'm trying to think if  
8 there is a case that says in absolute absence. If  
9 I misstate it the attorney general can correct me,  
10 but Your Honor, I'm not thinking of a case where  
11 the absolute absence --

12 THE COURT: Tell me the case you are  
13 thinking of.

14 MR. DAVIS: I'm going to word your  
15 question differently if I may. I'm not sure  
16 whether absolute absence would justify. It's kind  
17 of like if you are never warned of the right to  
18 appeal that doesn't necessary let us get the hook  
19 in you. But if the client attempts and wants to  
20 then it does. But what I would argue here is that  
21 there's a discussion on the record in court. The  
22 judge certainly makes an issue of it and up until  
23 that point he had not been advised of it. It's  
24 touched on and glossed over and moved on. I would  
25 argue that not knowing that, he's 29 at the time.

1 His -- I don't know if this is in what the State  
2 said, but I will just -- I don't believe there will  
3 be an objection. The projected release date is  
4 November of 2039.

5 THE COURT: You mean '59.

6 MR. DAVIS: So the older I get the  
7 younger that is. He certainly can survive and  
8 outlive his sentence. And so I would argue that  
9 knowing the potential collateral consequences  
10 because of his young age, he should have been  
11 advised and we would argue that it's grounds in and  
12 of itself potentially to be ineffective and change  
13 the outcome.

14 THE COURT: Anything further from the  
15 witness?

16 MR. DAVIS: No, Your Honor.

17 THE COURT: Thank you, Ms. Proctor.

18 MR. DAVIS: That would be the  
19 applicant's presentation of evidence, Your Honor.

20 THE WITNESS: This is your exhibit.

21 MR. DAVIS: I did not move that into  
22 evidence. It was just to refresh your memory. The  
23 applicant would not seek to introduce that.

24 Judge, the only final thing, I looked  
25 on my phone and we have all access to this, if I

1 can show you or you can check, if you will take  
2 judicial notice that July 24th, 2015, was a Friday.

3 THE COURT: Okay.

4 MR. DAVIS: Other than that the  
5 applicant has no other presentation.

6 THE COURT: Be glad to hear remarks in  
7 summary if you choose to do so.

8 MR. DAVIS: Thank you, Your Honor. I'm  
9 not going to reiterate what we just discussed there  
10 a moment ago which I would argue about the  
11 collateral consequences. You understand my  
12 argument on that.

13 I want to focus on another major issue,  
14 Judge, that I will ask you to look at one thing.  
15 There is several that we have argued I laid out in  
16 the beginning, but both Mr. Seabrook and Ms.  
17 Proctor both testified about these prior  
18 altercations with the deceased, a fight. A  
19 misunderstanding about whether or not Mr. Seabrook  
20 committed a robbery on him or not. The fact that  
21 Mr. Seabrook knew that he would be walking by the  
22 deceased's residence and as it was presented in  
23 mitigation he took his gun just in case. There's a  
24 portion in here, both the State's recitation of the  
25 facts and Ms. Proctor's mitigation of them, that as

1 the deceased turned it happened quickly. Shot was  
2 fired. The State suggested there was some  
3 physicality, some punches. Mr. Seabrook denied  
4 that and then he ran. Ms. Proctor testified that  
5 while self-defense would have been discussed she  
6 did not think this was a self-defense case.

7 I'm going to harp on that. I think  
8 that it should have been fleshed out more with Mr.  
9 Seabrook. He should have been -- that should have  
10 been discussed thoroughly, this that is, in fact, a  
11 potential self-defense case. If he had -- he gets  
12 to act on appearances, he already thinks that the  
13 deceased believes he robbed him, he already got in  
14 a fight with the deceased two weeks prior. There  
15 is bad blood for lack of a better term. Walking  
16 along, bumps into him and happened quickly.

17 Now, whether a jury believed that  
18 affirmative defense or not, we don't know. But  
19 that is available here in the facts that are  
20 presented to us and the facts that are testified  
21 today by both witnesses. And the fact that that  
22 wasn't thoroughly discussed with Mr. Seabrook that  
23 option, he testified that had certain things been  
24 done, I think ended with that, that he would have  
25 requested a jury trial. Knowing the risks he still

1 would have requested that rather than pleading  
2 guilty. There is a valid defense that was not  
3 discussed, was not given to Mr. Seabrook as an  
4 option. He entered a plea instead. We would argue  
5 that's ineffective assistance of counsel and that  
6 affected the outcome in addition to failing to  
7 announce collateral consequences and the other  
8 issues we have raised, but that's what I wanted to  
9 focus on.

10 THE COURT: You mentioned she did not  
11 discuss. That's not what she testified to.

12 MR. DAVIS: If I said it, Judge, I  
13 apologize. My notes were -- I tried to get -- we  
14 discussed self-defense, but it is not a  
15 self-defense case. I believe that was her  
16 testimony. So it was discussed, but she testified  
17 her position was we talked about it, but it's not  
18 that type of case. So it wasn't -- I am making the  
19 assumption based on that it wasn't thoroughly  
20 discussed and Mr. Seabrook testified no trial  
21 strategy, and that it wasn't discussed.

22 So if it was in passing that would make  
23 both testimonies accurate. It was mentioned and  
24 moved on. He was never provided the opportunity to  
25 have that as a defense.

1 THE COURT: Very good. Mr. Hunter.

2 MR. HUNTER: Yes, Your Honor. If I may  
3 just touch on the collateral consequences. I do  
4 not have the cases with me right now, but in my  
5 experience the failure to discuss collateral  
6 consequences does not render a plea involuntary.  
7 The way I always understood it is that defense  
8 counsel does not have to discuss collateral  
9 consequences, but if here she does it has to be  
10 correct information.

11 And regardless, Your Honor, just to  
12 touch on the other issues, as far as self-defense  
13 is concerned, I believe until proven otherwise we  
14 have to trust Ms. Proctor's judgment in not  
15 pursuing that finding that in her opinion that it  
16 wasn't a self-defense case regardless of what some  
17 of the evidence would have shown and I think there  
18 is certainly some evidence that would go against  
19 that when one leaves their house with a gun,  
20 approaches the general area of where the victim is.

21 But besides from all of that I believe  
22 Ms. Proctor provided pretty credible testimony  
23 about her investigation, about her advice  
24 concerning the trial strategy defenses, elements,  
25 sentence, about her advice concerning the plea

1 offer that was negotiated to voluntary rather than  
2 murder. And furthermore, the State would argue  
3 that the applicant hasn't shown that anything was  
4 done improperly as far as the DNA evidence is  
5 concerned. It did come in later, it looks like it  
6 came in almost ten months before the actual plea.  
7 So I would conclude by saying Ms. Proctor was not  
8 ineffective. Thank you.

9 THE COURT: Bear with me just one  
10 moment.

11 (Brief pause.)

12 I'm going to ask Mr. Hunter if he could  
13 prepare an order. I specifically find that Ms.  
14 Proctor did do an adequate investigation of this  
15 case. It is clear from just looking at her file  
16 there was a tremendous amount of work that was  
17 done. She investigated the case. She received --  
18 she filed discovery motions, Brady motion. She  
19 received those. Her testimony was she reviewed all  
20 this evidence with the Defendant.

21 I specifically find that the testimony  
22 of Ms. Proctor is credible and that she had a  
23 discussion with the Defendant about several  
24 defenses and that being a viable defense in the  
25 State of South Carolina. And more importantly,

1 Judge Harrington went over in great detail his  
2 constitutional rights and he voluntarily gave up  
3 his right to a jury trial. There was nothing about  
4 the plea that was involuntary, all that was covered  
5 in great detail in the plea transcript.

6 In addition to that, the facts that --  
7 the State's version of the facts were put on the  
8 record. The Defendant specifically in the plea  
9 agreed with the facts and indicated that he indeed  
10 was guilty. The plea offers were simply the  
11 options that were made available were 30 years or a  
12 negotiated 30 years or go to trial. That was  
13 communicated to the Defendant in no uncertain  
14 terms.

15 I find that regardless of whether or  
16 not what discussion or the absence of discussion  
17 about collateral consequences, Judge Harrington did  
18 indeed discuss with the Defendant the collateral  
19 consequences of the strikes that were -- the fact  
20 that this was indeed a strike against him subject  
21 to the two and three strike rule.

22 I specifically find that there has been  
23 some contention of ineffectiveness with regards to  
24 the DNA. I find the DNA, as soon as the defense  
25 counsel received the DNA, she went over it with the

1 applicant. And in the event for there to be some  
2 granting of post-conviction relief it would be  
3 incumbent upon the applicant to show that there was  
4 some viable defense with regards to the  
5 presentation of the DNA and there has been none.  
6 Any delicts that have been alleged would not have  
7 affected the outcome of this matter and I'll deny  
8 the application for post-conviction relief. I will  
9 ask Mr. Hunter to prepare an order to that effect.  
10 Good luck to you, Mr. Seabrook.

11 (These proceedings were concluded at  
12 2:38 p.m., December 5, 2017, Charleston County,  
13 South Carolina.)  
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## CERTIFICATE OF REPORTER

1  
2  
3 I, Ruth C. Weese, Registered Diplomate  
4 Reporter for the State of South Carolina at Large,  
5 do hereby certify that the foregoing transcript is  
6 a true, accurate, and complete record.

7 I further certify that I am neither related  
8 to nor counsel for any party to the cause pending  
9 or interested in the events thereof.

10 Witness my hand, I have hereunto affixed my  
11 official seal this 30th day of March, 2018 at  
12 Charleston, Charleston County, South Carolina.

13  
14 *Ruth C. Weese*

15  
16 \_\_\_\_\_  
17 Ruth C. Weese  
18 Registered Diplomate  
19 Reporter  
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STATE OF SOUTH CAROLINA )  
 COUNTY OF CHARLESTON )  
 )  
 William Lamont Seabrook, )  
 S.C.D.C. # 364821 )  
 )  
                   Applicant, )  
 )  
                   v. )  
 )  
 State of South Carolina, )  
 )  
                   Respondent. )  
 )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
OF THE NINTH JUDICIAL CIRCUIT

2016-CP-10-2908

**ORDER OF DISMISSAL**

2016 FEB -1 AM 10:20  
 JULIA HARRINGTON  
 CLERK OF COURT  
 BY \_\_\_\_\_

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed June 3, 2016. An evidentiary hearing into the matter was convened on Tuesday, December 5, 2017, at the Charleston County Courthouse in Charleston, South Carolina before the Honorable Michael G. Nettles. Applicant was present at the hearing and represented by Rodney Davis, Esquire. Justin Hunter, Esquire, of the South Carolina Attorney General’s Office represented Respondent. At the hearing, Applicant testified on his own behalf. Lorelle Proctor, Esquire, also testified. This Court also had before it a copy of Applicant’s PCR application and amendment, the records of the Charleston County Clerk of Court regarding the subject convictions, Respondent’s Return, and the plea transcript.

**I. PROCEDURAL HISTORY**

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Charleston County Clerk of Court’s orders of commitment. Applicant was indicted at the December 2012 term of the Charleston County Grand Jury for murder (2012-GS-10-7250). Lorelle D. Proctor, Esquire, represented him. Chad Simpson, Esquire, prosecuted the case. On July 24, 2015, Applicant appeared before the Honorable Kristi Lea Harrington and pleaded guilty to the lesser included offense of voluntary manslaughter. Judge Harrington sentenced

Applicant to imprisonment for a term of thirty years. Applicant did not appeal his conviction or sentence.

### Allegations

In his application for post-conviction relief, and the amendment filed thereto, Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
2. Involuntary Guilty Plea
3. Brady<sup>1</sup> Violation

Applicant filed an amendment, adding the following grounds for relief:

1. Applicant's attorney provided ineffective assistance of counsel by advising the Applicant to forego his Constitutional Right to a jury trial and plead guilty.
2. Applicant's attorney provided ineffective assistance of counsel by failing to fully investigate the case prior to the guilty plea.
3. Applicant's attorney provided ineffective assistance of counsel by failing to meet with the Applicant a sufficient amount to adequately advise the Applicant and prepare for a resolution.
4. Applicant's attorney provided ineffective assistance of counsel by failing to discuss strategy for a trial including potential defenses.
5. Applicant's attorney provided ineffective assistance of counsel by failing to adequately complain about the State's Brady violation.

At the outset of the PCR hearing, Applicant's counsel specified that he was proceeding on the 5 amended allegations.

## II. APPLICABLE LAW

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

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<sup>1</sup> Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963).

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. With respect to guilty plea counsel, the Applicant must show 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, 59 (1985).

### III. SUMMARY OF THE TESTIMONY AT PCR HEARING

#### Applicant's Testimony

Applicant testified he met with Counsel six to seven times prior to the plea and she represented him for three years. He testified they reviewed the elements of murder and voluntary manslaughter but did not review the potential sentences the charges carried or whether they were classified as most serious. Applicant testified they reviewed the discovery and discussed the possibility of fingerprints on the weapon. He testified Counsel did not investigate the

eyewitnesses in the case.

Applicant testified Counsel did not discuss possible defenses. He testified he did not deny he shot the victim and thought the victim had a gun. He testified Counsel did not discuss self-defense with him and told him South Carolina did not recognize self-defense. Applicant testified Counsel told him a witness had identified him, but they did not discuss defenses in this regard or the possibility of a Neil v. Biggers<sup>2</sup> hearing. Applicant testified he found out about the DNA evidence against him only a few days before the plea. He testified Counsel told him there was DNA evidence from the victim on Applicant's clothing and Counsel did not discuss any possible challenges.

Applicant testified Counsel did not discuss with him about whether he should proceed to trial or plead guilty. He further testified they did not discuss trial strategy. He testified Counsel discussed the plea agreement with him. Applicant testified he was promised a twenty year sentence the day before the court hearing. He testified he told Counsel he did not want to plead guilty. He testified Counsel discussed the plea offer again the day before court and he decided he would plead guilty, but he did not realize until the plea hearing that his sentence was thirty years. Applicant further testified he was persuaded to plead guilty because Counsel told him he could receive a life sentence if he went to trial.

#### **Counsel Lorelle Proctor's Testimony**

Counsel testified she has documented fourteen meetings with Applicant prior to the plea. She testified Applicant was always remorseful. She testified although Applicant told her there was a prior altercation between himself and the victim, she did not think this was a self-defense case but probably did discuss self-defense with Applicant. She testified she never told Applicant self-defense was not viable in South Carolina. Counsel testified Applicant understood the

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<sup>2</sup> 409 U.S. 188 (1972).

elements his charge, the negotiated sentence, and the collateral consequences associated with voluntary manslaughter. She testified she advised Applicant of his rights and extended the plea offer.

Counsel testified the plea offer from the State was a negotiated thirty-year offer. She testified she met with Applicant several days in a row prior to the plea hearing and could not recall if he wanted a jury trial. She testified she did discuss the risks and benefits of proceeding to trial as opposed to pleading guilty. She testified the judge informed Applicant during the plea hearing that voluntary manslaughter was violent and an 85% charge. The plea record reflects Counsel informed the plea court she did not tell Applicant that two strikes meant he would receive a life sentence.

Counsel testified she investigated Applicant's case and employed the help of a private investigator. Counsel testified the DNA evidence was done on November 4, 2013. She testified she received an email from Assistant Solicitor Chad Simpson on September 10, 2014 with the discovery and DNA evidence. (Email entered as Applicant's Exhibit #1). She testified the DNA evidence took so long because of SLED. Counsel testified she discussed the DNA results and challenges Applicant could make to the DNA evidence. Counsel testified there was no problem with the State turning over Brady material and the DNA results were not Brady material. She further testified she discussed challenges to the eyewitness identification as well.

Counsel testified she and Applicant wanted to work out a plea deal. She testified Applicant told her the victim thought Applicant had robbed him earlier and Applicant took a gun with him when he walked by Applicant's house. Counsel testified she would have advised Applicant to take a twenty-year offer, but the only options were to proceed to trial or plead to voluntary manslaughter for thirty years. She testified she did not think the offer was extended

right before trial. She testified the plea judge explained the negotiated offer.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief and amendment, 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.

#### **Ineffective Assistance of Counsel**

Applicant's attorney provided ineffective assistance of counsel by advising the Applicant to forego his Constitutional Right to a jury trial and plead guilty.

Applicant alleged Counsel was ineffective for advising him to plead guilty and forego his constitutional right to a jury trial. This Court finds the record reflects the plea judge went over with Applicant his constitutional rights to a jury trial and Applicant knowingly and voluntarily gave up those rights. Transcript 7-8. The record reflects Applicant agreed with the State's version of the facts presented at the plea hearing and made his plea freely, voluntarily, knowingly, and intelligently. Transcript 14. The record also reflects the plea judge discussed the potential sentences and collateral consequences of pleading guilty to voluntary manslaughter, including strikes. Transcript 4-6. This Court finds Applicant was not promised a sentence and Applicant informed the plea court he did not know what his sentence was going to be and he understood the thirty-year negotiation. Transcript 4. Further, Applicant informed the plea court that it was his decision to plead guilty and no one had promised him or threatened him to get him to plead. Transcript 8. He also told the plea court he was satisfied with Counsel's representation.

Transcript 8-9. This Court finds no deficiencies in Counsel's advice to plead guilty and accept the State's negotiation and finds Applicant intelligently pled guilty on his own free will. Applicant has failed to prove Counsel's advice was deficient or that he pled guilty based on incorrect advice.

This Court further finds Applicant has failed to prove that he was prejudiced by Counsel's actions in this regard. Applicant has failed to prove that but for Counsel's advice, he would rather proceed to trial on his charges, including the original murder charge for which he faces up to a life sentence. As Applicant has failed to provide credible evidence that he would have proceeded to trial but for Counsel's actions, this Court finds this allegation must be dismissed.

Applicant's attorney provided ineffective assistance of counsel by failing to fully investigate the case prior to the guilty plea.

Applicant alleged Counsel was ineffective for failing to investigate his case prior to the guilty plea. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012). "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result." Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)).

This Court finds Counsel conducted an adequate investigation with the assistance of a private investigator. This Court finds Counsel's actions were not deficient in this regard. This Court finds Counsel filed for and received discovery. This Court finds Counsel reviewed all evidence with Applicant. This Court finds Counsel went over the DNA evidence with Applicant

as soon as she received it. Applicant has shown no issue or possible defense that could arise from the DNA evidence against him. This Court finds Applicant has failed to show how Counsel's investigation was deficient and he has further failed to show how further investigation was necessary.

This Court further finds Applicant has failed to prove he was prejudiced by Counsel's actions in this regard. This Court finds Applicant has failed to provide any evidence that but for Counsel's investigation, he would not have pled guilty but would have proceeded to trial. As Applicant has failed to prove that Counsel was ineffective, this Court finds the allegation must be dismissed.

Applicant's attorney provided ineffective assistance of counsel by failing to meet with the Applicant a sufficient amount to adequately advise the Applicant and prepare for a resolution.

Applicant alleged Counsel was ineffective for failing to meet with him a sufficient amount to adequately advise him and prepare for a resolution. Contrary to Applicant's testimony, this Court finds Counsel provided credible testimony that her documentation revealed fourteen meetings with Applicant prior to the plea. This Court finds Counsel adequately met with Applicant prior to the plea and discussed the charges, defenses, rights, and plea offer. This Court finds Counsel conducted an adequate investigation and filed for and received discovery. This Court finds Counsel reviewed all evidence with Applicant. This Court finds Counsel adequately discussed the discovery, including the DNA evidence and eyewitness evidence. Applicant has failed to provide credible evidence to show that Counsel provided insufficient advice because they did not meet a sufficient amount of times and has failed to show how more meetings would have helped his case.

This Court further finds Applicant has failed to prove he was prejudiced by Counsel's actions in this regard. This Court finds Applicant has failed to provide any evidence that if he

had met with Counsel more often, he would not have pled guilty but would have proceeded to trial. As Applicant has failed to prove that Counsel was ineffective, this Court finds the allegation must be dismissed.

Applicant's attorney provided ineffective assistance of counsel by failing to discuss strategy for a trial including potential defenses.

Applicant alleged Counsel was ineffective for failing to discuss a trial strategy and potential defenses. This Court finds Applicant has failed to meet his burden of proving Counsel's actions were deficient in this regard. This Court finds Counsel provided credible testimony that she discussed Applicant's version of the facts, the State's discovery, and self-defense with Applicant but did not think his facts met a valid self-defense argument. This Court also finds Counsel properly discussed with Applicant the DNA evidence and eyewitness identification and the defenses that Applicant may have to this evidence. This Court finds Counsel did discuss trial strategy and Applicant has failed to show that her conduct was deficient. He has failed to show that Counsel's advice was deficient or that he pled guilty pursuant to deficient advice.

This Court further finds Applicant has failed to prove he was prejudiced by Counsel's actions in this regard. This Court finds Applicant has failed to provide any evidence that but for Counsel's advice concerning defense strategy, he would not have pled guilty but would have proceeded to trial. As Applicant has failed to prove that Counsel was ineffective, this Court finds the allegation must be dismissed.

Applicant's attorney provided ineffective assistance of counsel by failing to adequately complain about the State's *Brady* violation.

Applicant alleged Counsel was ineffective for failing to address the State's Brady violation. Brady requires the State to disclose evidence in its possession favorable to the accused and material to guilt or punishment. Clark v. State, 315 S.C.385, 388, 434 S.E.2d 266, 268 (1993). Such a claim is complete if the accused can demonstrate (1) the evidence was favorable

to the accused, (2) it was in the possession of or known to the prosecution, (3) it was suppressed by the prosecution, and (4) it was material to guilt or punishment. Gibson v. State, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999). Under this requirement, “favorable” evidence includes both exculpatory evidence and impeachment evidence. State v. Kennerly, 331 S.C. 442, 453, 503 S.E.2d 214, 220 (Ct. App. 1998). “Determining whether evidence withheld by the state is ‘material’ under Brady turns on whether the cumulative effect of the withheld evidence results in a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different.” State v. Hill, 368 S.C. 649, 661, 630 S.E.2d 274, 280–81 (2006). Put another way, to establish a Brady violation, the aggrieved party must show “that the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict.” Kyles v. Whitley, 514 U.S. 419, 434 (1995).

This Court finds Applicant has failed to meet his burden of showing that Counsel was deficient for failing to address a Brady violation by the State. Applicant claims a violation occurred with the State’s handling of the DNA evidence. This Court agrees with Counsel and finds the DNA results were not Brady material as the evidence consisted of a forensic analysis of items Applicant discarded during the incident which revealed DNA from the victim and from Applicant. Most importantly, although it took an extended period of time to come back from SLED, this evidence was not withheld by the State as the documentation shows the State turned over DNA results on September 10, 2014 and Applicant’s plea took place on July 24, 2015. As no Brady violation occurred, Counsel cannot be deficient for failing to raise the issue. Furthermore, Applicant has failed to show that the outcome would have been different had Counsel challenged the DNA evidence. Accordingly, this allegation must be dismissed.

#### IV. CONCLUSION

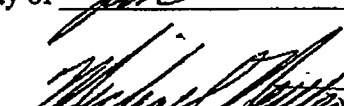
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate Mr. Brown's performance was unreasonable under prevailing professional norms. Cherry, 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). 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 will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 23 day of Jan, 2018.

  
 MICHAEL G. NETTLES  
 Presiding Judge  
 Sixteenth Judicial Circuit

Florence, South Carolina

100

BCS20120805871

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1211519

ARREST WARRANT NUMBER

2012A1011300006

DATE OF ARREST

August 7, 2012

ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury

Date:

Aug 3 2012

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

DOCKET NO. 2012GS1007250

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

December Term 2012

THE STATE

vs.

WILLIAM LAMONT SEABROOK

DOB: [REDACTED]

B/M

Indictment for

Murder

**FILED**

12/18/2012 8:21:33 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT

At a Court of General Sessions, convened on December 3, 2012 the Grand Jurors of Charleston County present upon their oath:

Murder

That in Charleston County on or about July 14, 2012, with malice aforethought, WILLIAM LAMONT SEABROOK did kill and murder Deandre Bradley by means of gunshot, and that Deandre Bradley did die in Charleston County as a proximate result thereof on July 14, 2012; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976) as amended.

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

  
BENJAMIN CHAD SIMPSON  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON  
STATE VS.

WILLIAM LAMONT SEABROOK

AKA: William Lamont Seabrook

Race: Black Sex: M Age: 29

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL# [REDACTED] SID# SC01776844

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was

TO: Voluntary Manslaughter

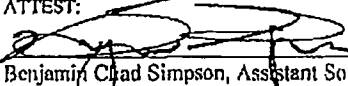
In violation of § 16-03-50 of the S.C. Code of Laws, bearing CDR Code # 0217

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

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury, \_\_\_\_\_ (def.'s initials)

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

ATTEST:

 71257  
Benjamin Chad Simpson, Assistant Solicitor SC Bar #

  
Defendant

 4581  
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center,  
for a determinate term of 30 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which  
are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
Department of Corrections. 1,082 days

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

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_

Obtain GED

Set by SCDPPPS \_\_\_\_\_

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_

Substance Abuse Counseling

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

Random Drug/Alcohol Testing

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

Fine may be pd. in equal consecutive weekly/monthly

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

prts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

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

\$ \_\_\_\_\_ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

Other: \_\_\_\_\_

Proviso 47.9 (Public Def/Prob) \$500 \$ \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

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

§56-5-2942(J) (Vehicle Assessment) \$40/ca \$ \_\_\_\_\_

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ \$ 3.90

TOTAL \$ 133.90

Appointed PD or appointed other counsel,  
§47.12 requires \$500 be paid to Clerk  
during probation.

Clerk of Court/Deputy Clerk: 

Presiding Judge: 

Court Reporter: 

Judge Code: 1015

Sentence Date: 7/24/15