

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Florence County

Honorable Thomas A. Russo, Circuit Court Judge

DONI TERRELE ANDERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-000195

APPENDIX

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I N D E X

WITNESSES

DIRECT

CROSS

REDIRECT

RECROSS

(There were no witnesses.)

E X H I B I T S

NO.

DESCRIPTION

ID.

EVD.

(There were no exhibits.)

1 (The following proceedings were held on
2 September 15, 2014.)

3 **MR. CLEMENTS:** If it please the Court, Your
4 Honor.

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

6 **MR. CLEMENTS:** Your Honor, we're here on
7 indictment 2013-GS-21-914, the State of South
8 Carolina versus Mr. Doni Terrele Anderson. Your
9 Honor, this is a plea on a one-count indictment for
10 murder. Mr. Anderson is represented by Mr. Scott
11 Floyd. I have some members of the victim's family
12 here and law enforcement officers I would like to
13 introduce at this time, if I may, that are here for
14 this plea.

15 **THE COURT:** We'll get to that momentarily.

16 Mr. Floyd, do you represent Mr. Anderson?

17 **MR. FLOYD:** I do, Your Honor.

18 **THE COURT:** Have you explained to him the
19 offense of murder, the elements of the offense, the
20 potential defenses and his constitutional rights?

21 **MR. FLOYD:** Yes, Your Honor.

22 **THE COURT:** How does he wish to plead?

23 **MR. FLOYD:** Guilty, Your Honor.

24 **THE COURT:** Do you agree with his decision to
25 do so?

1 **MR. FLOYD:** I do.

2 **THE COURT:** Do you feel if called upon to do
3 so, the State could prove him guilty beyond a
4 reasonable doubt?

5 **MR. FLOYD:** Yes, Your Honor.

6 **THE COURT:** All right. And I'm sure you've had
7 a discussion with him about the fact that murder is
8 a very special category of crime in that it's a
9 violent offense, adversely affects his custody
10 status, it's a most serious offense subject to the
11 two and three strike rule, and the fact that
12 whatever he's sentenced to, he will serve day for
13 day subject to the 85 percent rule, nonparolable
14 offense with community supervision. He understands
15 all those collateral ramifications, doesn't he?

16 **MR. FLOYD:** He does, Your Honor.

17 **THE COURT:** Is that true, Mr. Anderson?

18 **DEFENDANT:** Yes, Your Honor.

19 **THE COURT:** Let's place Mr. Anderson under oath
20 if you could.

21 DONI TERRELE ANDERSON,

22 having been duly sworn, testified as follows:

23 **THE COURT:** Mr. Anderson, are you under the
24 influence of any drugs or alcohol here today?

25 **DEFENDANT:** No, sir.

1 **THE COURT:** Are you experiencing any kind of
2 physical or mental problem that could prevent you
3 from understanding what's going on here today?

4 **DEFENDANT:** No, sir.

5 **THE COURT:** I want you to pay very close
6 attention as the State summarizes the facts that
7 bring us here today. Pay close attention because
8 I'm going to ask you about them.

9 Mr. Clements.

10 **MR. CLEMENTS:** Thank you, Your Honor. If it
11 please the Court.

12 Your Honor, this occurred on the 20th of
13 February 2013 at [REDACTED] Bellevue Drive, Apartment [REDACTED]
14 right off of 2nd Loop Road, between 2nd and 3rd Loop
15 Road in city and county of Florence. Your Honor,
16 Ms. K [REDACTED] Johnson was living there at that
17 apartment. Mr. Anderson and Ms. Johnson had had a
18 romantic relationship that had fallen on rocky
19 times. As best we can determine, Your Honor,
20 Ms. Johnson, I think, had become interested in
21 another person. Ms. Johnson was 34 at the time.
22 Mr. Anderson was 45 at the time. He's now 47 years
23 old.

24 And Mr. Anderson went early one morning right
25 after Ms. Johnson's son went to school, he parked at

1 the Goodwill, which is right on 2nd Loop Road, and
2 then went down Bellevue, which I think is about a
3 couple blocks, walked down there, had a pistol which
4 he had bought the week before from Fludd's Pawnshop,
5 had it on his person. To our understanding, he met
6 her in the front yard as she was checking the mail
7 or either the paper box and went inside and got in
8 an argument, and Mr. Anderson shot Ms. Johnson four
9 times.

10 What we understand, from what he said, is he
11 went out the back door, went to his car, drove
12 towards the beach, threw the gun out the window,
13 threw it in one direction, threw the magazine in
14 another direction, also threw his cell phone out the
15 window because he thought they might be tracked by
16 law enforcement on his cell phone.

17 He got to Myrtle Beach. He saw some police
18 patrol vehicles and saw a helicopter flying around.
19 He thought in his mind it might be SLED and they
20 might be after him. He kind of bailed out of his
21 car and hid in some bushes, stayed in some bushes.
22 He didn't know what to do.

23 He saw a vehicle with a Jesus bumper sticker on
24 it, thought this might be a person I can talk to.
25 He approached that person told him he had done

1 something bad and he was scared. He thought the
2 police were after him. And that person, I believe
3 his name is Mr. Ingram, he told Mr. Anderson,
4 Listen, you don't need to put yourself in danger.
5 You need to let them do a peaceful pick up. I would
6 advise you the best thing is to turn yourself in to
7 law enforcement.

8 He ended up turning himself over to a Myrtle
9 Beach Police Department Officer, Officer Rhett
10 Ammons, who's in the courtroom here. Mr. Ammons
11 mirandized Mr. Anderson and took from his car --
12 in-car camera, took a video of Mr. Anderson
13 confessing to doing the shooting. And Florence City
14 Police were contacted at that time.

15 They had already determined Mr. Anderson was a
16 possible suspect from talking to co-workers of
17 Ms. Johnson that had gone to the house to give her a
18 ride because her car was in the shop. And she
19 didn't come to the door and they could see her
20 laying on the floor through the window, and they had
21 called 9-1-1. Florence City Police developed
22 Mr. Anderson as a potential suspect.

23 When they got the call from Myrtle Beach, they
24 had already -- were getting search warrants -- or in
25 the process of getting search warrants from -- for

1 his apartment and had found out he had not gone to
2 work at Florence-Darlington Tech that day. So
3 Investigator Cody Jordan and Investigator Timmy
4 Compton, who are both here, Your Honor, they went to
5 Myrtle Beach. They mirandized, filled out a Miranda
6 form. They took his statement where he confessed to
7 the shooting. They brought him back to Florence.
8 On the way back, he was real quiet except he told
9 the police officers, Please, tell her family how
10 sorry he was. And they got him back to Florence.

11 And then Investigator Terrance Carraway also
12 came and met with them. He also signed the Miranda
13 form that they had previously filled out at Myrtle
14 Beach. And they got a taped statement from
15 Mr. Anderson at that time with Mr. Carraway,
16 Investigator Jordan and Investigator Compton all
17 participating in that confession.

18 He also, prior to that, he had made a phone
19 call to his mother and talked with his mother and
20 his brother. And my understanding is he had told
21 his brother, you know, they'd got in an argument, he
22 had shot her. And Mr. Anderson's mother and brother
23 are here. His brother was under subpoena by us.
24 And my understanding is that was what was going to
25 be his testimony.

1 Mr. Anderson has decided to enter a guilty
2 plea, Your Honor. And he has shown some remorse.
3 We have not promised him anything.

4 I would ask that you speak to the victims at
5 the appropriate time and hear from them, Your Honor.
6 And also if law enforcement has anything to add
7 regarding the facts, I would defer to Investigator
8 Jordan and Investigator Carraway or Investigator
9 Compton or Officer Ammons if they have anything to
10 add to the dissertation of the facts.

11 **THE COURT:** Anything from anybody?

12 **INVESTIGATOR JORDAN:** No, sir.

13 **INVESTIGATOR COMPTON:** No, sir.

14 **MR. CLEMENTS:** I'd like to introduce the
15 family, Your Honor, so you'll know who they are at
16 the appropriate time.

17 **THE COURT:** Let me finish this colloquy and
18 then we're going to hear from the victims at that
19 time.

20 **MR. CLEMENTS:** Yes, sir.

21 **THE COURT:** Mr. Anderson, are those facts true?

22 **DEFENDANT:** Yes, sir.

23 **THE COURT:** Are you indeed guilty of murder?

24 **DEFENDANT:** Yes, sir.

25 **THE COURT:** You're standing before me pleading

1 guilty, but you don't have to plead guilty to
2 anything. You can exercise your right to a jury
3 trial. In that process, the jury would determine
4 whether or not the State could actually prove you
5 guilty beyond a reasonable doubt. I'll charge the
6 jury as a matter of law that you're presumed to be
7 innocent.

8 No one could require that you take the witness
9 stand. However, if you wanted to, you could, and
10 you could subpoena witnesses on your own behalf. In
11 addition to that, you and your lawyer could
12 cross-examine the State's witnesses, have an
13 opportunity to eyeball them and confront them as
14 they testified against you.

15 You realize by pleading guilty, you're giving
16 up all of these rights?

17 **DEFENDANT:** Yes, sir.

18 **THE COURT:** You still wish to plead guilty?

19 **DEFENDANT:** Yes, sir.

20 **THE COURT:** Are you indeed guilty?

21 **DEFENDANT:** Yes, sir.

22 **THE COURT:** Plea negotiation, I understand
23 there are none; is that correct, Mr. Clements?

24 **MR. CLEMENTS:** Yes, Your Honor.

25 **THE COURT:** Is that your understanding,

1 Mr. Floyd?

2 MR. FLOYD: That's correct, Your Honor.

3 THE COURT: All right. Mr. Anderson, are you
4 satisfied with your lawyer?

5 DEFENDANT: Yes, sir.

6 THE COURT: Have you understood all of your
7 conversations with him?

8 DEFENDANT: Yes, sir.

9 THE COURT: Do you need any additional time to
10 confer with him?

11 DEFENDANT: No, sir.

12 THE COURT: Any complaints with him whatsoever?

13 DEFENDANT: No, sir.

14 THE COURT: Any complaints with law
15 enforcement, your lawyer or this Court?

16 DEFENDANT: No, sir.

17 THE COURT: All right. You're standing before
18 me pleading guilty. No one's promised you anything,
19 threatened you, pressured you or mistreated you in
20 any way, shape or form in an effort to get you to
21 plead guilty, have they?

22 DEFENDANT: No, sir.

23 THE COURT: All right. Have you understood all
24 of my questions?

25 DEFENDANT: Yes, sir.

1 **THE COURT:** Have your answers been truthful?

2 **DEFENDANT:** Yes, sir.

3 **THE COURT:** You understand you have ten days to
4 appeal any decision I might render here today?

5 **DEFENDANT:** Yes, sir.

6 **THE COURT:** Based on your testimony, I find
7 there's a substantial factual basis for your plea,
8 that your decision was freely and voluntarily
9 entered into, knowingly and intelligently with the
10 consent of competent counsel with whom you say
11 you're satisfied. I'll accept your plea and be glad
12 to hear from the State with regard to sentencing.

13 **MR. CLEMENTS:** Thank you, Your Honor. Your
14 Honor, in regards to his prior criminal history,
15 there are no convictions that I am aware of, Your
16 Honor.

17 And we have members of Ms. [REDACTED] Johnson's
18 family here. I'm going to call their name and ask
19 them to raise their hand when I call their name:
20 Ms. Johnson's uncle, Terry D. Rogers, is here on the
21 back row; his (sic) aunt, Ms. Linda Rogers Burrows,
22 is here on the back row; Whitney Sanderson, the
23 brother; Jamilla Johnson, the sister; Benitta
24 Graham, the mother; and Troy Graham, Jr., the
25 stepfather. Ms. Hamilton -- Ms. Ellen Hamilton with

1 Pee Dee Coalition is also here. And, Your Honor, we
2 have the investigating officers here.

3 **THE COURT:** Would any of them like to speak?

4 **MR. CLEMENTS:** Your Honor, I know that some do
5 wish to address the Court. I ask, if they would, if
6 they would stand one by one and state their name for
7 the record.

8 **THE COURT:** I'll be glad to hear from anybody
9 who would like to speak. Yes, ma'am, your full
10 name.

11 **MS. JOHNSON:** Jamilla Johnson. I'm K██████'s
12 sister. And I'm actually here because her son lives
13 with me now. He's 14 years old. He'll be 15 on the
14 25th. And he wanted me to address to you how much
15 this has impacted his life. This morning when he
16 left for school, he wanted me -- he wanted to come,
17 but I told him it probably wouldn't be best. And
18 I'm glad he didn't come because this is very hard.
19 But he just wanted you to take into consideration
20 when you sentence him that he took his mother from
21 him at 13 years -- I'm sorry -- at 13 years old
22 and...

23 **THE COURT:** Take your time.

24 **MR. SANDERSON:** He wanted us to let you know
25 that when he visit his mother, it's to go to a grave

1 yard. He said he wanted y'all to remember that.

2 MR. CLEMENTS: And this is Mr. Sanderson,
3 Ms. Johnson's brother.

4 MS. JOHNSON: Thank you.

5 THE COURT: Sorry for your loss. Thank you for
6 being here.

7 MS. GRAHAM: My name is Benitta Graham. I'm
8 K [REDACTED]'s mother.

9 THE COURT: Take your time. We've got all the
10 time you need. Just take your time. Be glad to
11 hear anything that you would like to say.

12 MS. GRAHAM: K [REDACTED] was my first born. I
13 called her Honey before she even came into the
14 world. She was a beautiful person inside and out.
15 To know her, you would really enjoy being around
16 her. She was the one person in our family when we
17 get together, she would come and she would be, Oh,
18 everything can get started now because I'm here.

19 When people met her, they remembered her. I
20 didn't know how many people knew K [REDACTED] until this
21 happened. And they would come up to me and say what
22 a beautiful person she was, how they enjoyed being
23 around her. She got nieces. She got a niece, she
24 got two nephews, new nephews that she'd never get to
25 impact their lives because she loved her family.

1 She loved her nieces, her nephew, her son.

2 They was close. His birthday is coming up and
3 that's something he won't have anymore with his
4 mother. She won't see him graduate from high
5 school. She won't see him get his first girlfriend
6 and get his heart broken. She won't be there for
7 all of those times that a young man needs his
8 mother. I see him and he doesn't say it, but I know
9 he misses his mother.

10 We miss her. I never thought as a mother that
11 I would be burying my child at 34 years old. No
12 parent wants to do that, especially not this way
13 here. I know I had to lose her one day because God
14 doesn't say we're here forever, but I didn't think
15 it was going to be 35 years. I thought I had a
16 little bit more time with her. And I know this
17 decision is yours and I'm just asking for justice
18 for my daughter.

19 I just want you to know that she has people
20 that loved her. We still love her even though she's
21 gone. When I look at this statement here, that
22 makes me think about K [REDACTED] because that was K [REDACTED].
23 She was just -- she was loving. She was merciful to
24 people. And she loved her God and she loved her
25 family. And I just ask that this Court do right by

1 her memory and her life. Thank you.

2 **THE COURT:** Thank you.

3 Yes, sir, your full name.

4 **MR. GRAHAM:** It's Troy Graham, Jr. I had to
5 look at my wife as we went to K [REDACTED]'s apartment to
6 clear her stuff out, memories of shopping, the days
7 that they had gone on. I have to look at her pack
8 her grandson's stuff up. And as you can see, she
9 was loved by everybody who knew her.

10 There were occasions when the defendant even
11 sat at our table, ate our food, watched television
12 with us and now he wants mercy. Where was mercy the
13 week before when he bought the gun? Where was mercy
14 when he sat down and thought about how he was going
15 to do what he did, while he was out playing with her
16 child and then to cowardly take her life the way
17 that he did? And because he see some helicopter
18 flying around, he gets scared and he wants us to
19 have pity on him. Where was that pity when he
20 pulled a gun on her? After the first shot, he
21 continued to shoot. And he wants mercy.

22 Life ain't good enough for him. A life
23 sentence is not good enough for him. He doesn't
24 deserve to see the sun rise nor the sun set because
25 Honey will never see that again. I'm not asking

1 that his life be taken from him, but he should never
2 get the opportunity to walk on the other side of the
3 jailhouse again in his life.

4 Not only does Caleb have to visit his mother at
5 a graveyard, when we see her, when we visit, it's
6 got to be at a graveyard. And for the rest of our
7 life, we're going to have this memory, every time we
8 think about her, every time we go and put flowers on
9 her grave, of how her life was taken from her.

10 She was a joyous lady. And even though she
11 wasn't my biological daughter, I couldn't ask for a
12 better one. She was dependable in so many ways.
13 And these are things that we'll never have with her
14 again because somebody decided to take her life
15 because she didn't want him anymore. We ask the
16 Court, I know there's a lot of things you've got to
17 consider, but I hope leniency is not one of them.

18 **THE COURT:** Thank you.

19 Anything further?

20 **MR. CLEMENTS:** That's all. That's all, Your
21 Honor.

22 **THE COURT:** All right. Mr. Floyd, I'll be glad
23 to hear from you and your client.

24 **MR. FLOYD:** Thank you, Your Honor. Your Honor,
25 Mr. Anderson's 47 years old now. He is a lifelong

1 resident of Florence County. He has three children.
2 They're all over the age of 18, Your Honor. They're
3 all grown. Prior to this, Mr. Anderson didn't have
4 any criminal history.

5 He has served 573 days in our detention center
6 here in Florence, Your Honor. I would ask that you
7 note that.

8 Your Honor, Mr. Anderson was arrested back in
9 February of 2013. For some reason, our office
10 didn't get appointed to represent him until May of
11 that year. So it was several months before we began
12 representing him after he was arrested. We're not
13 sure why that happened, but he just wasn't appointed
14 to our office. And -- so we had a little delay
15 getting involved with Mr. Anderson, but when we did
16 get appointed to him, I certainly have met with him
17 a number of times since then and we've gone over
18 this case and talked about the facts and the law.

19 Certainly, Your Honor, he understands what it
20 is he's pleading to here today, murder. And he
21 understands that sentence very well, that he has to
22 receive a minimum of 30 years. He can receive life.
23 He understands that's in the Court's discretion and
24 in the Court's hands, Your Honor.

25 Your Honor, he also understands that that

1 minimum 30 is a day for day sentence. The -- a
2 minimum of 30 years is not even subject to the 85
3 percent rule. He has to serve every day of 30
4 years.

5 My understanding is if he gets anything over
6 30, then that would be, at some point, subject to
7 some sort of parole hearing, but for his purposes,
8 he should assume that any sentence he gets he's
9 going to serve every day of it. And that's what I
10 told him to think about it, the way -- the proper
11 way to think about it, Your Honor.

12 Your Honor, Mr. Anderson's always expressed a
13 lot of remorse to me about what's happened here. He
14 did have a relationship with the victim. And,
15 unfortunately, he put himself in a situation, he let
16 his emotions carry him away and he did something,
17 frankly, that he admits is terrible and he's here to
18 take responsibility for that. He had no interest in
19 putting his family or the victim's family through a
20 trial. I mean, he accepts what he did and he
21 accepts responsibility and knows he's got to pay for
22 it.

23 Your Honor, certainly, we would ask,
24 considering the fact that he doesn't have any
25 record, plus his age, certainly we would ask that

1 you consider a sentence for him of 30 years, the
2 minimum sentence. That is a day for day sentence.
3 At his age, that may very well be a life sentence.
4 None of us know how long we're going to live. I
5 mean, certainly this might be my last day on earth
6 and I'm 52. None of us know that.

7 But at his age, 30 years spent in the
8 department of corrections, he's probably not going
9 to receive health care like the rest of us, not
10 going to receive diet like the rest of us, not going
11 to receive exercise like the rest of us, his chances
12 of living that long, I mean, probably aren't that
13 great. It may very well be a life sentence, Your
14 Honor.

15 But he did express remorse, Your Honor. He
16 expressed it to me. He expressed it to the police.
17 He did basically approach a stranger in Myrtle
18 Beach, that's how he first came to turn himself in.
19 He approached a stranger and confessed to the
20 stranger, hey, I've done something wrong. And they
21 talked.

22 And I think the Myrtle Beach Police Officers
23 were actually the first ones who came and he made a
24 statement to the Myrtle Beach Police. I don't think
25 he gave them any trouble whatsoever. He went to

1 their car, sat down. I think they had a camera in
2 their car and he sat down and made a statement about
3 what happened to them and then they called Florence
4 County -- or Florence City. And then I think
5 someone went down there from the City and picked him
6 up. And he, you know, talked to them on at least --
7 I'm sure he talked to them somewhat before he made
8 his taped statement, but he came to this building
9 when the City of Florence was still here and
10 actually sat down in the City of Florence's Police
11 Department and gave a taped statement to them.

12 In addition to that, I believe he made a phone
13 call to his brother and his mother before he
14 actually turned himself in to the police and
15 confessed to them what he'd done. And I think he
16 showed, you know, a lot of emotion and a lot of
17 remorse to everyone involved when he had contact
18 with them, Your Honor.

19 Of course, he can't go back and change what
20 happened. I know he would if he could, but he
21 can't. The only thing he can do from this point on
22 now is live his life and hopefully gain some
23 redemption. And, certainly, we live in a world that
24 is full of bad things, but he's got a chance, even
25 if it's in prison, to turn his life around and live

1 in a good way inside prison for a long time at
2 least, Your Honor, if not, for the rest of his life.
3 I think he's committed to doing that either way,
4 however this goes, Your Honor, and we just ask that
5 you have as much mercy as you can on him.

6 Once again, Your Honor, would ask that you
7 consider the minimum sentence, give him a chance for
/8 redemption. That's all I have, Your Honor. And I
9 don't know if Mr. Anderson would like to speak.

10 **THE COURT:** Mr. Anderson, I'll be glad to hear
11 from you. I'm going to ask that you direct your
12 comments to me and not directly to the family. It's
13 not a good idea to do that and don't do that. I'll
14 be glad to hear anything you've got to say.

15 **DEFENDANT:** Yes, sir. Thank you, sir. I'd
16 just like to take this opportunity first, sir, to
17 tell this family personally out of my own voice that
18 I'm sorry for what I've done for taking their family
19 member and that's something that no one can give
20 back. I'm sorry for her son and what he's going
21 through and what he's going to go through without
22 having his mother because me and my mother have a
23 close relationship. And though I'll be locked up,
24 as long as we're both living, we can communicate
25 with each other and they can't do that, sir.

1 But, sir, I'm coming here today on my own free
2 will. I turned myself in on my own free will
3 because of who I really am as a person. I made a
4 mistake, but that's not who I am. And because of
5 who I am, I turned myself in. And I come today to
6 give account for myself because I'm wrong and I
7 should be punished. I've sought God's forgiveness.
8 I believe he's forgiven me. And I pray that one day
9 that this family will allow forgiveness in their
10 heart towards me.

11 And I would like to say, sir, I had a rough
12 time and I'm still having a rough time with what's
13 taken place in my life, what I have done. And it's
14 not been an easy 17 months being locked up 22 hours
15 a day, seven days a week. It's challenging, very
16 challenging. I have had serious psychological
17 challenges. I've had two suicide attempts, sir,
18 because I didn't want to live anymore.

19 And I'm just to the point now by the grace of
20 God that he's allowed me to come here and stand
21 today for one or more purposes. But one of them I
22 know, sir, the Lord just spoke to me in a simple
23 form being locked up one day when I was going
24 through. And in South Carolina, they have playing
25 cards. And on those playing cards are murders that

1 are unsolved and there's 52 cards in a deck. And I
2 couldn't even bare to look at those cards less more
3 play with them. And one day the Lord just spoke
4 with me and he told me, you go and you stand and you
5 give those people what nobody else can give them,
6 and that's closure.

7 Those families on those cards of those 52
8 people, and that's three volumes on those cards,
9 sir, they'll never get closure. And I come here
10 today throwing myself on the mercy of the Court and
11 giving this family the closure that some families
12 won't ever get.

13 And I just ask, sir, that you would have mercy.
14 You'll have mercy and consider my life, my family's
15 life because everybody who knows me and loves me is
16 affected by what I've done and their lives are going
17 to be changed forever, sir, forever. There's no
18 going back. I have to live with this for the rest
19 of my life. I have to live with it for the rest of
20 my life.

21 No one knows what I'm going through except me
22 and God. No one else knows what I'm going through.
23 Talking to the shrinks, they can't tell you but so
24 much because it's an experience that they haven't
25 experienced, so they're limited in what they can do.

1 And I'm totally relying on God to see me
2 through whatever sentence you give me, sir, whatever
3 I have to endure with going and living in a prison.
4 I've never been in prison before. I've been a good
5 citizen, a tax payer. I've been a husband. I'm a
6 father. I'm a good person, but I made a bad choice,
7 sir. And I realize that I've got to give account
8 for that. And my faith allows me to know that I
9 have to give account. God calls us all into
10 judgment, sir. And I'm here today to give an
11 account by the mercy of God and before this Court,
12 and I thank you.

13 **THE COURT:** Anything further, Mr. Floyd?

14 **MR. FLOYD:** Nothing further, Your Honor.

15 **THE COURT:** First of all, I want to tell the
16 family how sorry I am for your situation. I know
17 it's a very difficult time. I've never experienced
18 that. I can imagine what it would be like to have
19 to bury a child and particularly under these
20 circumstances. For that, I'm sorry.

21 When I first started practicing law, when
22 someone was convicted of murder, they would get life
23 and they would be eligible for parole after 20
24 years. And as a matter of course, they quite often
25 were given that. The laws have changed and there is

1 a minimum mandatory 30 years and you have to serve
2 that day for day, and that's the situation.

3 Of course, Mr. Anderson's 47 years old. The
4 chances of him living to 77 in the department of
5 corrections are infinitesimal. As a matter of fact,
6 you can look on the computer and make that
7 determination at the age of the inmates. That's not
8 going to happen.

9 Given all of the facts and circumstances, the
10 fact that he's accepted responsibility for what he's
11 done and his lack of a prior criminal record and all
12 of the circumstances, the sentence of the Court is
13 on indictment 2013-GS-21-00914, murder, the sentence
14 of the Court is that you be committed to the State
15 department of corrections for a period of 35 years,
16 given credit for 573 days. Good luck to you.

17 **DEFENDANT:** Thank you, sir. God bless you.

18

19

END OF PROCEEDINGS

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Florence County, South Carolina, on the 15th of September, 2014.

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

May 30, 2015

s/Stacy L. Sheppard

Stacy L. Sheppard, RPR
Circuit Court Reporter

FORM 5

2015-CP-21-1033
IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA)
County of Florence)

Doni Terrell Anderson 361471)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
2015 APR -9 PM 3:33
CONNIE REEL-SHEPARD
CLERK OF COURT
FLORENCE COUNTY, SC

INSTRUCTIONS B 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 Broad River Court Inst.
4460 Broad River Rd, Columbia, S.C. 29210
2. Name and location of Court which imposed sentence Florence County S.C. - General Session
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) Murder

(b) _____
(c) _____

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

(a) September 15, 2014
(b) _____
(c) _____

6. Check whether a finding of guilty was made:

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

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

NO

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:
i. _____
ii. _____
iii. _____

(b) the result in each such Court to which you appealed:
i. _____
ii. _____
iii. _____

(c) the date of each such result:
i. _____
ii. _____
iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:
i. _____
ii. _____
iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) Counsel did not inform me of my right to appeal

(b) _____

(c) _____

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

(a) Ineffective Assistance of Counsel; Preliminary Hearing

(b) Ineffective Assistance of Counsel; Pre-Trial Hearing

(c) _____

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

(a) See 10(a)

(b) See 10(b)

(c) _____

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

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered Ayes 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?

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? Plea only
- (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? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

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

- (a) the name and address of each attorney who represented you:
 - i. Scott Floyd (CPD)
180 N. Tryon St. Florence, SC 29501
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Scott Floyd; Bail Hearing
 - ii. Scott Floyd; Preliminary Hearing
 - iii. Scott Floyd; Plea-Hearing

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

Sentencing Reduction

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 Florence)

VERIFICATION

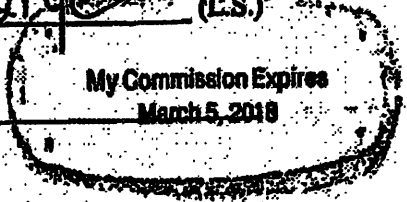
I, Doni Terrell Anderson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application;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

Doni T. Anderson

SWORN to and subscribed before me this 2nd day of April, 2015.

Susan H. Inge (L.S.)
Notary Public

My Commission Expires:



FILED
2015 APR -9 PM 3:33
CONNIE REEL-SHEPHERD
CLERK
CCCJ & CS
FLORENCE COUNTY, SC

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

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

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

Doni T. Anderson
Applicant

SWORN or affirmed to and subscribed before me this

2nd day of April, 2015.

Susan H. Frye
Notary Public

My Commission Expires: March 6, 2018

2015 APR -9 PM 3:33
CONNIE REEL-SHEARER
COPP & CO
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS)
TWELTH JUDICIAL CIRCUIT)

Doni Terrele Anderson, #361471,)

2015-CP-21-1033)

Applicant,)

v.)

RETURN AND MOTION)
FOR A MORE DEFINITE STATEMENT)

State of South Carolina,)

Respondent.)
_____)

In response to the post-conviction relief application filed on April 9, 2015, the Respondent would show this Court:

I.

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. Applicant was indicted at the July 2013 term of the Florence County Grand Jury for Murder and Possession of a Weapon During the Commission of a Violent Crime (2013-GS-21-00914). Scott P. Floyd, Esquire, represented Applicant. On September 15, 2014, Applicant pleaded guilty to Murder and was sentenced by the Honorable Michael G. Nettles to thirty-five years in prison. Applicant did not appeal this conviction or sentence.

II.

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

1. "Ineffective Assistance of Counsel; Preliminary Hearing"
2. "Ineffective Assistance of Counsel; Pre-Trial Hearing"

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

III.

Applicant's claim of ineffective assistance of trial counsel is without merit. In a PCR action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of trial counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process" that the plea proceedings "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes trial counsel 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 in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the Applicant must prove trial counsel's performance was deficient. Id. Under this prong, the court measures an attorney's

performance by its “reasonableness under prevailing professional norms.” Id. (citing Strickland, 466 U.S. at 688). 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.” Id. at 117-18, 386 S.E.2d at 625.

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

IV.

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

V.

Respondent also moves for a more definite statement. In his Application, Applicant has wholly 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).

It is incumbent upon Applicant, through counsel, to amend his application well in advance and 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.

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. 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.

WHEREFORE, Respondent requests an evidentiary hearing solely for the purpose of determining whether Applicant's plea counsel was ineffective.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

JOHANNA C. VALENZUELA
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

13 Sept., 2016

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)
)
 DONI TERRELE ANDERSON, #361471)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent,)
 _____)

IN THE COURT OF COMMON PLEAS

2015-CP-21-1033

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 a More Definite Statement** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jonathan D. Waller, Esquire
Giese Law Firm
1315 Blanding Street
Columbia, SC 29201

DATED this the 13th day of September, 2016.



Deonna Rogers, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)	
)	COURT OF COMMON PLEAS
COUNTY OF FLORENCE)	2015-CP-21-1033
)	
)	
)	
Doni T. Anderson))
)	
vs.)	TRANSCRIPT OF RECORD
)	
State of South Carolina))
<u>DEFENDANT</u>)	August 29, 2017
		Florence, South Carolina

B E F O R E:

THE HONORABLE THOMAS A. RUSSO, JUDGE.

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

JOHNATHAN WALLER, ESQ.
Attorney for the Applicant

LINDSEY A. MCCALLISTER, ASSISTANT ATTORNEY GENERAL
Attorney for the State

KESHIA REED
Official Court Reporter

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I N D E X

WITNESS DIRECT CROSS REDIRECT RE CROSS

Doni Anderson

 Mr. Waller 4 27

 Ms. McAllister 15

Scott Floyd

 Ms. McAllister 28 38

 Mr. Waller 36

Certificate of Reporter 47

1 THE COURT: All right, Madam Attorney General.

2 MS. MCCALLISTER: Thank you, Your Honor. This
3 is Doni Anderson vs. The State of South Carolina
4 2015-CP-21-1033. Mr. Anderson is currently incarcerated.
5 He was indicted at the July 2013 term of the Florence
6 County grand jury for murder and possession of a weapon
7 during commission of a violent crime. He was represented
8 on those charges by Scott Floyd.

9 On September 15, 2014, he pleaded guilty to
10 murder and was sentenced by Judge Nettles to 35 years in
11 prison. He did not appeal that conviction or sentence.
12 He did file a timely motion for post-conviction relief on
13 April 9th 2015. He is present in court today and he is
14 represented by Mr. Waller. And, Your Honor, I'm going to
15 turn it over to Mr. Waller. The allegations in the
16 application I believe are not -- they're pretty vague.
17 And we had made a motion for more definite statement. I
18 don't think anything was filed, but Mr. Waller and I did
19 talk about what that issue was going to be today, so I
20 just ask Mr. Waller to put that on the record to clarify
21 that.

22 THE COURT: Okay.

23 MR. WALLER: Your Honor, Ms. McAllister is
24 correct I didn't file an amendment or clarification.
25 However, I did provide that to her. Your Honor, the issue

1 that we're going to be going forward on here today is one
2 claim of ineffective assistance of counsel related to an
3 involuntary guilty plea for failure to investigate the
4 facts and circumstances surrounding the statement given by
5 Mr. Anderson.

6 THE COURT: Okay. All right. Is the State
7 ready to proceed with regards to that?

8 MS. MCCALLISTER: Yes, Your Honor.

9 THE COURT: All right, Mr. Waller.

10 MR. WALLER: Thank you, Your Honor. We call
11 Doni Anderson. Doni Anderson I apologize.

12 THE COURT: Mr. Anderson, if you please come
13 around and be sworn, sir.

14 THE CLERK: Place your left hand on the Bible,
15 raise your right hand as much as you can. Do you swear to
16 tell the truth, the whole truth, and nothing but the truth
17 so help you God?

18 THE DEFENDANT: Yes, ma'am.

19 THE CLERK: Thank you.

20 WHEREUPON,

21 Doni Anderson,
22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. WALLER:

25 Q Good afternoon, Mr. Anderson. How are you today?

1 A Good afternoon, sir.

2 Q You doing all right today?

3 A Yes, sir, I'm all right.

4 Q All right. Mr. Anderson, when you were arrested on
5 these charges, who was your attorney?

6 A I didn't have one at the time.

7 Q Okay. Who was your first attorney?

8 A Mr. Scott Floyd.

9 Q So he represented you the entire time?

10 A Yes, sir.

11 Q Okay. About how long after you were arrested, did
12 you first become aware that he represented you?

13 A I think it was a few months.

14 Q Okay. What were the charges that you had? Do you
15 remember was there more than one, just one?

16 A It was murder and having a weapon in the commission
17 of a crime I believe.

18 Q Possession of a weapon during a violent crime?

19 A Yes, sir.

20 Q Okay. So you think it was a couple months after you
21 were arrested that you first meet with Mr. Floyd?

22 A Yes, sir.

23 Q Where were you arrested?

24 A In Myrtle Beach initially.

25 Q Okay. And you were charged out of Florence County?

1 A Correct.

2 Q Okay. Did you spend any time in jail in Myrtle Beach
3 or Horry County?

4 A A few hours I suppose.

5 Q And then they brought you back here?

6 A Correct.

7 Q While in Myrtle Beach when you were first arrested,
8 did you talk to law enforcement?

9 A I did.

10 Q Okay. And that microphone doesn't work, so if you
11 could just speak loud enough so the court reporter can
12 take everything done.

13 A All right.

14 Q You did give a statement to law enforcement?

15 A I did.

16 Q Okay. Mr. Anderson, have you -- do you take any
17 medication or did you take any medication at the time?

18 A Yes, sir, I did.

19 Q Okay. What were you taking?

20 A I was taking antidepressant called Celexa.

21 Q Okay. You just said it was an antidepressant, but
22 what were you suffering from that caused you to be taking
23 medicine?

24 A Depression.

25 Q Okay. How did that manifest itself?

1 A A lot of anxiety, suicidal tendencies, thoughts,
2 irritation, forget fullness. It's different things like
3 that.

4 Q Okay. And Celexa helped with that?

5 A Some.

6 Q Okay. Did -- was there any side effects from Celexa
7 that affected you specifically?

8 A Pretty much the stuff -- the things that I just
9 described on the down side of it.

10 Q Those were side effects of the Celexa?

11 A Correct.

12 Q So those were not symptoms you had before taking
13 Celexa?

14 A They actually add if I could say that to the
15 depression.

16 Q Okay. So you had like a negative reaction to ---

17 A Correct.

18 Q --- in some respects?

19 A Correct.

20 Q Okay. Were you taking the Celexa when you were
21 arrested?

22 A I was.

23 Q Okay. Were you taking it when you gave the statement
24 to law enforcement?

25 A I was.

1 Q Okay. When you gave that statement to law
2 enforcement, did the medicine have an adverse effect on
3 you?

4 A Explain adverse please.

5 Q The things you just described were those things
6 present while you were giving your statement to law
7 enforcement?

8 A Correct, yes, sir.

9 Q Okay. When were you able to meet with Mr. Floyd, did
10 you all discuss the statements that you gave?

11 A To the police at the beach?

12 Q Yes, sir.

13 A Yes, sir.

14 Q Okay. Did you tell Mr. Floyd you were taking
15 medication?

16 A I did.

17 Q Okay. Did you tell him how that medication affected
18 you?

19 A I believe I did.

20 Q Okay. To the best of your knowledge, did he do any
21 investigation about the medication and its possible side
22 effects?

23 A No, sir.

24 Q Okay. Did you all discuss any defense that you may
25 have had based on that medication?

1 A Yes, sir, but he said that he didn't feel that it was
2 anything that was necessary or that it would have any
3 bearing.

4 Q Okay. Why did he say that, do you know? What did he
5 base it on?

6 A I don't know.

7 MS. MCCALLISTER: Objection, Your Honor. I
8 think he's got to rephrase that question. I don't think
9 he can testify why Mr. Floyd said something.

10 THE COURT: Correct. Sustained.

11 BY MR. WALLER:

12 Q Did he explain to you why he didn't feel like it
13 mattered?

14 A No, sir.

15 Q Okay. Did you ask him?

16 A I can't recall honestly.

17 Q Okay. What discussions did you and Mr. Floyd have
18 about medication you were taking and how it affected your
19 ability to understand or to -- affected your ability to
20 think?

21 A We really didn't have one.

22 Q Okay. You testified a minute ago that you told him
23 you were taking medication?

24 A Right.

25 Q Told him that it affected you?

1 A Right.

2 Q Told him that you were under the influence of that
3 medication when you gave your statement to law
4 enforcement?

5 A Correct.

6 Q You had no other conversation that you all had?

7 A Afterwards during my preliminary hearing I gave him a
8 receipt that -- where I had paid for it the county jail
9 and ask him to look into it, but there was nothing else
10 said or done about it from that point, so the conversation
11 just -- it was over for the most part.

12 Q Okay. Did you all ever have any discussions about
13 potentially challenging that statement?

14 A No, sir.

15 Q Okay. I want to back up just a little bit. To the
16 best of your knowledge, what were the State's allegations
17 as far as direct evidence against you? Did they find the
18 weapon?

19 A No, sir.

20 Q Okay. Did they find the cell phone?

21 A No, sir.

22 Q Okay. You were not arrested at the scene; is that
23 correct?

24 A Yes, sir.

25 Q You were not arrested?

1 A I wasn't.

2 Q Okay. So your -- the statement that you gave
3 implicated yourself a large portion of the State's
4 evidence against you?

5 A Yes, sir.

6 Q Okay. Did you and Mr. Floyd ever discuss challenging
7 that statement?

8 A No, sir.

9 Q Did you all ever discuss any potential defenses that
10 you may have?

11 A No, sir, I can't say we did.

12 Q Did you ask him if he had any defenses?

13 A I did.

14 Q What was his response?

15 A Again, it was just pretty much down played as if it
16 was irrelevant. It wasn't a good idea. It wouldn't work
17 pretty much.

18 Q Okay. Ultimately, you pled guilty?

19 A I did, yes, sir.

20 Q Okay. What was the statement that you gave part of
21 that decision to plead guilty?

22 A Well, it was almost -- I got to be honest if I didn't
23 really have a choice because it was like I was defenseless
24 because of the statement. I was defenseless so it was
25 either a plea or go to trial. And if I went to trial, I

1 was looking at a life sentence. So it kept just being
2 pushed on me to plea.

3 Q Okay. Why -- you were potentially looking at a life
4 sentence if you went to trial?

5 A Correct.

6 Q Okay. Did you understand that you could have
7 received the same or even a 30 year sentence if you had
8 gone to trial?

9 A Yes, sir, at minimum.

10 Q Correct.

11 A Right.

12 Q Did you and Mr. Floyd ever discuss going to trial?

13 A Yes.

14 Q Okay. What did you say about the trial?

15 A Well, I really didn't know about it because I really
16 don't know the law or understand the law like that. So I
17 was trying to, I guess, establish a defense, but there
18 appeared that there wasn't a defense based upon whatever
19 issue I ever brought up because I don't know the law. So
20 I don't know how to speak law language, but whatever it
21 was that I brought up, it was just something that was
22 really in his words that wasn't going to work.

23 Q Okay. So Mr. Floyd told you that you didn't have a
24 defense?

25 A Pretty much.

1 Q Okay. So that's why you chose to plead guilty?

2 A Correct.

3 Q Okay. So that affect your decision to plead guilty
4 or go to trial?

5 A Yes.

6 Q Okay. If you did have a defense, would you have
7 still pled guilty?

8 A I don't know.

9 Q You never had to make that decision?

10 A Sir?

11 Q You never had to make that decision?

12 A No, sir.

13 Q Because Mr. Floyd told you you didn't have a defense?

14 A Pretty much.

15 Q Okay. Do you specifically recall -- and I know it's
16 been quite sometime how that medication affected you on
17 the day you gave your statement?

18 A Yeah, I was really -- I was down. I was really
19 anxious, had a lot going on. Emotionally, I would say now
20 at this time. I just felt pressed a lot.

21 Q Okay. Did it affect on that day, did it affect your
22 ability to think clearly?

23 A Sure. Sir, it did.

24 Q It affect your ability to know what you were doing?

25 A Yes, sir.

1 Q Mr. Anderson, I've asked you all the questions I have
2 for you. Is there anything you think I've left out or
3 neglected to ask regarding Mr. Floyd's representation of
4 you that the Court needs to be aware of?

5 A One thing that bothered me is I never really got to
6 spend time with him to feel like to really build a case or
7 a defense for myself. And at one point I was trying to
8 have him remove as my lawyer because I didn't really feel
9 like he was assisting me properly. I didn't see him for a
10 while. Didn't hear anything from him. I just didn't know
11 what was going on. And then I was up and I was in court.

12 Q Okay. How many times do you think you met with him?

13 A Maybe about three times. I'm thinking just off the
14 top my head.

15 Q Okay. Could have been more, could have been ---

16 A Four maybe.

17 Q Okay. And so you didn't feel that you had a good
18 working relationship with him?

19 A No, sir, I didn't.

20 Q Okay. You ask for him to be relieved?

21 A I did.

22 Q Okay. Do you remember how long it was the gap in
23 time when you didn't meet with him that cause you to feel
24 that way?

25 A It was months. I probably hadn't seen him in maybe

1 about six months to close to a year.

2 Q Okay. How long were you in the detention center?

3 A Seventeen months.

4 Q Okay. Is there anything else you think the Court
5 needs to be aware of?

6 A Nothing I can think of right now, sir.

7 MS. MCCALLISTER: Please answer any questions
8 Ms. McCallister has.

9 CROSS-EXAMINATION

10 BY MS. MCCALLISTER:

11 Q Mr. Anderson, you testified that you were arrested in
12 Myrtle Beach, correct?

13 A Yes, ma'am.

14 Q You gave a statement to police officers in Horry
15 County in Myrtle Beach; is that correct?

16 A Yes, ma'am.

17 Q Okay. Is that the only statement that you gave?

18 A At the beach you mean?

19 Q No, just at any time before your plea did you give
20 them more than one statement?

21 A Aside from the police you mean?

22 Q Aside from the police or to anybody?

23 A I had a conversation with a couple of my family
24 members. I had a conversation with the guy who I met and
25 those were like the only people, I think, I talked to

1 maybe the arresting officer.

2 Q Okay. When you say the guy that you met, is that the
3 guy that you approached in Myrtle Beach?

4 A Yes, ma'am.

5 Q Okay. So let's back up a little bit. So this
6 happens in Florence County, correct?

7 A Yes, ma'am.

8 Q And you go to Myrtle Beach?

9 A Yes, ma'am.

10 Q Okay. In Myrtle Beach, you see police presence. You
11 see helicopters. And you think that they're looking for
12 you, correct?

13 A Yes, ma'am, I did think that at the time.

14 Q And so you approached this person on the street,
15 right, a man just a stranger to you, correct?

16 A Yes, ma'am.

17 Q He wasn't somebody that you knew?

18 A No, ma'am.

19 Q And what do you tell him?

20 A I told him that I had done something.

21 Q Okay. So you told this guy that you had done
22 something?

23 A Yes, ma'am.

24 Q And he -- this guy convinces you that you need to
25 talk to the police; is that correct?

1 A Pretty much, yes, ma'am.

2 Q Okay. And so that's when you go or he goes --
3 somebody flags down a police officer in Myrtle Beach?

4 A I think that he had called the police after he
5 explain to me what a peaceful pick up was.

6 Q Okay.

7 A I was actually going back to Florence County before I
8 met him.

9 Q Okay. So he calls the police, the Myrtle Beach
10 police and they come and that's when you are arrested; is
11 that correct?

12 A Yes, ma'am.

13 Q And you gave a statement to the police in Myrtle
14 Beach, correct? Is that the statement -- that's the
15 statement that you were talking about with Mr. Waller,
16 correct?

17 A No, ma'am, I don't recall that.

18 Q So you did not give a statement to police in Myrtle
19 Beach?

20 A I gave the statement I believe to the cops that came
21 from Florence to Myrtle Beach.

22 Q Okay. You didn't say anything to the arresting
23 officer in Myrtle Beach about this bad thing that you had
24 done and why would they arrest you?

25 A Yes, ma'am, to the arresting officer that came and

1 pick me up, I think I did have a conversation with him,
2 ma'am.

3 Q Okay. So you told the arresting officer in Myrtle
4 Beach -- what did you tell the arresting officer?

5 A I told him that I think that I did something and I
6 need to talk to the police.

7 Q Did you tell them what you had done?

8 A No, ma'am.

9 Q Okay. And then the police in Myrtle Beach called
10 Florence and some officers from Florence came to Myrtle
11 Beach?

12 THE COURT: I'm going to interrupt. I apologize
13 I'm going to interrupt at this point because I think
14 you're not understanding his response. And if I'm wrong,
15 you all correct me. Am I correct, sir, your testimony is
16 the officer -- in other words, the arresting officer
17 you're referring to you believe was one of the officers
18 that came from Florence to pick you up; is that correct?

19 THE DEFENDANT: No, sir, that was in the regular
20 police vehicle who came to the man's house, the peaceful
21 pick up officer.

22 THE COURT: That was the Myrtle Beach police
23 officer?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you gave a statement to him?

1 THE DEFENDANT: No, sir, I was ---

2 THE COURT: So when he came there, why did he
3 call Florence?

4 THE DEFENDANT: Because I told him I was from
5 Florence.

6 THE COURT: Well, I'm going to let you take it
7 from here, Ms. McCallister, because you're the lawyer.

8 MS. MCCALLISTER: Okay.

9 BY MS. MCCALLISTER:

10 Q Did you tell him that you had committed a crime in
11 Florence?

12 A I told him that I did something that was bad and I
13 wanted to deal with it.

14 Q Okay.

15 A I don't recall telling him exactly what it was him or
16 the other guy.

17 Q Okay. So you tell this peaceful pick up officer that
18 you done something bad in Florence County where you're
19 from?

20 A Right.

21 Q And he places you under arrest?

22 A Right.

23 Q Okay. And he calls the police from Florence to come
24 and pick you up from Myrtle Beach?

25 A Yes, ma'am, I guess so.

1 Q Okay. Well, so did the officers come from Florence
2 to Myrtle Beach?

3 A Yes, ma'am.

4 Q Okay. And the statement that you gave that you're
5 talking to Mr. Waller about earlier is a statement to
6 police officers from Florence?

7 A Correct.

8 Q Okay. And you gave it to them in Myrtle Beach?

9 A I did.

10 Q Okay. Did you give any other statements to police
11 other than the peaceful pick up officer and the officer
12 from Florence?

13 A No, ma'am.

14 Q Okay. But you did make a phone call to some family
15 members; is that correct?

16 A I did.

17 Q And what did you tell those family members?

18 A That I had gotten in an altercation with Ms. Johnson
19 and I believe that I shot her.

20 Q Okay. Is that the same thing that you told the
21 officers from Florence?

22 A Yes, ma'am.

23 Q Okay. Is that the same thing you told the officer,
24 the peaceful officer in Myrtle Beach?

25 A No, ma'am.

1 Q You just didn't get into details with him?

2 A Correct.

3 Q Okay. And you didn't get into details with this guy
4 that you kind of flag down that he's the one -- the guys
5 house that you were at?

6 A Correct.

7 Q Okay. And your testimony is when you gave that
8 statement to the Florence police officers, that you were
9 under the influence of this medication Celexa?

10 A Correct.

11 Q Okay. And Celexa was prescribed to you because of
12 depression?

13 A Yes, ma'am.

14 Q Okay. How long had you been taking that medication?

15 A A couple of years.

16 Q Okay. And your testimony is that the Celexa causes
17 side effects for you that included suicidal thoughts,
18 suicidal tendencies; is that right?

19 A Correct.

20 Q Anxiety?

21 A Yes, ma'am.

22 Q And it made your depression worse?

23 A Yes, ma'am.

24 Q But you took it for years?

25 A Under my doctor's advice, yes.

1 Q Okay. You then came -- you came to the day of your
2 plea, correct? Sometime after you gave this statement,
3 right? I mean, you weren't immediately hauled into court,
4 correct?

5 A Right. Yes, ma'am.

6 Q Okay. How long after was that, do you recall?

7 A At my plea hearing?

8 Q Yes, between the time you were arrested and your plea
9 hearing how long is that?

10 A I guess 17 months because I was in the county 17
11 months.

12 Q Okay. So it was quite sometime?

13 A Yes, ma'am.

14 Q Okay. And you continued to take Celexa during that
15 time?

16 A No, ma'am, I didn't.

17 Q No, you didn't?

18 A No, ma'am.

19 Q Okay. So when you came to court for the day of your
20 plea, you had not taken Celexa?

21 A No, ma'am.

22 Q Okay. And on the day of your plea, do you recall
23 coming in front of the judge and having some conversations
24 or questions back and forth with the judge?

25 A Vaguely, ma'am, to be honest.

1 Q Okay. If I showed you the transcript of the hearing,
2 do you think that would refresh your memory about what you
3 were asked?

4 A Yes, ma'am.

5 MS. MCCALLISTER: May I approach?

6 THE COURT: Yes, ma'am.

7 BY MS. MCCALLISTER:

8 Q If you would look on page three going into page four.
9 The judge asks you -- I'm sorry I'm trying to get you line
10 numbers. Page three line 18, onto page four line 18?

11 A You on page three or page four?

12 Q I'm starting on page three line 18 and then we're
13 going to page four line 18?

14 A Okay.

15 (WHEREUPON, a pause in the proceedings.)

16 BY MS. MCCALLISTER:

17 Q Okay. Does that refresh your memory a little bit as
18 to what the judge -- you and the judge talked about kind
19 of in general?

20 A Yes, ma'am.

21 Q Okay. And you agree that you told the judge that
22 Mr. Floyd had talked about this offense with you. He'd
23 explain the indictments. He'd explain the possible
24 sentences and that you were there to plead guilty and
25 that's what you wanted to do?

1 A Yes, ma'am.

2 Q And if you'll look in there, I think, on page five
3 line ten. It's a -- through page nine line 25 -- 24.

4 A On page five?

5 Q Starting on page five line 10 through page nine line
6 24. The solicitor goes into the resuscitation of the
7 facts of what happened. Do you agree with me?

8 A Tell me to read through 25, right?

9 Q Through line 25 on page nine please.

10 A Page nine?

11 Q Page nine. You read past page nine?

12 A I'm at one on page nine.

13 (WHEREUPON, a pause in the proceedings.)

14 THE COURT: I think he's gone far beyond what
15 you asked him to.

16 MS. MCCALLISTER: Okay.

17 BY MS. MCCALLISTER:

18 Q You've read past page nine?

19 A No, ma'am, I'm at one on page nine.

20 Q Okay.

21 A All right.

22 (WHEREUPON, a pause in the proceedings.)

23 BY MS. MCCALLISTER:

24 Q Okay. So do you agree with me that you told the
25 judge after the solicitor laid out the case against you

1 that you agreed with all of those facts and all of those
2 things were true?

3 A Yes, ma'am.

4 Q Okay. And the judge specifically asked you if you
5 were guilty of this murder and you said yes?

6 A Yes, ma'am.

7 Q And at that time you were not under the effects of
8 Celexa?

9 A Yes, ma'am.

10 Q Okay. If you would look at page ten line 17 through
11 21.

12 (WHEREUPON, a pause in the proceedings.)

13 A All right.

14 Q Okay. Would you agree with me that the judge asked
15 you a second time if you were indeed guilty and wished to
16 plead guilty and you told the judge that you were not?

17 A Yes, ma'am.

18 Q And you were not under the influence of Celexa at
19 that point either?

20 A No, ma'am, I wasn't.

21 Q Okay. And then I believe it starts on page 22 you
22 had an opportunity to speak to the judge. Do you remember
23 that?

24 A You said 22?

25 Q Yes.

1 A Okay, what number?

2 Q I think line 15. Do you recall talking to the judge
3 first of all? Do you recall being given an opportunity to
4 speak?

5 A Yes, ma'am, I do.

6 Q Okay. Do you recall what you said to the judge?

7 A Some, ma'am.

8 Q So starting on line 15 then if that will refresh your
9 recollection on page 22.

10 (WHEREUPON, a pause in the proceedings.)

11 A Okay.

12 Q Okay. Did you -- you told the judge that you wanted
13 to personally tell the family that you were sorry for what
14 you done taking their family member, correct?

15 A Yes, ma'am.

16 Q Okay. And at that time you admitted to taking their
17 family member, you were not under the effects of Celexa?

18 A No, ma'am, I wasn't.

19 Q Okay. So at least three times during the course of
20 your guilty plea when you were not under the effects of
21 this medication, you admitted to the fact that you had
22 murdered Ms. Johnson?

23 A Yes, ma'am.

24 MS. MCCALLISTER: Okay. Your Honor, I think
25 that's all the questions I have.

1 THE COURT: Redirect.

2 MR. WALLER: Just briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. WALLER:

5 Q Mr. Anderson, just to clarify when you were arrested
6 and talked to different law enforcement agencies, did all
7 that take place on the same day and they brought you back?

8 A Yes, sir.

9 Q Okay. And so it was all within the time frame of
10 when you were taking that medication?

11 A Yes, sir.

12 Q Okay. Had you had any other issues or prior issues
13 with adverse effects to Celexa before that day?

14 A Yes.

15 Q Okay. And was your doctor made aware of those
16 issues?

17 A Yes, sir.

18 Q And you testified he instructed you to continue
19 taking it?

20 A Yes, sir.

21 Q Okay. Ms. McCallister asked you at the beginning of
22 reviewing the transcript if you admitted to the judge you
23 had discussed the charges and your constitutional rights
24 with Mr. Floyd. You're not disputing that at all today,
25 are you?

1 A No, sir.

2 Q That you had discussions with him?

3 A Yes, sir.

4 MR. WALLER: I have nothing further. Thank you.

5 THE COURT: Anything further?

6 MS. MCCALLISTER: No, Your Honor.

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

8 (WHEREUPON, the witness leaves the witness
9 stand.)

10 MR. WALLER: Nothing further from the applicant
11 at this time, Your Honor.

12 THE COURT: All right. And the State?

13 MS. MCCALLISTER: Your Honor, the State would
14 call Mr. Floyd.

15 THE COURT: Mr. Floyd, if you please come around
16 to be sworn, sir.

17 THE CLERK: Do you swear to tell the truth, the
18 whole truth, and nothing but the truth so help you God?

19 THE WITNESS: I do.

20 THE CLERK: Thank you.

21 WHEREUPON,

22 Scott Floyd,

23 after first having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25

1 BY MS. MCCALLISTER:

2 Q Good afternoon, Mr. Floyd.

3 A Good afternoon.

4 Q You represented Mr. Anderson on these charges; is
5 that correct?

6 A I did.

7 Q Do you recall that representation?

8 A I do.

9 Q Okay. Were you appointed to represent him?

10 A If I recall initially, he was rejected for a public
11 defender. And so we didn't actually get his file when he
12 initially was arrested. I think it was like a number of
13 months before I found out he was actually incarcerated and
14 was down there with a murder charge with no lawyer. Seems
15 like somebody in my officer was alerted to that fact and
16 told me about it. So I actually went to whoever chief
17 admin judge was at the time and asked them to appoint us.

18 Q Okay.

19 A So I'm not sure what the time frame was, but it was a
20 number of months.

21 Q Okay. But you were eventually appointed as his
22 attorney?

23 A Yes.

24 Q Or your office was?

25 A That's correct.

1 Q Okay. And you were assign to the case?

2 A Correct.

3 Q And as far as you know, you were his only attorney?

4 A As far as I know, yes.

5 Q Okay. Can you briefly give a little bit of summary
6 as to how these charges arose and the applicant came to be
7 arrested?

8 A Well, from what I recall, there was a report from a
9 young lady who was suppose to picked up the victim from
10 work in the morning. She went to her door. It was no
11 response. I think she look through a window maybe and saw
12 her lying on the floor. So she initially I think alerted
13 the police. And at some point I think after that the
14 police got a call from Myrtle Beach and indicated that
15 Mr. Anderson had approach someone down there. And then
16 statements were taken from him subsequent to that. I
17 think initially from what I recall reading in the file he
18 spoke to a Myrtle Beach police officer. And then to
19 Florence County police or Florence City police officers.

20 Q The statements -- those statements to police officers
21 did you have a copy of those statements somehow?

22 A I mean, eventually I got copies, yes.

23 Q Okay. So you saw the contents of the statements?

24 A Right.

25 Q And you were aware of what those statements

1 contained?

2 A Yes.

3 Q Okay. Did you have any reason to believe that those
4 statements were involuntary somehow? Was he Mirandized?

5 A I believe he was Mirandized.

6 Q Okay. Was there any indication based on the contents
7 of the statement that he was not lucid at the time he gave
8 the statement?

9 A No.

10 Q Was the statement logical and made sense?

11 A Seem to be coherent, yes.

12 Q Okay. Were any of the statements videotaped?

13 A I don't think the one in Florence City was I believe.
14 I can't remember.

15 Q Okay. If there was a recording of some sort of
16 statement, would you have watched that?

17 A Yes.

18 Q Or listen to it if it was on audiotape?

19 A Yes.

20 Q Okay. And from your review of the statements was --
21 did you have any indication that he was not -- he didn't
22 understand what he was doing when he gave those
23 statements?

24 A I mean, not from the statements themselves, no. He
25 seemed coherent and answered the questions.

1 THE COURT: Let me get you to make a note of
2 where you're at in the questioning and I need to take a
3 short break. We'll be in recess for just a moment and
4 pick up right where you left off.

5 (WHEREUPON, a break was taken.)

6 THE COURT: All right. I'm sorry for that
7 delay. You may pick up where you left off, ma'am.

8 MS. MCCALLISTER: Thank you, Your Honor.

9 BY MS. MCCALLISTER:

10 Q Okay. So I think where we left off is that you had
11 reviewed the statements from -- at least two statements
12 one from Myrtle Beach and one from Florence County -- well
13 Florence City, correct?

14 A I believe that's correct, yeah.

15 Q Okay. Did you discuss those statements with your
16 client?

17 A Yes.

18 Q Do you recall that discussion with him?

19 A Well, I mean over the course of time, I mean, we
20 talked about, you know, the statements and what he told
21 the police many times. You know, I think certainly we
22 discussed the fact that, you know, he told them I think
23 where he bought the gun, you know, that was used, which I
24 think was purchased a short time before this happened. I
25 don't remember exactly how many days it was. It was some

1 sort of period of time. I think he also told him that he
2 took some gloves or wore gloves when he went to the house
3 that day. He parked his car, I think, across the street
4 from where she lived and walk across Second Loop, I
5 believe and then went down the street a little ways was on
6 Bell View I believe. And then basically took the gun with
7 him, approached her. They went inside, had an argument
8 and then unfortunately the shooting occurred.

9 Q Okay. And when you discussed those statements with
10 him, did he ever tell you that was not true, that he had
11 not told the truth or that he was not thinking clearly
12 when he made those statements?

13 A No.

14 Q So he didn't disagree with the facts of the
15 statements and he never gave you any indication that he
16 was not in his right mind when they were given?

17 A No.

18 Q Okay. Did he talk to you about the issue of him
19 taking Celexa?

20 A I always ask all of my clients when I first interview
21 them if they're on any sort of drug or have any history of
22 mental illness. So I'm sure he did tell me if he was
23 taking it, if he was taking it.

24 Q Okay. Did you -- did he ever tell you specifically
25 that the Celexa caused him to give a statement that was

1 not voluntary?

2 A No, he never told me that.

3 Q Okay. Did he tell you that the side effects of
4 Celexa made him say things that weren't true or is he
5 thinking clearly?

6 A No, he never told me that.

7 Q Okay. So he was aware that the State had these
8 statements that he had given?

9 A Yes.

10 Q And you had discussed the details of those statements
11 with him?

12 A Yes.

13 Q And he did not object to the details of those
14 statements that they were untrue?

15 A He did not ever tell me they were untrue.

16 Q Okay. And you were aware of his medication to the
17 best of your knowledge and he did not ask you to
18 investigate the influence of Celexa as a possible defense?

19 A No, you know, when I talked to him initially, of
20 course, my interview sheet has, you know, I guess, certain
21 reminders of things to talk about and one of those is
22 medication. And certainly we would have discussed that
23 because I always go over it, okay. But now, he never told
24 me that he was taking anything that interfered with his
25 free will, okay, or that impeded his ability to reason

1 from right and wrong, okay. In fact, he was very
2 remorseful the whole time. From the first time I talk to
3 him, he was extremely remorseful about what happened
4 certainly indicated to me that he knew the difference
5 between right and wrong.

6 Q Okay. And so he in his conversations with you he
7 never denied that this had taken place?

8 A No.

9 Q Okay. You were present with him in court on the day
10 of the plea?

11 A I was.

12 Q Do you remember that day -- I mean, not the date, but
13 do you remember the plea?

14 A Yes, I remember.

15 Q Okay. Did you have a chance to talk with him before
16 you went in to do that?

17 A Most certainly.

18 Q Okay. And was there any indication that he was not
19 thinking clearly or not rational or anything like that on
20 the day of the plea?

21 A No.

22 Q Okay. And was it a requirement of the plea that he
23 admit his guilt to these charges?

24 A Yes.

25 Q And did he do so?

1 A He did.

2 Q Okay. Did you see any reason why that would have
3 been an involuntary admission?

4 A No.

5 Q Okay. Did that comport with your understanding of
6 what had happened that he was indeed guilty?

7 A Yes.

8 Q Did he at any point tell you he was not satisfied
9 with your representation of him?

10 A Not that I recall.

11 Q Okay. Do you recall the judge asking him about that?

12 A I'm sure he did. I didn't recall him specifically
13 asking that. I'm sure he did.

14 Q So you don't recall him saying -- you don't recall
15 that there was any discussion of him being dissatisfied
16 with you at any point?

17 A No.

18 Q Okay.

19 MS. MCCALLISTER: Beg the Court's indulgence,
20 Your Honor.

21 (WHEREUPON, a pause in the proceedings.)

22 MS. MCCALLISTER: I think that's all questions.

23 MR. WALLER: Just briefly, Your Honor.

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

1 BY MR. WALLER:

2 Q Mr. Floyd, you been doing this for long time, hadn't
3 you?

4 A Twenty-nine years, I guess.

5 Q Okay. So you know that the details of this statement
6 or any statement wouldn't matter if it was not freely and
7 voluntarily given?

8 A Absolutely.

9 Q Okay. So when Ms. McAllister's asking you about
10 those details if the statement's not given pursuant to
11 Miranda rights, those would never come into play?

12 A That's correct if a judge excluded them from trial,
13 they would not.

14 Q Okay, correct. You testified earlier that you
15 believed because it's your standard practice to ask about
16 medications?

17 A Yes.

18 Q So if he was on Celexa and told you about it, you
19 would have known about it?

20 A Yes.

21 Q Did you ask him -- specifically remember asking him
22 about -- how it would have affected his ability to
23 understand?

24 A Well, when I ask them if they're on medication, if
25 they have a history of mental illness, I always ask them

1 about whether or not it affects their ability to
2 understand. If it makes them feel intoxicated or makes
3 them black out or things of that nature, you know, yes.
4 So we would have had that discussion.

5 Q Okay. Did you all ever have the discussion of
6 challenging the statement?

7 A Well, certainly when we were discussing whether or
8 not to go to trial, I explain to him the Jackson -- the
9 procedure for Jackson v. Denno and how it's up to a judge
10 to decide whether their statements are admitted into
11 evidence. It's not up to the Solicitor. It's not up to
12 me. It's up to a judge. He decides after hearing the
13 testimony about the circumstances surrounding the giving
14 of the statement whether or not those statements are
15 admissible.

16 MR. WALLER: Beg the Court's indulgence please.

17 THE COURT: Yes, sir.

18 MR. WALLER: No further questions. Thank you,
19 Mr. Floyd.

20 THE COURT: Anything further?

21 MS. MCCALLISTER: Just very briefly.

22 REDIRECT EXAMINATION

23 BY MS. MCCALLISTER:

24 Q Just a follow-up question.

25 A Sure.

1 Q Did you see any meritorious basis to challenge his
2 statements if you had proceeded to trial?

3 A Well, if he had proceeded to trial, we would have had
4 the Jackson v. Denno hearing, I mean, you know ---

5 Q As a matter of course?

6 A As a matter of course that would have happened.
7 There's no question about that. I mean, you know, he was
8 free to testify if that had happened. He would have been
9 free to testify however he wanted about what he felt and
10 how he felt during that questioning so...

11 Q And you explain that to him?

12 A Certainly, I always go over that.

13 MS. MCCALLISTER: Okay. Thank you.

14 THE COURT: Thank you, sir.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 THE COURT: I have one question. You don't need
18 to sit back down, you can answer right where you are at.

19 MR. FLOYD: Yes, sir.

20 THE COURT: During that conversation you had
21 with him regarding the Jackson v. Denno and his statement

22 ---

23 MR. FLOYD: Yes, sir.

24 THE COURT: --- did he ever indicate to you that
25 he felt that he should challenge the statement because of

1 his -- the involuntariness of it?

2 MR. FLOYD: No, sir.

3 THE COURT: All right, sir. Thank you.

4 MR. FLOYD: Yes, sir.

5 THE COURT: Okay. Anything further from the
6 State?

7 MS. MCCALLISTER: That's all from the State,
8 Your Honor.

9 THE COURT: All right. Mr. Waller, be happy to
10 hear from you on behalf of Mr. Anderson.

11 MR. WALLER: Your Honor, briefly Ms. McAllister
12 kept asking questions about the facts of the case and the
13 circumstances surrounding the case and Mr. Anderson's
14 admissions at the plea. Your Honor, but we're not here to
15 try the case or anything of that matter. The standard is
16 the same for every defendant regardless of the evidence or
17 lack thereof against them that their counsel has to live
18 up to and perform up to.

19 Your Honor, the testimony was that there were
20 adverse side effects that have affected him in the past
21 that he believes was affecting him at this time when he
22 gave the plea or excuse me -- when he gave the statement.
23 Mr. Floyd testified that he would have been aware that he
24 was under the influence of the Celexa. Although, he also
25 testified ---

1 THE COURT: Well, he didn't testify to that now.

2 MR. WALLER: Mr. Floyd testified that he would
3 have asked him if he was on any medication.

4 THE COURT: Correct.

5 MR. WALLER: Correct. I was just about to say
6 that there's differing testimony that Mr. Floyd believed
7 he was not under adverse influence of it. Your Honor,
8 Mr. Anderson testified that the statements was not given
9 voluntarily. That he did not understand what he was doing
10 when he gave it because of the way that medication
11 affected him. Your Honor, he pled guilty without
12 negotiation or recommendation. There would have been no
13 prejudice against him by attempting to suppress the
14 statement. Your Honor, we would ask the Court to consider
15 the argument here today and the guilty plea transcript as
16 well as the testimony and grant Mr. Anderson relief.

17 THE COURT: Madam Attorney General.

18 MS. MCCALLISTER: Your Honor, Mr. Anderson's own
19 testimony I don't believe even really makes his case. He
20 testified the adverse side effects of this medicine are
21 suicidal tendencies, anxiety and that it maybe made his
22 depression worse. He did not testify that the medication
23 made him unable to discern right from wrong, unable to
24 think logically, unable to know what he was doing when he
25 gave a statement or what he was admitting to. And, Your

1 Honor, the State does think it's very relevant that he was
2 not on that medication at the time of his guilty plea. He
3 was asked by the judge multiple times about the facts of
4 what happened, about whether he was indeed guilty of these
5 charges, and he said that he was. And he, you know, gave
6 a very lengthy kind of in his own mitigation gave a very
7 lengthy explanation of why he was choosing to plead
8 guilty. That he did not want to put anybody family
9 through a trial. I think he said on the stand too that he
10 couldn't even say for sure if these statements were, you
11 know, what made him decide to plead. He didn't want to --
12 he knew that if he went to trial he was facing life and he
13 didn't want to face that and that's a logical decision and
14 a valid decision to decide to take a plea. Your Honor,
15 Mr. Floyd has testified that he reviewed those statements
16 saw no indication that they were involuntary, discussed
17 those statements with Mr. Anderson. Mr. Anderson never
18 told him that he didn't know what he was doing when he
19 gave those statements. And, Your Honor, we would just ask
20 that you deny the relief.

21 THE COURT: All right. Thank you, ma'am.
22 Mr. Waller, I agree with you that we're not here to try
23 the case again and whether or not -- and this may sound
24 cold and uncaring or odd to the lay folks that are present
25 here today, but it's not even that relevant whether or not

1 he did it. The issue would be whether or not he had a
2 defense that was not pursued and should have been pursued.
3 And having said that, I'm looking at the judge's colloquy
4 with Mr. Anderson during the time of the plea. And I
5 think it's clear from all the testimony that at the time
6 of the plea he was well outside any influence of this drug
7 whatever it was and that his plea was taken freely,
8 voluntarily and intelligently. I think that's clear from
9 the testimony. In there, Judge Nettles makes it very
10 clear that he could if he were to go to trial that he
11 could challenge the State's case, that he could put up any
12 defenses he chose to put up and that by entering his plea
13 that he's waiving those. He's giving those up. So at
14 that point -- now, it's not specifically addressed in the
15 colloquy that -- and he never says to Judge Nettles that
16 he has a defense, but he does acknowledge that if he
17 did -- and if he did, it's challenging the statement.
18 He's freely and voluntarily waving that and giving that
19 up. So there's that.

20 There's the testimony that -- and the Attorney
21 General brings it out and fairly accurately I believe is
22 that if you listen to the affects that this drug has on
23 Mr. Anderson, none of it -- I mean, he never mentioned
24 that it affects his ability to understand what he's doing.
25 It may cause him to be depressed. It may cause him to be

1 anxious, but at no time did any of the affects say that it
2 causes him to not understand or not be able to make a
3 rationale decision. As I go through the plea colloquy,
4 the judge gave him so many opportunities to address these
5 issues if they were to be addressed. He asked if anyone
6 had promised him anything and threaten him in anyway or
7 pressured or mistreated him in anyway and he indicated
8 that none of that occurred.

9 He went into a fairly lengthy colloquy regarding
10 Mr. Floyd's representation, whether or not Mr. Anderson
11 was satisfied with his attorney. He says he was. Have
12 you understood all of your conversations with him. He
13 said he did. Do you need any additional time to confer
14 with him. He said he did not. Any complaints with him
15 whatsoever. He said no. Any complaints with law
16 enforcement, the lawyer or this court. And he said no.

17 Now, getting to Mr. Floyd's representation, he
18 indicated that he reviewed the video and reviewed the
19 statements and that there was nothing in any of that that
20 alerted him that Mr. Anderson may have been on medication
21 at the time that would have adversely affected those
22 statements. And in going over the statements and in
23 explaining a Jackson v. Denno and what the State would
24 have to show and the Court makes the decision as to the
25 admissibility, Mr. Anderson indicated that he understood

1 those things. And according to the testimony from
2 Mr. Floyd, never did he indicate to Mr. Floyd that the
3 statements were other than freely and voluntarily given
4 with understanding and never questioned or asked Mr. Floyd
5 to challenge those statements. I don't know that there's
6 anything in the record that would indicate that Mr. Floyd
7 should have known that that was something that needed to
8 be done.

9 As far as the incentive to enter the plea, I
10 think Mr. Anderson gave that himself and so there was
11 certainly was -- I read thoroughly his discussions with
12 the Court. He seemed to be extremely sincere at the time
13 that he wished to give this family closure. And that he
14 did it and that this family deserve that. And so at least
15 at the time he felt that way which was certainly an
16 incentive to proceed. But the thing I go back to is that
17 after having his rights fully explained regarding a
18 Jackson v. Denno hearing and that those statements could
19 be challenged and understanding that conversation with his
20 attorney, the judge specifically indicated to him you
21 understand that you give that up or you waive that by
22 entering your plea here today. And it appears that his
23 waiver of those rights were voluntarily given and were
24 done without any coercion or threats. And so I'm going to
25 respectfully deny the application for post-conviction

1 relief.

2 MS. MCCALLISTER: Thank you.

3 MR. WALLER: Thank you, Your Honor.

4 END OF REQUESTED HEARING

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STATE OF SOUTH CAROLINA)
 COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
 TWELTH JUDICIAL CIRCUIT

Doni Terrele Anderson, #361471,)

C.A. No. 2015-CP-21-1033

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER OF DISMISSAL

DORIS POULOS O'HARA
 CCCP & GS
 FLORENCE COUNTY, SC

2018 JAN 29 AM 11:02

FILED

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 9, 2015. Respondent made its Return and Motion for a More Definite Statement on September 13, 2016. An evidentiary hearing into the matter was convened on August 29, 2017, at the Florence County Courthouse before the Honorable Thomas A. Russo. Jonathan Waller, Esquire, represented Applicant. Lindsey McCallister, Esquire, of the South Carolina Attorney General's Office, represented Respondent. At the hearing, Applicant testified on his own behalf. Scott P. Floyd, Esquire, testified for the State. This Court had before it a copy of the records of the Florence County Clerk of Court, records from the South Carolina Department of Corrections, the application, the State's Return, and the guilty plea transcript.

PROCEDURAL HISTORY

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. Applicant was indicted at the July 2013 term of the Florence County Grand Jury for murder and possession of a weapon during the commission of a violent crime (2013-GS-21-00914). Scott P. Floyd (Counsel), Esquire, represented Applicant. On September 15, 2014, Applicant pleaded guilty to murder before the Honorable Michael G. Nettles. The weapons charge was dismissed in exchange for Applicant's

guilty plea. Judge Nettles sentenced Applicant to a term of imprisonment for thirty-five years for murder. Applicant did not appeal this conviction or sentence.

ALLEGATIONS

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

1. "Ineffective Assistance of Counsel; Preliminary Hearing"
2. "Ineffective Assistance of Counsel; Pre-Trial Hearing"

In response to the State's Motion for a More Definite Statement, counsel for Applicant clarified the allegations against Counsel. Applicant's contention is that Counsel was ineffective for failing to investigate the circumstances surrounding Applicant's statement to the police, and this failure rendered Applicant's guilty plea involuntarily.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. Sec. 17-27-80 (2003):

Ineffective Assistance of Counsel/Involuntary Guilty Plea

In a PCR action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (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." Id. at 443, 334 S.E.2d at 814. 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 v. Washington, 466 U.S. 668, 689 (1984). Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove that counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. (quoting Strickland, 466 U.S. at 688). 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).

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 alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Lockhart, 474 U.S. at 56. 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, an applicant's right to contest the validity of such a plea is usually 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)). Additionally, "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)).

Applicant testified he was arrested for murder and possession of a weapon, and Counsel was appointed to represent him on the charges. Applicant testified he was arrested in Myrtle Beach, in Horry County, and was transported back to Florence within a few hours. Applicant

^{that}
testified at the time of his arrest, he was taking Celexa for depression, but the Celexa caused him to have anxiety and suicidal thoughts. Applicant further testified he was under the influence of this medication at the time of his arrest and statement to law enforcement. Applicant testified he told Counsel he was taking medication at the time, but he did not believe Counsel ever investigated the side effects. Applicant further testified Counsel told him "it didn't matter," but never gave any explanation why. However, Applicant could not say whether he ever asked Counsel for further explanation. Applicant further testified he and Counsel never discussed how the medication affected Applicant personally, and Counsel never discussed challenging the statement.

Applicant testified he and Counsel met three times, and he felt Counsel was not assisting him properly, so he tried to have Counsel removed. Applicant testified Counsel did not discuss the State's evidence with him. Applicant testified he was not arrested at the scene, and his cell phone and the gun were never recovered, so his statement was a major component of the evidence against him. Applicant also testified Counsel did not discuss any defenses with him, and when he asked Counsel about a defense, Counsel "downplayed" the issues Applicant brought up and told him it would not work. Applicant testified he felt he had no choice but to plead guilty because he was defenseless, and he did not want to risk receiving a life sentence.

However, Applicant also testified he did not know if he would have pleaded guilty or gone to trial if he had a defense available. On cross-examination, Applicant testified he actually gave more than one statement; he approached a man on the street in Myrtle Beach and told the man he had "done something bad," and he also admitted to the shooting during a conversation with his family members after his arrest. Applicant testified all of these statements were made

on the same day, while he was on Celexa. Applicant further testified he was not under the influence of Celexa on the day of his guilty plea.

Counsel testified he met with Applicant to discuss his case, and together they went over what Applicant had told law enforcement. Counsel testified Applicant told police where he bought the gun, and that he took it to the victim's house, and waited for her across the street. Counsel also testified he reviewed the video and audio tapes of Applicant's statements and found no indication Applicant was not coherent when the statements were given. Counsel testified Applicant was Mirandized before the statements were taken, and the statements seemed to be logical. Counsel further testified he explained Applicant would be entitled to a Jackson v. Denno¹ hearing, at which Applicant could testify, and it would be up to a judge to decide if a particular statement was admissible. Counsel testified Applicant never said he wanted to challenge the statements.

Counsel also testified his standard practice is to ask clients if they are taking any medication and/or have any mental health issues. Counsel testified if the client indicates he is on medication, Counsel always asks if it affects his ability to understand or if it causes blackouts. Counsel testified Applicant never told him the Celexa influenced his ability to reason or think freely or distinguish right from wrong.

Regarding Applicant's claim his guilty plea was induced by ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proof. This Court finds Applicant's testimony regarding Counsel's ineffectiveness is not credible, while also finding Counsel's testimony is credible. This Court finds Counsel provided effective assistance in this case and Applicant's decision to plead guilty was made freely and voluntarily. Counsel

¹ 378 U.S. 368 (1964).

reviewed the videos and statements given by Applicant, and nothing therein alerted him that the statements weren't voluntary. Further, Applicant never told Counsel the statements were not given voluntarily or indicated he wanted to challenge the statements, even after Counsel explained the process of challenging the voluntariness of the statements pursuant to Jackson v. Denno. This Court has reviewed the record and finds nothing in it to indicate Counsel should have known to challenge the statements. In any event, Applicant testified he could not say for certain if he would have changed his decision to plead guilty, even if a defense had been available to him.

This Court finds the record reflects Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. Applicant testified he was not under the influence of any medication at the time of the guilty plea. Further, Applicant's testimony as to the side effects of Celexa did not indicate it caused him not to understand what he was doing or affected his ability to reason, and Applicant offered no testimony from a doctor or other mental health professional regarding the alleged side effects of the medication. The plea judge clearly explained Applicant's right to challenge the State's case and put up a defense if Applicant wished, but Applicant would have to give up those rights if he pleaded guilty. Tr. p. 10. The plea judge also engaged in a lengthy colloquy with Applicant and gave Applicant ample opportunity to address these issues, but Applicant indicated he had not been mistreated or pressured into pleading guilty. Tr. p. 11. Additionally, Applicant told the plea judge he was satisfied with Counsel's representation and had no complaints. Tr. p. 11. Finally, the transcript of the guilty plea reflects Applicant indicated his motivation for entering into the plea was to express his remorse and provide closure to both families. Tr. pp. 23-24. Accordingly, this Court finds Applicant understood the terms of the plea and entered into it freely and voluntarily.

Therefore, this Court finds Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present compelling evidence that Counsel committed either errors or omissions in his representation of Applicant. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel’s performance. This Court also finds that the record fully supports the knowing and voluntary nature of Applicant’s guilty plea. See Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (holding defendant’s knowing and voluntary waiver of statutory or constitutional rights in a guilty plea “must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant’s counsel, or both.”). In addition, Applicant has presented no evidence or valid reasons why he should be allowed to depart from the truth of his statements made at the plea. See Dalton, 376 S.C. at 137, 654 S.E.2d at 874 (“[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.”). This Court concludes Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance such that his guilty plea was rendered involuntary. The allegation is hereby denied and dismissed.

CONCLUSION

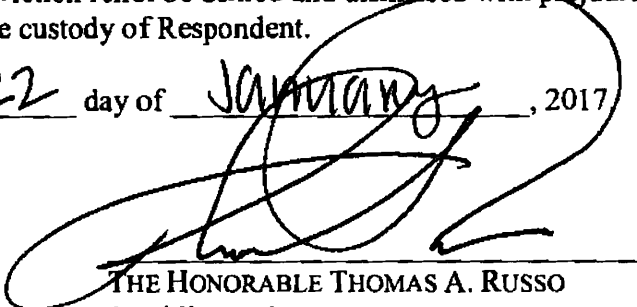
Based on all the forgoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations before or during his plea and sentencing proceedings. Counsel was not deficient, nor was Applicant prejudiced by Counsel’s representation. Therefore, this PCR application must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty days from 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), SCRCP, provides that if Applicant wishes to seek appellate review, Applicant must serve and file a notice of appeal on his own behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 22 day of January, 2017



THE HONORABLE THOMAS A. RUSSO
Presiding Judge
Twelfth Judicial Circuit

Florence, South Carolina.

FILED

2018 JAN 29 AM 11:02

**DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC**

WITNESSES

Cody Jordan Florence Police Department

DOCKET NO. 2013-GS-21-00914

The State of South Carolina

County of

FLORENCE

FILED

2013 JUL 18 AM 10:48

CONNIE REEL SHEARIN
CLERK OF COURT
FLORENCE COUNTY, S.C.

COURT OF GENERAL SESSIONS

JULY TERM 2013

THE STATE

vs.

DONI TERRELE ANDERSON

E. L Clements, III

ARREST WARRANT NUMBER

2013A2120200327 2013GS2100914A

ACTION OF GRAND JURY TRUE BILL

Courtney Muns
Foreperson of Grand Jury
Date: 7/18/13

VERDICT

Indictment for

**MURDER,
AND
POSSESSION OF WEAPON DURING
COMMISSION OF VIOLENT CRIME**

Foreperson of Petit Jury

Date:

Connie Reel Shearin
CERTIFIED: A TRUE COPY
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR
 MURDER, AND POSSESSION OF WEAPON DURING
 COMMISSION OF VIOLENT CRIME

At a Court of General Sessions, convened on JULY 18, 2013 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- MURDER

CDR: 0116 16-03-0010,0020, 16-01-0060

That DONI TERRELLE ANDERSON did in Florence County on or about February 20, 2013, feloniously, willfully and with malice aforethought kill one Kendra Johnson, by means of shooting her with a pistol, and that the said Kendra Johnson did die as a proximate result thereof; in violation of Sections 16-03-0010, 0020, and 16-01-0060, S.C. Code of Laws, 1976, as amended.

**COUNT TWO- POSSESSION OF WEAPON DURING COMMISSION
 OF VIOLENT CRIME**

CDR: 0549 16-23-0490

That DONI TERRELLE ANDERSON did in Florence County on or about February 20, 2013, was in possession of a firearm, or did visibly display what appeared to be a firearm, or visibly displayed a knife, to wit: a 9mm pistol, during the commission of a violent crime, to wit: Murder; in violation of Section 16-23-0490, S.C 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.



E.L. Clements, III
 TWELFTH CIRCUIT SOLICITOR