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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Appeal from Florence County Court of Common Pleas
The Honorable Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2018-001339

Saquawn M. Lacy,.....Petitioner,

v.

State of South Carolina,.....Respondent.

APPENDIX

WILLIAM G. YARBOROUGH

LAUREN C. HOBBS

William G. Yarborough III, Attorney at Law, LLC
522 North Church Street
Greenville, South Carolina 29601
(864) 331-1612

COUNSEL FOR PETITIONER

ALAN WILSON
Attorney General

LINDSAY MCCALLISTER
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211

COUNSEL FOR RESPONDENT

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COUNTY OF FLORENCE

) COURT OF GENERAL SESSIONS
) TWELFTH JUDICIAL CIRCUIT
) CASE NO. 2014-GS-21-00492

STATE OF SOUTH CAROLINA,
Plaintiff,

-VS-

TRANSCRIPT OF RECORD

SAQUAWN LACY,

Defendant.

September 8, 2014
Florence, South Carolina

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, Judge

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

JOHN JEPERTINGER, Esquire
Attorney for the Plaintiff

B. SCOTT SUGGS, Esquire
Attorney for the Defendant

KRYSTAL J. SMITH
Court Reporter

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E X H I B I T S

NO.

DESCRIPTION

ID.

EV.

(No Exhibits Presented)

1 SEPTEMBER 8, 2014

2 (WHEREAS this matter was scheduled for a term of General
3 Sessions, the defendant appeared along with his counsel
4 of record. The hearing began at 11:48 a.m.)

5 THE COURT: Saquawn Lacy? Are there any recommendations
6 or negotiations?

7 MR. JEPERTINGER: Yes, sir. Or yes, ma'am.

8 THE COURT: That's okay. I'm used to being called sir.

9 MR. JEPERTINGER: I'm sorry. I'm sorry. I'm sorry.

10 THE COURT: I don't even hear it anymore; so you're good.

11 MR. JEPERTINGER: I'm sorry. Mr. Lacy was initially
12 charged with attempted murder. The State is allowing him to
13 plead guilty to the lesser-included offense of assault and
14 battery of a high and aggravated nature. The negotiation is
15 that there would be a cap of ten years, Your Honor.

16 THE COURT: All right. Is that your understanding of the
17 negotiated plea, Mr. Suggs?

18 MR. SUGGS: It is, Your Honor.

19 THE COURT: For the record, this is 2014-GS-21-492, and
20 the indictment has been true-billed. Mr. Suggs, have you
21 explained to your client -- well, actually, does he have any
22 record?

23 MR. JEPERTINGER: Your Honor, he -- he does have a
24 record, Your Honor.

25 THE COURT: If you would, publish that for me, please.

1 MR. JEPERTINGER: Yes, ma'am. I beg the Court's
2 indulgence one second.

3 THE COURT: That's okay.

4 MR. JEPERTINGER: Your Honor, in terms of a criminal
5 record on the NCIC, he had a disregarding a stop sign in 2009,
6 obtaining -- operating a vehicle which is not registered.
7 That was also in 2009. He also had received a probationary
8 sentence it looks like in 2010 for manufacture and possession
9 with the intent to distribute other substances in Schedules I
10 through III, Your Honor.

11 THE COURT: Okay.

12 MR. JEPERTINGER: And also failure to stop for a blue
13 light. He received five years suspended to two years'
14 probation on the drug case, and three years suspended to two
15 years' probation on the blue light. There were two counts of
16 the drug offenses, Your Honor, and it looks like they ran
17 concurrently with the same sentence. And also, he had a
18 receiving stolen goods between \$1,000 and \$5,000.

19 THE COURT: So that was magistrate level?

20 MR. JEPERTINGER: No. At that time, Your Honor, that was
21 prior --

22 THE COURT: It wasn't the two to five.

23 MR. JEPERTINGER: Yeah. Prior to the change, Your Honor,
24 and that carried five years suspended to two years' probation.
25 He's also --

1 THE COURT: What year was that?

2 MR. JEPERTINGER: That was 2010 it looks like.

3 THE COURT: Okay.

4 MR. SUGGS: That was all one sentencing event --

5 MR. JEPERTINGER: Yeah.

6 THE COURT: Okay.

7 MR. SUGGS: -- to cover all the stuff.

8 MR. JEPERTINGER: It was. It was. And then he had a

9 criminal domestic violence in 2013 for which he received a

10 fine or jail time. Your Honor, that's all I see on the --

11 THE COURT: So that was magistrate level?

12 MR. JEPERTINGER: Yes. And that's all I see on the NCIC.

13 THE COURT: Okay. Mr. Suggs, have you explained to your

14 client the charges contained in the indictment, the possible

15 punishment, and his constitutional rights?

16 MR. SUGGS: I have, Your Honor.

17 THE COURT: Do you believe he understands the charge, the

18 punishment, and his rights?

19 MR. SUGGS: Yes, ma'am.

20 THE COURT: Does he wish to plead guilty or not guilty?

21 MR. SUGGS: Guilty, Your Honor.

22 THE COURT: Do you agree with that decision?

23 MR. SUGGS: Yes, ma'am.

24 THE COURT: To your knowledge, has he ever had to be

25 evaluated to determine his competency?

1 MR. SUGGS: No, ma'am.
2 THE COURT: Sir, raise your right hand to be sworn.
3 (Whereupon, the defendant complies.)
4 THE COURT: Do you swear or affirm the testimony you give
5 will be the truth?
6 THE DEFENDANT: Yes, Your Honor.
7 THE COURT: You can put your hand down.
8 (Whereupon, the defendant complies.)
9 THE COURT: I need you to speak louder for me though so
10 that I can hear you and the court reporter can take down what
11 you're saying. Please state your full name for the record.
12 THE DEFENDANT: Saquawn Monte Lacy.
13 THE COURT: Spell your middle name, please.
14 THE DEFENDANT: M-o-n-t-e.
15 THE COURT: How old are you?
16 THE DEFENDANT: Twenty-three.
17 THE COURT: How far have you gone in school?
18 THE DEFENDANT: I graduated.
19 THE COURT: What do you do for a living?
20 THE DEFENDANT: I'm in school right now.
21 THE COURT: In school where?
22 THE DEFENDANT: At Florence-Darlington Tech.
23 THE COURT: What are you taking?
24 THE DEFENDANT: I'm going for my CDL.
25 THE COURT: Are you married?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: Do you have any children?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: Are you currently on probation or parole?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Have you ever been treated for the abuse of
7 alcohol, drugs or mental illness?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Have you had any drugs or alcohol or
10 medication in the last 72 hours?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Are you aware of any physical, emotional or
13 nervous problem that would keep you from understanding where
14 you are right now or what you are doing?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: On the charge of assault and battery of a
17 high and aggravated nature, how do you plead?

18 THE DEFENDANT: Guilty.

19 THE COURT: Do you understand that that carries a maximum
20 penalty of 20 years?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Do you understand that it is classified as
23 violent and serious?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: I can't hear you, sir.

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Do you understand that under South Carolina
3 law that subjects you to enhanced penalties?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Do you understand that if you receive two
6 additional serious offenses, you could face life without the
7 possibility of parole?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Do you understand that the violent
10 classification affects how you serve any time you receive?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Sir, you may have discussed parole or parole
13 eligibility with your lawyer or with others, but until you're
14 sentenced no one can tell you when, if ever, you'll be
15 eligible for parole or under what conditions. You should
16 assume that you will serve the entire time in jail that you're
17 sentenced to, day for day. Do you understand?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: I want you to listen carefully to the facts.
20 Mr. Jupertinger?

21 MR. JEPERTINGER: Yes, ma'am. On December the 18th, 2013,
22 over at 1408 Cast Street here in Florence County, there was a
23 small mobile home that doubled as a -- I guess a pool hall/bar
24 type situation there. The victim in the case, Jeremiah Park,
25 who is seated here in the witness chair, went there. Your

1 Honor, he was dropped off at the location. In reality, he
2 knew the owner of that establishment, who is the defendant's
3 brother, John Lacy. They were I guess celebrating Christmas a
4 little bit early. They had food and they were drinking, Your
5 Honor.

6 He left the area for a while, came back. Came back -- it
7 was about 7:30 or eight o'clock. There was a pool table in
8 the establishment. John and Jeremiah, the victim, began
9 shooting pool. Jeremiah won about three to four -- I guess
10 three games. It really doesn't matter, but he won some games.
11 Judge, he wound up wanting to get some change for a dollar
12 bill there, and apparently he and John got mad at each other
13 and they began fighting.

14 At that point, Saquawn was in the establishment. He had
15 a gun, pulled it out, shot a shot. That initial shot did not
16 hit Jeremiah. Then that caught Mr. Park's attention. He
17 jumped -- jumped around. At that point, Saquawn shot him --
18 shot the gun again. It -- the bullet struck Mr. Park in the
19 hip area. At that point, Jeremiah Park jumped under the pool
20 table, and Mr. Lacy shot through the pool table, again missing
21 him.

22 He got out of the establishment, limped to a cousin's
23 house, which was probably about two or three houses down, and
24 law enforcement was called. When law enforcement got to the
25 scene, Your Honor, they started questioning people. They

1 found out that the victim was at the hospital. They went to
2 the hospital to talk to Mr. Park about who might have done it.
3 He was not very responsive at that point, Your Honor, having
4 been shot in the hip.

5 Your Honor, he eventually -- I think the next day -- I
6 have the investigator here. Investigator McLaurin identified
7 this young man as being the shooter. He's known this young
8 man and his brother, John, for a number of years. I don't
9 think they ever had any hard feelings between them before the
10 night of this incident, Your Honor.

11 Crime Scene was called out to the Cast location. They
12 put a rod through the pool table. It showed the trajectory of
13 the bullet that went through the pool table. They found a
14 projectile that looked like it came from a .38 Special, Your
15 Honor, that possibly was from a revolver. I don't think they
16 found any other shell casings at the scene, even though they
17 did find some live rounds behind the bar area of the
18 establishment.

19 As a result of him getting shot in the hip, Your Honor, I
20 would think that there was at least grave bodily injury
21 committed against Mr. Park. Your Honor, he's going to have
22 other surgeries. He tells me he's -- he has a colostomy bag,
23 Your Honor, as a result of this shooting.

24 And I think that's all I can add at this point. I don't
25 know if the investigator or Mr. Park has anything further to

1 add.

2 THE COURT: I'd hear from them after I qualify the plea.

3 MR. JEPERTINGER: Okay.

4 THE COURT: Sir, do you agree or disagree with the facts?

5 THE DEFENDANT: I agree.

6 THE COURT: Do you feel anything needs to be changed or
7 added to the facts?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Are you pleading guilty, sir, because you're
10 guilty?

11 THE DEFENDANT: I plead guilty.

12 THE COURT: Please listen carefully. When you plead
13 guilty, you give up certain important constitutional rights.

14 Those rights include your right to a jury trial. At a
15 jury trial, you're entitled to a presumption that you're
16 innocent. The State has the burden of proving your guilt
17 beyond a reasonable doubt. You would have the right to
18 confront and cross-examine the State's witnesses, call your
19 own witnesses, present any defenses that you may have,
20 challenge any statements you may have made, as well as remain
21 silent and your silence could not be used against you.

22 Do you understand your rights as I've explained them to
23 you?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you understand that you're giving up those

1 rights?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Other than what has been stated for the
4 record, have there been any other plea negotiations made on
5 your behalf?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Have you been satisfied with your lawyer's
8 services?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Has he answered all of your questions?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Done everything you've asked or expected?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Have you understood your talks with him?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Do you have any complaints about his
17 services?

18 THE DEFENDANT: No. No, ma'am.

19 THE COURT: Has anyone promised you anything or held out
20 any hope of a reward to cause you to plead guilty?

21 THE DEFENDANT: No.

22 THE COURT: Has anyone used threats, coercion, force,
23 pressure, intimidation or duress to cause you to plead guilty?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: Are you pleading guilty freely and

1 voluntarily and of your own will?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Have you had enough time to make up your mind
4 about pleading guilty?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Have you understood my questions?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Do you need to ask me about anything we've
9 been over?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: Have you been truthful in your responses?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you understand that you have the right to
14 appeal this guilty plea and sentence of the Court, but that
15 you must do so in writing within ten days of today?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you understand that if you cannot afford
18 an attorney for that process that one will be appointed to you
19 at no cost?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: I find there's a substantial factual basis
22 for the plea. That the defendant has entered the plea freely,
23 voluntarily, knowingly, and intelligently. That he has had
24 the advice and assistance of counsel with whom he's indicated
25 to the Court he's satisfied. And I will accept the plea.

1 Anything further from the State?

2 MR. JEPERTINGER: Other than from hearing from the
3 investigator or the victim.

4 THE INVESTIGATOR: No, ma'am.

5 MR. JEPERTINGER: Is there anything you want to say, Mr.
6 Park?

7 THE VICTIM: I just want to say I grew up knowing him all
8 my life. I mean him, his brother, his family, his father, his
9 sister. Well, his mom and my sister were best friends coming
10 up. You know, I wouldn't never think about hurting him to
11 that extent, and I mean the issues that I have I have to deal
12 with for the rest of my life and it was definitely a life-
13 changing situation for me. And I'm just asking for the
14 maximum cap.

15 THE COURT: Other than the victim's statement on
16 sentence, does the State take any position?

17 MR. JEPERTINGER: I would just agree with the victim.

18 THE COURT: Okay. Sir, are you going to have to have any
19 further surgeries?

20 THE VICTIM: Yes, ma'am.

21 THE COURT: How many do they estimate you're going to
22 have to have?

23 THE VICTIM: Maybe two more.

24 THE COURT: And how many have you had so far?

25 THE VICTIM: Three.

1 THE COURT: How old are you?

2 THE VICTIM: I'm thirty-four.

3 THE COURT: Are you able to work?

4 THE VICTIM: No, ma'am, not currently.

5 THE COURT: So have you had to get on disability of some
6 type?

7 THE VICTIM: I'm trying. I keep getting denied. I'm
8 still trying. The process is hard.

9 THE COURT: What kind of job did you do before this all
10 happened?

11 THE VICTIM: Auto -- auto mechanics and upholstery.

12 THE COURT: Mm-hmm. Are you married?

13 THE VICTIM: No, ma'am.

14 THE COURT: Do you have any children?

15 THE VICTIM: Yes, ma'am.

16 THE COURT: How many children do you have?

17 THE VICTIM: Three.

18 THE COURT: What are their ages?

19 THE VICTIM: Seven and I got a set of twin boys four
20 months.

21 THE COURT: Mm-hmm. Did you have any restitution as a
22 result of this?

23 MR. JEPERTINGER: He had the hospital bills. There's --

24 THE COURT: I mean -- but is there any being submitted as
25 a part of this sentence?

1 MR. JEPERTINGER: No, Your Honor.

2 THE COURT: Okay. Do they estimate, sir, that -- and I
3 don't mean to seem indelicate.

4 THE VICTIM: Yes, ma'am.

5 THE COURT: Will you -- have they indicated to you what
6 your diagnosis is or whether you'll have to deal with this
7 colostomy situation for the rest of your life?

8 THE VICTIM: They haven't given me no -- no outlets on
9 it. They just keep checking me every time I go back. They
10 didn't tell me whether it was permanent or not yet.

11 THE COURT: Are they hoping with these other surgeries
12 they'll be able to resolve the issue and maybe you'll be
13 relieved of that -- of that --

14 THE VICTIM: Yes, ma'am.

15 THE COURT: -- impediment?

16 THE VICTIM: Yes, ma'am.

17 THE COURT: Okay. Does the State have any questions as a
18 result of the questions I've asked the victim?

19 MR. JEPERTINGER: No, ma'am.

20 THE COURT: And, Mr. Suggs, do you have any questions for
21 the victim as a result of the Court's questions?

22 MR. SUGGS: Questions? No, ma'am, I don't have any
23 questions.

24 THE COURT: Okay. Anything further from the State?

25 MR. JEPERTINGER: No, ma'am.

1 THE COURT: I'll be glad to hear from the defense.

2 MR. SUGGS: Thank you, Your Honor. May it --

3 THE COURT: You're welcome.

4 MR. SUGGS: -- please the Court.

5 THE COURT: Yes, sir.

6 MR. SUGGS: Yes, ma'am. I know that Saquawn is sorry,
7 very, very sorry, that this happened. He's been in my office
8 several times. His mother -- I've talked with her. I've
9 talked with John Lacy IV, who is Saquawn's brother, a little
10 bit. I've also talked with McKira [phonetic] Gregg, who is
11 standing with him. This is his common-law wife. They all
12 know that Saquawn is sorry about -- about this and how it
13 happened and to the extent that Mr. Park was injured.

14 THE COURT: Mm-hmm.

15 MR. SUGGS: It was one of those cases, Judge, where they
16 were at this little club --

17 THE COURT: Mm-hmm.

18 MR. SUGGS: -- for lack of a better term. There was some
19 drinking and that sort of thing going on, and I understand
20 that -- that Mr. Park struck and hit his -- Saquawn's brother,
21 John Lacy IV. They were having some kind of an argument over
22 -- over a pool game. I'm not really clear on why that
23 happened other than the argument started out as -- as words
24 and then it developed into fisticuffs. And Mr. Park hit Mr.
25 Lacy and knocked him out, and when that happened, Saquawn was

1 -- was upset and angry and responded in the manner that was
2 presented to the Court just now.

3 And I know that in his heart -- as Mr. Park has said,
4 these folks have known each other for years and years. They
5 grew up together and their families grew up together and know
6 one another, and there is that family relationship among these
7 folks as well. And so I know that Saquawn did not mean for
8 this to -- to turn out like it did, and it's really a sad
9 thing. It's fortunate that the young man wasn't killed. It's
10 scary to think about that when you -- when you do.

11 Judge, he is -- he is expecting -- he doesn't have
12 children, but is expecting his first child. McKira is
13 pregnant. Her due date is March the 17th of 2015. So he does
14 have a child on the way.

15 I know that he has a prior record. We've been over that,
16 but it's been about -- the main part of it, Judge, has been
17 about four years. He was on probation for a while and I think
18 he completed it.

19 I have told him about this particular offense, Judge. He
20 does know that this is a Class C felony. It carries up to 20
21 years. However, we -- we've asked the Court to consider the
22 negotiated part of it, to not to exceed ten. Nevertheless, it
23 still does not remove that offense from being violent and from
24 being serious. Fortunately, he has no prior violent offenses
25 on his record. He has no prior serious offenses on his

1 record.

2 So -- but also that this is a non-parolable offense.
3 I've told him that this is -- this is technically an 85
4 percent, but you may as well consider serving every day of
5 whatever sentence is -- is meted out. And if you -- if you
6 are -- if you do get the 85 and you're -- you're out on the 15
7 percent, there's still a two-year period of community
8 supervision that goes along with these type offenses.

9 So, Judge, whatever sentence you feel is appropriate, he
10 knows that he's going to probably have to do all of it. So we
11 would ask the Court to consider something less than -- than
12 ten. I know that he's really sorry that this happened and I
13 know those words sound so empty, but there's really not much
14 else that he can do other than stand before the Court and
15 accept responsibility for what he's done and face the victim
16 and apologize to the victim and apologize to his family and
17 hope that this is -- that he's learned his lesson and that,
18 gratefully, this young man wasn't -- wasn't killed.

19 Did you want to say something to the judge? Do you want
20 to?

21 I think he wants to address the Court, Judge, if you'll
22 please.

23 THE COURT: I'll be glad to hear from him.

24 THE DEFENDANT: Yeah. I want to apologize to the victim
25 about the situation that happened.

1 THE COURT: Is there anything further, sir, that you'd
2 like to state for the record?

3 (Whereupon, counsel for the defendant confers with family
4 members.)

5 THE COURT: We need to know your name, ma'am, for the
6 record.

7 MS. LACY: Sophia Lacy.

8 THE COURT: Sophia?

9 MS. LACY: Yes, ma'am.

10 THE COURT: Mm-hmm. Yes, ma'am?

11 MS. LACY: I just wanted to say have mercy on his soul.
12 We're sorry.

13 THE COURT: You're his mother?

14 MS. LACY: Yes, ma'am.

15 THE COURT: Anything further, Mr. Suggs?

16 MR. SUGGS: No, ma'am.

17 THE COURT: Did he have any pre-detention time, Mr.
18 Suggs?

19 MR. SUGGS: I don't think so, Judge.

20 THE COURT: He bonded out?

21 MR. JEPERTINGER: He was -- he was arrested on December
22 20th, if I could interject --

23 THE COURT: Mm-hmm.

24 MR. JEPERTINGER: -- and I see bond was made on December
25 23rd. So that would be four days.

1 THE COURT: (Coughs.) Excuse me. Taking into
2 consideration the severity of the offense and what is being --
3 the severity of the offense, as well as what is really a grave
4 use of force, that being the weapon that was utilized in this
5 crime, and also the lasting effects of -- to the victim in
6 this case and what he has -- and I asked those questions
7 because -- of Mr. Park because I wanted to know the lasting
8 effect of what he is experiencing, and clearly it has altered,
9 you know, the way he has to live, and he's a young man, and
10 also taking into account the familial relationship between
11 these parties, it really is just sheer grace that someone was
12 not killed that evening.

13 I am going to, however, take into account as mitigation
14 his age, as well as his willingness to have accepted
15 responsibility, although technically, you know, you don't
16 really give credit for it, but that's a misnomer because you
17 always give people credit for admitting --

18 MR. SUGGS: Yes, ma'am.

19 THE COURT: -- what they've done, as well as what appears
20 to me to be some genuine remorse toward Mr. Park, but I still
21 find it very troubling. Really, you know, that's the funny
22 thing about things that expel bullets. You know, they don't
23 have names on them. They go wherever. They travel through
24 the body and they can kill, as where as -- as well as merely
25 injure.

1 So you never really know when you use something that is
2 designed for deadly force whether it's going to kill somebody
3 or not. And I just haven't heard anything in terms of defense
4 or defense of others that would warrant the use of deadly
5 force under these circumstances.

6 SENTENCE

7 THE COURT: As such, sir, you are sentenced to the State
8 Department of Corrections for a period of nine years. You
9 will get credit for any time that you've served to be
10 calculated and applied by the Department of Corrections
11 pursuant to 24-13-40.

12 MR. JEPERTINGER: Thank you.

13 THE COURT: Thank you.

14 MR. JEPERTINGER: I appreciate it.

15 THE COURT: You're welcome. Have a great day.

16 (Whereupon, the proceedings end at 12:13 p.m.)

17
18 --- END REQUESTED TRANSCRIPT ---
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1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE
3 COUNTY OF FLORENCE)
4

5 I, the undersigned, Krystal J. Smith, Notary Public and
6 Official Court Reporter for the Twelfth Judicial Circuit of
7 the State of South Carolina, do hereby certify that the
8 foregoing pages, numbered 1 through 23 constitute a true,
9 accurate, and complete Transcript of Record of all the
10 proceedings had and evidence introduced in the hearing of the
11 above captioned case, relative to appeal, in the Court of
12 General Sessions for Florence County, South Carolina, on the
13 8th day of September, 2014.

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

16
17 _____
18 Court Reporter

19
20 Florence, South Carolina

21 March 14, 2015
22
23
24
25

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

SAQUAWN MONTE LACY 00361317
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

FORM 5

2015 APR -6 PM 4:06 IN THE COURT OF COMMON PLEAS

CLERK OF COURT
FLORENCE COUNTY, S.C.

2015 CP 21 997

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Kirkland Correctional Institute
2. Name and location of Court which imposed sentence Florence County General Sessions
3. Name(s) of co-defendant(s) (if any) n/a
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2014-GS-21-00492- ABHAN
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 9/18/14- 9 years
 - (b) _____

CERTIFIED: A TRUE COPY
Carrie Fel. Garcia
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Y
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - (b) the result in each such Court to which you appealed:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - (c) the date of each such result:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. N/A
 - ii. N/A
 - iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) My lawyer informed me that I would receive a sentence much less than what I received. He did not tell me that this was grounds for an Appeal. The plea I made was not knowingly and voluntary because there were witnesses who saw I was not guilty and would have testified on my behalf..
 - (b) If my lawyer would have gotten the witnesses to Court that I believed were needed, I would not have plead guilty, as I informed my lawyer I was not guilty and did not

Revised 3/2003

know this was something I could appeal. When the witnesses did not show up for court I did not know I did not have to go forward.

(c) My lawyer did not try to get me Youthful Offender Sentencing.

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

(a) I am not guilty. There are witnesses who would say I acted in self-defense.

(b) My lawyer did not investigate the case or call witnesses that I asked him to have appear in Court.

(c) My lawyer did not act effectively, so I am being held illegally pursuant to United States vs. Strickland.

(d) My lawyer should have tried to get me a YOA.

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

(a) My brother was prepared to testify that this was self-defense.

(b) My lawyer refused to call him as a witness either at trial or to mitigate sentencing.

(c) A review of the transcript clearly shows that I could have qualified for a YOA.

(d) My attorney should have tried to help me get a Youthful Offender Sentence.

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

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

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

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

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

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii.

iii.

- iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. N/A
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - iv. N/A
- (d) the date of each such disposition:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - iv. N/A
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. N/A
 - ii. N/A
 - iii. N/A
 - iv. N/A

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?

N/A

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

- (a) which grounds have been presented:
 - i. N/A
 - ii. N/A
 - iii. N/A
- (b) the proceedings in which each ground was raised:

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

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) These issues are issues which should have been presented during a Post-Conviction Relief Hearing.
- (b) The attorney for defendant did not call witnesses that could have showed innocence or mitigate damages.
- (c) This may have helped defendant receive a YOAsentence.

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? N/A
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A

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

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

- (a) the name and address of each attorney who represented you:
 - i. Florence County Public Defender's Office
 - ii. B. Scott Suggs
 - iii. P O Drawer 591, 506 W. Evans St. Florence, SC 29503
- (b) the proceedings at which each such attorney represented you:
 - i. Plea and Sentencing
 - ii. _____
 - iii. _____

19. State clearly the relief you seek in filing this application:
Either a new trial or re-sentencing.

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

No

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

SAQUAWN MONTE LACY)

Plaintiff,)

vs.)

THE STATE OF SOUTH CAROLINA)

Defendant.)

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

CASE NO.: 2015 CP- 21-997

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

2015 APR - 6 PM 4:06
CLERK OF COURT
FLORENCE COUNTY, S.C.

Plaintiff's Attorney:
William G. Yarborough, III, Bar No. 10271
Address:
522 N. Church Street Greenville, SC 29601
Phone: 864-331-1612 Fax 864-370-0022
E-mail: wgyarborough@gmail.com Other: _____

Defendant's Attorney:
_____, Bar No. _____
Address:

Phone: _____ Fax _____
E-mail: _____ Other: _____

- ☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Post-Conviction Relief

Estimated Time Needed: 1.0 hr

Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

- ☐ Written motion attached
☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

William G. Yarborough, III
Signature of Attorney for ☒ Plaintiff / ☐ Defendant

Date submitted _____

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$ _____

☒ EXEMPT:

(check reason)

- ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED - AMOUNT DUE: \$ _____

CERTIFIED: A TRUE COPY
Carmie F. L. Spivey
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

County of)
)
)

VERIFICATION

I, Saquawn Monte Lacy, 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.

Saquawn Monte Lacy

(by way of verification follows)

SWORN to and subscribed before me this 31st
day of March, 2015.

Theresa Trouton-Burr (L.S.)
Notary Public

My Commission Expires: 3/20/24

2015 APR -6 PM 4:06
CLERK OF COURT
FLORENCE COUNTY, S.C.

CERTIFIED: A TRUE COPY
Connie F. L. Spearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

Saquawn Monte Lacy, Sr., #361317,

2015-CP-21-0997

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

In response to the post-conviction relief application filed on April 6, 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 April 2014 term of the Florence County Grand Jury for one (1) count of Attempted Murder. Applicant was represented by B. Scott Suggs, Esquire. After a guilty plea Applicant was sentenced by the Honorable Deadra L. Jefferson., to nine (9) years for Attempted Murder. Applicant did not appeal this conviction.

II.

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

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

1. "I am not guilty. There are witnesses who would say I acted in self-defense."

- a. "My brother was prepared to testify that this was self-defense."
2. "My lawyer did not investigate the case or call witnesses that I asked him to have appear in court."
 - a. "My brother was prepared to testify that this was self-defense"
3. "My lawyer did not act effectively, so I am being held illegally pursuant to United States v. Strickland."
 - a. "A review of the transcript clearly shows that I could have qualified for a YOA."
4. "My lawyer should have tried to get me a YOA"
 - a. "My attorney should have tried to help me get a Youthful Offender Sentence."

Attached herewith and incorporated herein by reference are the records of the Florence County Clerk of Court regarding the subject conviction, 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.

For purposes of this Return, Respondent interprets Applicant's allegations as claims of ineffective assistance of counsel. Respondent submits that 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).

V.

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

VI.

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

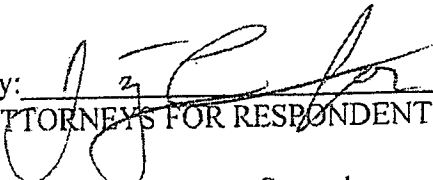
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

JOHANNA VALENZUELA
Senior Assistant Deputy Attorney General

J. CROOM HUNTER
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

August 18, 2016

State of South Carolina	)	Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2015-CP-21-00997
	)	
Saquawn Lacy,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
	)	

November 15, 2017
 Florence, South Carolina

B E F O R E:

The Honorable Michael G. Nettles, Judge

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

William Yarborough III, Esquire
 Attorney for the Plaintiff

Lindsey McCallister, Esquire
 Attorney for the Defendant

Krystal J. Smith
 Circuit Court Reporter

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<u>COURT REPORTER LEGEND</u> dashes -- intentional or purposeful interruption or change in thought ellipses . . . trailing off [ph] phonetically written [sic] written as said			

DESCRIPTION

EV.

46

COURT REPORTER LEGEND

dashes	--	intentional or purposeful interruption or change in thought
ellipses	. . .	trailing off
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[sic]		written as said

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dashes -- intentional or purposeful interruption
or change in thought

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1 NOVEMBER 15, 2017

2 (WHEREUPON, the proceedings began at 11:15 a.m.)

3 THE COURT: All right. I'm going to -- I'm going to
4 recognize the attorney general and let her put the caption of
5 the case on the record.

6 MS. MCCALLISTER: Thank you, Your Honor. This is
7 Saguawn Monte Lacy versus the State of South Carolina,
8 2015-CP-21-0997.

9 Your Honor, Mr. Lacy was indicted in April of 2014 for
10 attempted murder. He was represented by -- on that charge by
11 Scott Suggs.

12 He pleaded guilty on September 8th, 2014, before Judge
13 Jefferson. He pleaded guilty to the lesser-included offense
14 of assault and battery -- assault and battery of a high and
15 aggravated nature. That was a negotiated plea with a cap of
16 ten years and, Your Honor, Judge Jefferson sentenced him to
17 nine years.

18 He did not file an appeal. Your Honor, he is
19 represented today by Mr. Bill Yarborough, and both Mr.
20 Yarborough and Mr. Lacy are present in the courtroom at this
21 time.

22 THE COURT: Do you have that packet?

23 MS. MCCALLISTER: Oh, yes, sir. I'm sorry.

24 THE COURT: Mr. Yarborough, you're recognized, and I'm
25 going to allow you to set forth with particularity what the

1 current grounds for relief are that you are raising.

2 MR. YARBOROUGH: Your Honor, if the Court pleases, the
3 current grounds for relief are ineffective assistance of
4 counsel based on basically three grounds, and the first
5 ground would be failure to investigate and present a defense.
6 That Mr. Lacy had -- had -- had told Mr. Suggs and also his
7 previous lawyer, I think Mr. Etheridge, that he felt like he
8 was acting in self-defense.

9 The second ground is that when -- when he entered the
10 guilty plea, he believed that he was going to receive a
11 sentence of five years or less.

12 And the third ground that he raises is he would have
13 liked for them to negotiate something that would have given
14 him the ability to receive a youthful offender sentence. I
15 don't believe a youthful offender sentence at this time would
16 have been available under assault and battery of a high and
17 aggravated nature, but it would have been available for other
18 charges that would have been lesser offenses. It could have
19 been available for him.

20 He also -- fourth, I think that what I just said was two
21 and three was actually two dealing with sentencing, and the
22 third thing was that he felt like there was a conflict with
23 Mr. Suggs having been representing his -- his brother at the
24 same time. He was also at the -- the scene of the shooting.

25 MS. MCCALLISTER: Your Honor, I would object to that

1 last allegation with regard to the conflict. That is not
2 contained within the application, and this is the first time
3 that I'm hearing of it. I have -- I have not had a chance to
4 talk to Mr. Suggs about that allegation at all.

5 THE COURT: Mr. Yarborough, what do you have to say?

6 MR. YARBOROUGH: Your Honor, I'd say it was part of the
7 ineffective assistance of counsel under Strickland v.
8 Washington, and I will just briefly kind of lay it -- lay it
9 out there, if that's okay with the Court. I won't -- I won't
10 belabor the point.

11 THE COURT: All right. We'll -- I will allow him to
12 present the evidence. We'll address it at the conclusion as
13 to whether or not it's appropriate.

14 MS. MCCALLISTER: Thank you, Your Honor.

15 MR. YARBOROUGH: We'd call Mr. Lacy.

16 THE COURT: Yes, sir. If you could, come forward and
17 place your left hand on the Bible and raise your right hand
18 as the clerk administers the oath.

19 THE CLERK: Do you swear or affirm that the testimony
20 you give will be the truth, the whole truth, and nothing but
21 the truth, so help you God?

22 THE APPLICANT: I do.

23 THE CLERK: Thank you. Watch your step.

24 THE COURT: I'm going to ask you to have a seat in the
25 witness chair. Pull up real close to the microphone and

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

1 speak loudly, clearly, and slowly in order that we can hear
2 everything that you have to say, and let's start with your
3 full name.

4 THE APPLICANT: Saquawn Monte Lacy.

5 THE COURT: Thank you, Mr. Lacy.

6 Yes, sir?

7 SAQUAWN LACY, being first duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. YARBOROUGH:

11 Q: Mr. Lacy, are you incarcerated?

12 A: Was I incarcerated?

13 Q: Are you incarcerated?

14 A: Yes. Yes, I am.

15 Q: Why don't you speak into that microphone?

16 MR. YARBOROUGH: Maybe -- can I approach and move it up
17 --

18 THE COURT: Yes.

19 MR. YARBOROUGH: -- so he can get a little closer?

20 There you go. He's got it.

21 Speak into it so everybody can hear you and the court
22 reporter can take this down.

23 BY MR. YARBOROUGH:

24 Q: And you're doing a nine-year sentence?

25 A: Yes.

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

1 Q: And you were originally represented by who?

2 A: I was represented by John -- John Etheridge.

3 Q: All right. And did your mother hire him for you?

4 A: No. I had hired him.

5 Q: You hired him? And -- and did you pay him?

6 A: Yeah. I paid him. Yes, I paid him.

7 Q: Okay. Did you pay him regularly?

8 A: Yeah, I paid him. I paid him.

9 Q: It doesn't matter how much, but did you pay him
10 regularly?

11 A: Yeah. I paid him regularly.

12 Q: And at some point, did you discuss the case with him?

13 A: Yeah, I discussed it with him.

14 Q: Did you go over the discovery with him?

15 A: No.

16 Q: You didn't go over the discovery with him? Did you tell
17 him you had -- you felt like you had a defense to the case?

18 A: Yeah. He said -- yeah. He said he was going to help me
19 out on it. That's all I remember on that.

20 Q: Okay.

21 A: He said he was going to help me out on the case, but he
22 ain't -- we ain't never -- he ain't never studied the case
23 with me.

24 Q: You didn't study it? Did you -- were you later
25 represented by Mr. Suggs?

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

1 A: Yeah. Later. Later down the line, I was represented by
2 Scott.

3 Q: Okay. Now, how did that happen?

4 A: I don't know how it happened. I thought -- I thought I
5 was going to get represented by John.

6 Q: John who?

7 A: John.

8 Q: Excuse me?

9 A: Come again?

10 Q: Yeah. Who -- who did you think was going to represent
11 you?

12 A: I thought John Etheridge was going to represent me.

13 Q: Okay. Use the last name instead of just the first name.
14 Okay?

15 A: Okay.

16 Q: And -- and you thought that because that's who you had
17 hired?

18 A: Yeah.

19 Q: Okay. And that's who you worked on the case with?

20 A: Yes.

21 Q: Did you feel like you had a defense to this case?

22 A: Yeah.

23 Q: And what was that defense?

24 A: Self-defense.

25 Q: All right. And did you -- did you tell Mr. Etheridge

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

1 about that?

2 A: No. We never spoke -- we never -- we never spoke on it.

3 Q: You never spoke on that?

4 A: No.

5 Q: Did you tell Mr. Suggs about that?

6 A: Yeah. We -- we -- we talked about it.

7 Q: Okay. And so when you talked to him about it, what --
8 what did you decide?

9 A: I had -- I had wanted -- they -- they gave me a plea to
10 five. I mean he offered -- well, the plea bargain was zero
11 to ten with a cap, and Jepertinger and Scott Suggs -- they --
12 they told me they was going to get me five years. So I --

13 Q: Who told you that? The prosecutor?

14 A: Yeah.

15 Q: Okay.

16 A: Jepertinger and Scott.

17 Q: How did that happen? You and the prosecutor and Mr.
18 Suggs met?

19 A: Yeah. We had a little meeting.

20 Q: Where did you meet?

21 A: Before -- before court.

22 Q: Where?

23 A: In the back room, back in the little meeting room before
24 -- before I went up.

25 Q: You met back in one of these rooms --

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

- 1 A: Uh-huh.
- 2 Q: -- back here?
- 3 A: Uh-huh.
- 4 Q: And was there another person there at that time?
- 5 A: Yeah. My -- my mom was there.
- 6 Q: Okay. I want to go back to developing your -- your
- 7 defense. Did you tell Mr. Suggs that -- that your brother
- 8 was present at the time of the shooting?
- 9 A: Yes. Yeah, I told him.
- 10 Q: Okay. At that time, was Mr. Suggs representing your
- 11 brother?
- 12 A: Yeah. He was representing my brother on a whole 'nother
- 13 case.
- 14 Q: Okay. Did -- did you end up getting the five years you
- 15 thought you were going to get?
- 16 A: No. No, I wasn't.
- 17 Q: Okay. And what -- what happened?
- 18 A: Yeah. I thought I had -- I had accepted a plea bargain
- 19 because I thought I was going to get five years.
- 20 Q: But tell the Court about that. How did you think you
- 21 were going to give five years when the -- when the -- I think
- 22 the transcript clearly indicates it's up to ten?
- 23 Q: Yeah. Yeah, the plea bargain was zero to ten, but they
- 24 negotiated saying I was -- they were going to give me five
- 25 years.

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

1 Q: Okay. When you say they negotiated, you thought that
2 meant that -- that it was a done deal?

3 A: Yeah. I thought -- yeah. That's why I had pleaded
4 because I thought I was going to get five years.

5 Q: All right. And so were you surprised when you got nine?

6 A: Yeah. I was surprised.

7 Q: Were you friends with the -- the victim?

8 A: Yeah. Yeah. We was friends.

9 Q: Do y'all's families know each other?

10 A: Yes.

11 Q: Okay. And did -- had y'all made peace after this?

12 A: Yeah, we did.

13 Q: Were you all -- this all involved a -- a -- a pool game?

14 A: Yeah. It happened at a pool game.

15 Q: And then there was a fight afterwards?

16 A: Yeah.

17 Q: And during that fight, did you feel like you were
18 threatened?

19 A: Yeah.

20 Q: Can you tell the Court about that?

21 A: Yeah. He -- well, they was fighting over a pool game
22 and he blindsided my brother and knocked my brother out and,
23 after he knocked my brother out, he was charging at me with
24 the pool stick and I -- and I had shot him.

25 Q: Okay. When he was -- were you scared when -- when he

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

1 was charging at you with the pool stick?

2 A: Yeah.

3 Q: Okay. And did you discuss that with Mr. Etheridge?

4 A: No. We never --

5 Q: You discussed that with Mr. Suggs?

6 A: Yeah.

7 Q: Okay. And did you feel like you had a defense?

8 A: A defense?

9 Q: A defense, yeah. Did you feel like you could go to
10 trial and win?

11 A: Yeah. I ain't know it was going to go that -- I ain't
12 -- I ain't know it was going to go that far to trial. I mean
13 --

14 Q: Right. And so is that why you pled guilty?

15 A: Yeah.

16 Q: Why? Explain that to the Court. I think you --

17 A: Yeah. I pled guilty because I thought I was going to
18 get the five years.

19 Q: Okay. So that -- that's why you pled guilty. Did you
20 not try to stop the judge and say, hey, Your Honor, I'm
21 supposed to get five? Why are they talking about a cap of
22 ten?

23 A: Come again? I don't --

24 Q: Did you try to stop the judge during your plea?

25 A: No.

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

1 Q: Okay. Did you think you could?

2 A: No. I think someone had over -- over -- had overtalked
3 me at the time. I couldn't -- I couldn't say nothing at the
4 time in court.

5 Q: So you were -- you were intimidated in the court? It
6 was hard for you to talk?

7 A: Yeah. I felt like I was rushed -- rushed in doing
8 everything.

9 Q: Okay. Let's talk about that. You say you felt like you
10 were rushed. How long did Mr. Suggs actually represent you?

11 A: About -- about three months.

12 Q: Three months?

13 A: Yeah.

14 Q: And I don't understand how you went from one lawyer to
15 another lawyer. How did that happen?

16 A: I know I ain't had no clue about that. I mean I thought
17 I --

18 Q: But you had paid one lawyer and then another lawyer --

19 A: Yeah. Just popped up in the picture. I thought I had
20 one lawyer. I ain't know it was a group thing going on, you
21 know.

22 Q: Right. Did you know Mr. Suggs?

23 A: Yeah. I know him because he was representing my
24 brother.

25 Q: Okay.

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

1 A: But I ain't had a clue that he was going to represent me
2 on my case.

3 Q: Right. And your brother was present at the -- at the
4 fight that night?

5 A: Yeah.

6 Q: Is that -- is that who was -- was -- was getting hit?

7 A: Yeah. He -- yeah, he got knocked out.

8 Q: I know you've always asked me about the -- the youthful
9 offender sentence. Did you feel like that was what you
10 thought you should get?

11 A: Yeah. Yeah. I thought I was going to be able to get
12 the Youthful Offender Act.

13 Q: Right. And that's what you thought when you were
14 pleading there was a chance you could get a youthful offender
15 sentence?

16 A: Yes.

17 Q: Did anybody tell you that a youthful offender didn't
18 apply to that particular statute?

19 A: Yeah. I didn't know at the time.

20 Q: Right. But I -- I told you that after we met?

21 A: Yeah. I thought I was eligible for it.

22 Q: And so were you surprised when -- when Mr. Suggs didn't
23 ask for a youthful offender?

24 A: Yeah.

25 Q: And when -- when y'all were talking about this plea, you

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

1 were in the courtroom and -- or in a side room off the
2 courtroom and you were there and there was a prosecutor
3 there, Mr. Suggs was there, and your mother was there?
4 A: And my mom, yeah.
5 Q: And you're -- you're sure of what they said?
6 A: Yeah.
7 Q: Would you have pled otherwise?
8 A: If they wouldn't have said that?
9 Q: Right.
10 A: No. I probably wasn't -- I wouldn't have pled. I was
11 trying -- I was trying to get a good plea bargain.
12 Q: All right. And you thought that you had a good plea
13 bargain?
14 A: Yeah. I thought I had a good plea bargain.
15 Q: Of five years?
16 A: Five years, yeah.
17 Q: You thought that was fair? Is there anything else that
18 you wish they would have done for you that they didn't do?
19 A: No.
20 Q: Did you feel like you had acted in self-defense during
21 the course of this -- this incident?
22 A: Yeah.
23 Q: Did you feel like that the case had been investigated
24 properly?
25 A: No.

SAQUAWN LACY - DIRECT BY MR. YARBOROUGH

1 Q: Do you think if it would have been investigated better
2 that you would have had a better outcome?

3 A: Yeah. Yeah, I would have.

4 Q: Okay.

5 MR. YARBOROUGH: Answer any questions that the attorney
6 general may have for you.

7 THE APPLICANT: Okay.

8 CROSS-EXAMINATION

9 BY MS. MCCALLISTER:

10 Q: You just -- you just said to Mr. Yarborough that you
11 thought this case could've been investigated better; right?

12 A: Yeah.

13 Q: But you also testified earlier that you told -- you told
14 Mr. Suggs about this issue with your brother being there and
15 how you thought it might be self-defense; correct?

16 A: Yes.

17 Q: And did Mr. Suggs talk to you about that -- about that
18 issue once you raised it to him?

19 A: No, he didn't. He didn't talk to me about it.

20 Q: He didn't talk to you? Do you know if he talked to your
21 brother?

22 A: Yeah. I think he talked to my brother about it.

23 Q: Okay. So -- so you gave him the defense of self-defense
24 and, as far as you know, Mr. Suggs did at least go talk to
25 your brother about that; correct?

SAQUAWN LACY - CROSS BY MS. MCCALLISTER

1 A: Yes.

2 Q: Okay. And do you recall -- do you recall the day of the
3 plea being in the courtroom and talking back and forth with
4 the judge?

5 A: Of the -- of the plea?

6 Q: Yes.

7 A: Yes, I recall.

8 Q: Okay. Do you remember the judge saying -- or do you
9 remember the solicitor saying that you -- that the
10 negotiations in your case were that there would be a cap of a
11 ten-year sentence? Do you remember that?

12 A: Yeah. Zero -- yeah, zero to ten with a cap.

13 Q: Okay. So you understood that that was what the
14 solicitor was telling the judge that y'all had agreed to?

15 A: No. I don't -- I don't remember that.

16 Q: Okay. But you heard him -- did you hear the solicitor
17 say that you and Mr. Suggs and he had agreed to a cap of ten
18 years?

19 A: No. Because the whole time I'm thinking I'm about to
20 get five years.

21 Q: Okay. I understand that's what you were thinking, but
22 I'm asking you did you hear -- did you hear that being said
23 in the courtroom while you were in there though?

24 A: No.

25 Q: No? You didn't? Okay. Did you -- did you ever -- do

SAQUAWN LACY - CROSS BY MS. MCCALLISTER

1 you recall talking back and forth to the judge about what you
2 wanted to do and whether you wanted to accept this offer and
3 take this guilty plea?

4 A: The zero to ten?

5 Q: Right.

6 A: Yeah.

7 Q: Okay.

8 A: I remember.

9 Q: Did you ever tell the judge at any time it's not ten,
10 it's five?

11 A: No. I didn't never told the judge that.

12 Q: Okay. Did you ever tell the judge that you didn't know
13 Mr. Suggs was going to be representing you that day?

14 A: No. No, ma'am.

15 Q: Did you ever tell the judge you didn't want Mr. Suggs as
16 your attorney?

17 A: No.

18 Q: Do you recall telling the judge that you were satisfied
19 with Mr. Suggs' representation of you?

20 A: Yeah. I don't -- I don't remember.

21 Q: You don't remember?

22 A: No.

23 MS. MCCALLISTER: I beg the Court's indulgence, Your
24 Honor.

25 BY MS. MCCALLISTER:

SAQUAWN LACY - CROSS BY MS. MCCALLISTER

1 Q: Other than the issue of self-defense and talking to your
2 brother, was there something else that you thought Mr. Suggs
3 should investigate?

4 A: Yeah. He should -- I felt like he should have looked
5 more in my case, you know.

6 Q: Okay.

7 A: I feel like he didn't. I mean it feel like he just
8 rushed me in the court that day. I ain't even know I was
9 going to court that day.

10 Q: Okay. And can you tell me specifically what you think
11 he should've looked more into in your case?

12 A: The -- the Y -- the YOA program.

13 Q: Okay.

14 A: The Youthful Offender Act.

15 Q: Okay. But in terms of investigating the facts and what
16 actually happened, your issue is self-defense; correct?

17 A: Yes, ma'am.

18 Q: And there's nothing -- there's no other issue out there
19 that you think he should have been investigated other than
20 self-defense?

21 A: No.

22 Q: Okay. And you -- the -- on the date of the plea when
23 you went forward and you went in front of the judge, on that
24 day did you know that Mr. Suggs was representing your brother
25 also on the -- on the different charge?

SAQUAWN LACY - CROSS BY MS. MCCALLISTER

1 A: Yeah. I knew he was representing my brother.

2 Q: Okay. So at the time you went through with the plea,
3 you were aware that Mr. Suggs was also representing your
4 brother?

5 A: Yeah.

6 Q: Okay. And you did not tell the judge that?

7 A: No. He was -- it was on a whole 'nother charge, like a
8 whole 'nother --

9 Q: Okay.

10 A: -- different charge, yeah.

11 Q: I understand. It wasn't related to this incident?

12 A: No, no.

13 Q: But you were aware that he was involved in representing
14 your brother on a criminal charge?

15 A: Yeah. Because my brother had hired him for a whole
16 'nother -- a whole 'nother case.

17 Q: Okay. And you've said that you believe that you had an
18 issue or you had -- you had a potential defense of self-
19 defense?

20 A: Yes.

21 Q: Correct?

22 A: Yes, ma'am.

23 Q: And your testimony is that you and your brother and the
24 victim were playing pool and there was a fight and he hit
25 your brother and then he came at you?

SAQUAWN LACY - CROSS BY MS. MCCALLISTER

1 A: Yeah. They was playing pool, them two. They was
2 playing pool.

3 Q: Okay. How many times did you fire the gun?

4 A: I fired -- I fired the gun twice.

5 Q: You only fired twice? Okay. Where was the victim when
6 he was injured?

7 A: Where was he?

8 Q: Where was he?

9 A: In front of the pool table.

10 Q: He wasn't under the pool table?

11 A: No.

12 Q: Okay. So when the solicitor and your attorney told the
13 judge that the victim was under the pool table and you shot
14 through the pool table and hit him, you didn't correct that
15 with the -- with the judge?

16 A: He ran. He ran around the pool table.

17 Q: So -- so if someone said in court -- your attorney or
18 the solicitor said that you shot through the pool table and
19 hit the victim, you're saying that's incorrect?

20 A: No. The first shot went through the pool table.

21 Q: Okay. So you're saying that if --

22 A: And the first shot went through the pool table and the
23 second shot had hit him.

24 Q: And you're saying you only fired two shots, not three?

25 A: No. Two.

SAQUAWN LACY - CROSS BY MS. MCCALLISTER

1 Q: So if someone told the judge you fired three times,
2 you're saying that's incorrect?

3 A: Yes.

4 Q: And you didn't correct that at the time during the plea
5 hearing?

6 A: No. It was two. It was two the whole time.

7 Q: Okay. But if -- do you recall the solicitor going
8 through the facts of the case in order to support why you
9 were pleading guilty?

10 A: Why I -- no.

11 Q: You don't -- do you recall if the solicitor gave the
12 judge any background about what had happened and why you all
13 were there that day for the plea?

14 THE COURT: I think we can agree to make the transcript
15 a part of the record.

16 MS. MCCALLISTER: Okay. Thank you, Your Honor.

17 Okay. That's all I have then, Your Honor.

18 THE COURT: All right. Any redirect?

19 MR. YARBOROUGH: Just briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. YARBOROUGH:

22 Q: You -- you thought you were going to get a five-year
23 sentence?

24 A: Yes.

25 Q: And that's why you pled?

SAQUAWN LACY - REDIRECT BY MR. YARBOROUGH

1 A: That's why I pled.

2 MR. YARBOROUGH: Thank you.

3 THE COURT: All right. You may step down.

4 You may call your next witness.

5 MR. YARBOROUGH: I'd call his mother.

6 THE COURT: Yes, ma'am. If you could, place your left
7 hand on the Bible and raise your right hand as the clerk
8 administers the oath.

9 THE CLERK: Do you swear or affirm that the testimony
10 you give will be the truth, the whole truth, and nothing but
11 the truth, so help you God?

12 THE WITNESS: Yes.

13 THE CLERK: Please have a seat and state your name for
14 the record?

15 THE COURT: I'm going to ask you, if you could, to have
16 a seat in the witness chair. Pull up real close to that
17 microphone and speak loudly, clearly, and slowly in order
18 that we can hear everything that you have to say, and let's
19 start with your full name.

20 THE WITNESS: Sophia Ann Lacy.

21 THE COURT: Speak up just a little bit. Very good.

22 MR. YARBOROUGH: Yeah.

23 THE WITNESS: I understand.

24 SOPHIA LACY, being first duly
25 sworn, testified as follows:

SOPHIA LACY - DIRECT BY MR. YARBOROUGH
DIRECT EXAMINATION

1
2 BY MR. YARBOROUGH:

3 Q: Ms. Lacy, do you have a -- a -- a son in the courtroom
4 today?

5 A: Yes, sir.

6 Q: And who is that?

7 A: Saquawn Lacy.

8 Q: Okay. And do you remember the date that he was
9 sentenced?

10 A: I'm thinking September the 8th.

11 Q: You don't need the date, but were you there?

12 A: Yes.

13 Q: And were you there before the -- before the sentencing?

14 A: Yes, sir.

15 Q: And did you have a meeting with -- with your son and the
16 prosecutor and --

17 MS. MCCALLISTER: Objection to the leading, Your Honor.

18 BY MR. YARBOROUGH:

19 Q: Were you involved in a meeting that day?

20 A: Yes, sir.

21 Q: Who was -- who was there?

22 A: Scott Suggs, my son, and my son's ex-girlfriend, and me.

23 Q: And then who? And you?

24 A: Yes.

25 Q: Was there another person there?

SOPHIA LACY - DIRECT BY MR. YARBOROUGH

1 A: No. They had -- they had the meeting without us and
2 when he came out the meeting, then that's when they told us
3 what they discussed in the meeting.

4 MS. MCCALLISTER: Objection, Your Honor. If she's not
5 part of the meeting, then I object to the hearsay.

6 THE COURT: I'll sustain that.

7 MR. YARBOROUGH: Okay.

8 BY MR. YARBOROUGH:

9 Q: Were -- were you familiar at that point with what
10 sentence your son was going to get?

11 A: Well, I know -- well, after the meeting, Scott Suggs
12 came out and told me --

13 Q: I'm not asking what he said.

14 A: Oh.

15 Q: I'm just asking are you familiar with what that sentence
16 was to be?

17 A: Oh, yes, sir.

18 Q: What was that sentence to be?

19 A: Five or --

20 MS. MCCALLISTER: Your Honor, I object. I don't -- I
21 don't think he's laid a foundation that she has any personal
22 knowledge other than the hearsay from the meeting.

23 THE COURT: I'm going to allow him to ask it.

24 BY MR. YARBOROUGH:

25 Q: What was that? What was that sentence to be?

SOPHIA LACY - DIRECT BY MR. YARBOROUGH

- 1 A: Zero to five.
- 2 Q: All right. And based on what you observed and your
- 3 being next to your son, did you believe that's what your son
- 4 understood as well?
- 5 A: Yes, sir.
- 6 Q: Okay. And that sentence was to be zero to five?
- 7 A: Yes, sir.
- 8 Q: And did you go in the courtroom?
- 9 A: Yes, sir.
- 10 Q: And what happened in the courtroom?
- 11 A: Everything changed when the victim testified. That's
- 12 when everything changed.
- 13 Q: Okay. And so were you surprised?
- 14 A: Yes.
- 15 Q: Were you mad? Disappointed?
- 16 A: No. Well, hurt. Hurt, but not mad.
- 17 Q: Okay. And why were you hurt?
- 18 A: Because I think that the time -- it doesn't fit the
- 19 crime.
- 20 Q: Okay.
- 21 A: The time was too harsh.
- 22 Q: It was too harsh?
- 23 A: For what he plead to. He plead to assault and battery
- 24 of a high and aggravated nature, and the time was too harsh,
- 25 but --

SOPHIA LACY - DIRECT BY MR. YARBOROUGH

1 Q: All right. But I mean you realize it carried up to 20
2 years; right?

3 A: Yes. Mr. Suggs did tell us that at first.

4 Q: And --

5 A: And I kept --

6 Q: Had you -- had you hired Mr. Suggs to represent your
7 other son during this same period?

8 A: No, sir.

9 Q: But was he representing your other son?

10 A: Yes, but I -- my son hired him on his own. I didn't
11 have anything to do with that case.

12 Q: You all have a personal relationship? You know Mr.
13 Suggs?

14 A: Only through my son, John.

15 Q: Okay. And John has a personal relationship with him?

16 A: Yes, sir.

17 Q: Okay. And did you know Mr. Etheridge?

18 A: I met him once. I went to the office with my son once.

19 Q: And that's who was representing your son before?

20 A: That's who my son hired to represent him, yes.

21 Q: Right. Did you ever understand how your son went from
22 one lawyer to the other lawyer?

23 A: No, I don't.

24 Q: Were you surprised about that?

25 A: Yes.

SOPHIA LACY - DIRECT BY MR. YARBOROUGH

1 Q: Did that -- was that disappointing to you?

2 A: Yes. Because I feel like you should -- if you're hired
3 -- if he hired Mr. John Etheridge, then that's who should
4 have been representing him. So he -- that's it.

5 Q: Okay.

6 MR. YARBOROUGH: All right. I don't have any further
7 questions. Please answer any questions --

8 THE WITNESS: Okay.

9 MR. YARBOROUGH: -- that the attorney general has.

10 CROSS-EXAMINATION

11 BY MS. MCCALLISTER:

12 Q: Ms. Lacy, you were present on the day of the plea? I
13 believe you testified to that; correct?

14 A: Yes, ma'am.

15 Q: And you were in the courtroom during that proceeding;
16 correct?

17 A: Yes, ma'am.

18 Q: And you -- do you recall hearing the solicitor and Mr.
19 Suggs and your son speak back and forth with the judge?

20 A: Yes, ma'am.

21 Q: Okay. Do you recall the solicitor telling the judge
22 that they had agreed to a cap of ten years?

23 A: No, ma'am.

24 Q: You don't recall that?

25 A: No, ma'am.

SOPHIA LACY - CROSS BY MS. MCCALLISTER

1 Q: Do you recall anybody ever saying that there was a deal
2 at any time to zero to five years?

3 A: But it wasn't mentioned in the courtroom.

4 Q: Okay. It was not mentioned in the courtroom?

5 A: No.

6 Q: Okay. And you actually had a chance to speak to the
7 judge; correct?

8 A: Yes.

9 Q: And you did speak with her; correct?

10 A: Yes. I just told her to have mercy on my son.

11 Q: Okay. And you didn't say anything about a zero to five-
12 year deal?

13 A: No. Because Mr. Scott Suggs was handling all of that.
14 He should have it in writing because he wrote it down.

15 Q: Okay. But you just said you didn't hear anybody say
16 anything about it and then when you had a turn to talk to the
17 judge, you didn't say anything about it?

18 A: Yeah. Because Mr. Scott Suggs was handling all that as
19 his attorney.

20 Q: And you -- you were not in the meeting. So you don't
21 know what was discussed in that meeting?

22 A: No. Mr. Scott -- after, Mr. Scott Suggs came and told
23 us what --

24 Q: I'm just asking were you in the meeting?

25 A: No. No, ma'am.

66

SOPHIA LACY - CROSS BY MS. MCCALLISTER

1 Q: Okay. So you don't have any personal knowledge of what
2 was discussed?

3 A: No, ma'am.

4 MS. MCCALLISTER: Thank you.

5 THE COURT: Mr. Yarborough?

6 REDIRECT EXAMINATION

7 BY MR. YARBOROUGH:

8 Q: You said you saw him write it down?

9 A: Yes. He wrote it down on a piece of paper.

10 Q: He wrote it down on a piece of paper and showed it to
11 you?

12 A: Yeah. He --

13 MS. MCCALLISTER: Objection, Your Honor. She's already
14 testified she wasn't in the meeting.

15 THE WITNESS: Yeah, but he came out --

16 THE COURT: But she saw a piece of paper.

17 THE WITNESS: Yeah. When he came out, he came out and
18 had a meeting with us, me and my son.

19 BY MR. YARBOROUGH:

20 Q: And it was written down on a piece of paper?

21 A: Yes. He wrote it down on a piece of paper. So he
22 should still have it.

23 Q: Okay. And it was zero to five?

24 A: Zero to five.

25 Q: It was? Okay. And that's what you thought your son was

SOPHIA LACY - REDIRECT BY MR. YARBOROUGH

1 going to get?

2 A: Yes. He assured us that they just had a meeting and
3 they -- they agreed to zero to five.

4 MS. MCCALLISTER: Objection, Your Honor. I mean --

5 MR. YARBOROUGH: Thank you, Your Honor.

6 THE COURT: Ma'am, you may step down. Thank you.

7 THE WITNESS: Okay.

8 THE COURT: You may call your next witness.

9 MR. YARBOROUGH: We'd call Mr. Suggs.

10 THE COURT: Mr. Suggs, please come forward. I'm going
11 to ask you, if you could, to place your left hand on the
12 Bible and raise your right hand as the clerk administers the
13 oath.

14 THE CLERK: Do you swear or affirm that the testimony
15 you give will be the truth, the whole truth, and nothing but
16 the truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Thank you.

19 B. SCOTT SUGGS, being first
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. YARBOROUGH:

23 Q: Mr. Suggs, you practice law here in Florence?

24 A: Yes, sir.

25 Q: And you have for a number of years?

B. SCOTT SUGGS - DIRECT BY MR. YARBOROUGH

1 A: Yes, sir.

2 Q: And over the course of that, did you represent Mr. Lacy?

3 A: Yes, sir.

4 Q: And can you tell us a little bit about that
5 representation?

6 A: Can you be more specific?

7 Q: Yeah. Did -- do you recall that -- that -- about the
8 situation of the shooting and what was going on there that
9 day?

10 A: Yes, sir. I was familiar with the facts.

11 Q: Okay. And had you interviewed -- you interviewed Mr.
12 Lacy and you also interviewed his brother?

13 A: Yes, sir. I talked to -- to your client, as well as --
14 as well as his brother. Yes.

15 Q: Okay. And his brother was actually at that point a
16 client of yours?

17 A: I believe so.

18 Q: You've represented his brother off and on for --

19 A: I don't know off and on. I think I had represented him
20 for something around the same time as this, but I don't
21 remember what it was.

22 Q: Okay. And were you familiar with the circumstances of
23 the shooting?

24 A: Yes.

25 Q: And was there a lot of negotiation back and forth

B. SCOTT SUGGS - DIRECT BY MR. YARBOROUGH

1 between you and the Solicitor's Office?

2 A: Well, a lot is a relative degree -- a relative thing.

3 We negotiated, as we always do. Yes, sir. There's always
4 some back and forth in these cases. Yes, sir.

5 Q: Somehow or another, did you get this case from another
6 lawyer, a Mr. Etheridge?

7 A: Mr. Etheridge and I practice together.

8 Q: Okay. So are y'all in the same firm?

9 A: No, sir. We're not in the same firm, but we've been
10 practicing together for over 20 years.

11 Q: Okay. And so he's correct when he says that he
12 originally had Mr. Etheridge as his lawyer?

13 A: I think that's right. He and I have an of-counsel
14 relationship.

15 Q: Okay. Do you have notes in your file where Mr.
16 Etheridge had represented him?

17 A: I don't know about notes, but I know for a fact that he
18 came to me through Mr. Etheridge.

19 Q: Okay.

20 A: Yes, sir.

21 Q: Did he pay Mr. Etheridge to represent him?

22 A: I'm certain he did.

23 Q: Okay. And -- but y'all have some relationship where you
24 take those cases? I'm just -- I just don't understand the
25 relationship.

B. SCOTT SUGGS - DIRECT BY MR. YARBOROUGH

1 A: Well, oftentimes, if Mr. -- if Mr. Etheridge gets a case
2 that he needs help on, he'll ask me to assist him. It
3 doesn't mean that Mr. Etheridge is no longer involved in the
4 case. He just asks me to help out, and I don't mind helping
5 him out.

6 Q: Okay. So -- and that's one -- this is one of those
7 cases?

8 A: Yes, sir.

9 Q: Okay. So did Mr. Etheridge represent him for an
10 extended period of time?

11 A: Now, I don't know how long that representation went on.

12 Q: Okay.

13 A: I do know that he was arrested on or about December the
14 20th of 2013, and I think that -- and I don't know how long
15 after he was arrested that he came to me or through Mr.
16 Etheridge. So I'm not sure if I can answer that question.

17 Q: Okay. Do you recall meeting with him more than one
18 time?

19 A: Yes, sir.

20 Q: Okay. Can you tell us how many times you met with him?

21 A: I know I met with him -- let's see. One, two -- I met
22 with him at least four times and, of course, he could have
23 met with me any number of times during that period of time
24 because he was out on bond.

25 Q: Sure.

B. SCOTT SUGGS - DIRECT BY MR. YARBOROUGH

1 A: And so the invitation is open to call my office at any
2 time for all clients to come in and schedule an appointment,
3 but I believe there was a time while he was out on bond that
4 he was arrested again for something else. I want to say it
5 was a CDV, and so he was in jail for that for some little bit
6 of time.

7 But I know that I've talked with him at least four
8 times, and I also met with his mother and I think his
9 girlfriend. I want to say Mykira Gregg [ph] is the name that
10 I've got in my file that was his girlfriend at the time.

11 Q: Okay. And did -- did y'all talk about a self-defense?

12 A: It came up, yes, sir, but I saw no self-defense and --
13 and I saw no defense of others in this case. My
14 understanding was that his brother, John --

15 Q: Right.

16 A: -- Lacy IV, I believe, was playing pool with a Mr.
17 Parks, who I believe was the victim, and Mr. Parks had beaten
18 him three or four times in a row in pool, and I'm not sure if
19 that's what started the argument or not. I'm just surmising.

20 But I do know that from talking with -- with Saquawn and
21 John and looking at the reports that Mr. Parks must have hit
22 John pretty hard because it knocked him out. And right after
23 that is when Saquawn pulled the gun on Mr. Parks. This --
24 this testimony about him charging Saquawn with a -- with a
25 pool cue -- that's the first I've heard of that this morning.

B. SCOTT SUGGS - DIRECT BY MR. YARBOROUGH

1 Q: Okay. But you interviewed John; right?

2 A: Yes.

3 Q: About this case?

4 A: Yes.

5 Q: And at that time, you were actually representing John?

6 A: I think so. Yes, sir.

7 Q: Okay. And you didn't feel at that point that was a
8 conflict or that John might be a witness for the defense and
9 was being prosecuted by the State?

10 A: I don't see why it would be a conflict.

11 Q: I mean did -- you didn't analyze any kind of
12 repercussion issues or whether John would be willing to
13 testify or not?

14 A: No, sir. John said that he was knocked out and he
15 didn't really remember anything after the victim struck him.
16 He said he lost consciousness for a period, and he could
17 barely -- he could remember the sound of gunshots, but all he
18 could tell law enforcement was from which direction the
19 gunshots were coming from. And it just so happens that that
20 was where Saquawn was and there weren't -- there weren't
21 other people in the club that were in that area.

22 THE COURT: Mr. Yarborough, I just want to ask you just
23 for clarification. Of course, the issue of conflict has been
24 brought up, but what is -- what do you contend the conflict
25 is?

B. SCOTT SUGGS - DIRECT BY MR. YARBOROUGH

1 MR. YARBOROUGH: Your Honor, I was trying to just look
2 and see if there was potential for a conflict.

3 THE COURT: It seems like to me it would not be a
4 conflict because if you represent a potential witness in an
5 unrelated matter, it seems like it would be of assistance and
6 they might be more favorable to you because of the rapport
7 that exists between a witness and the lawyer.

8 MR. YARBOROUGH: Right. And that's why --

9 THE COURT: I'm just asking am I missing anything is the
10 reason why that would be detrimental to -- to your client.

11 MR. YARBOROUGH: That's why -- that's why I asked Mr.
12 Suggs that. I'm not sure that it would or wouldn't. I was
13 wondering if he had thought through that issue.

14 THE COURT: Right. Okay.

15 MR. YARBOROUGH: That's why it wasn't listed out in my
16 --

17 THE COURT: Okay. Very good.

18 MR. YARBOROUGH: -- application. I was -- but I was not
19 familiar with it until recently and that's why --

20 THE COURT: Very good.

21 MR. YARBOROUGH: -- I brought it up.

22 THE COURT: Okay.

23 BY MR. YARBOROUGH:

24 Q: Did y'all -- you've heard this -- his mother and -- and
25 Saquawn talk about this five-year deal. Are you familiar

B. SCOTT SUGGS - DIRECT BY MR. YARBOROUGH

1 with that?

2 A: Not at all.

3 Q: Okay. Is the first you've heard of it was today?

4 A: Yes, sir.

5 Q: Okay. Are you familiar with his mother? Do you know

6 her?

7 A: Yes. I've met with her, yes.

8 Q: Okay. And do you recall her being at the courthouse

9 that day?

10 A: On the day of the plea?

11 Q: Yes.

12 A: Not specifically, no.

13 Q: Okay. What about before the plea?

14 A: Yes, sir. I think I had met with her in my office, but

15 I don't have a date.

16 Q: Okay.

17 A: But -- and it may have been through -- you know, through

18 John Lacy is the reason. I don't know, you know, if it was

19 related to this particular case or not.

20 Q: Okay. But she -- did you ever write down five years and

21 show it to Saquawn and his mother?

22 A: Not that I recall. I mean I don't know why I would have

23 done that. It was an indicted case for attempted murder, and

24 that's -- that's up to 30 years and, you know, the victim in

25 this case was -- was very nearly killed. As I understand, he

B. SCOTT SUGGS - DIRECT BY MR. YARBOROUGH

1 had to have a colostomy bag installed after -- after this.

2 So I think getting a plea to -- to what he eventually
3 pled to and having a negotiated ten was an excellent result,
4 but I -- I don't -- no, I don't recall any negotiations or
5 any comments or any writing of five years at any time.

6 Q: So they're just mistaken when they say that is your --

7 A: Evidently so.

8 Q: Okay. Did you meet with -- with Saquawn Lacy, the
9 prosecutor, and yourself right before the plea in one of
10 these side rooms? Did you write that down?

11 A: The date of the plea was 9/8/14?

12 Q: Yes, sir.

13 A: Okay. No. I met with -- with Mr. Jepertinger and
14 Saquawn on August the 25th of that -- of that same year. So
15 about two weeks before the plea. I do remember that.

16 Q: Okay. And where was that meeting?

17 A: It would have been in the courtroom.

18 Q: Okay.

19 A: At the courthouse.

20 Q: So they -- they came over for a plea and the plea didn't
21 go forward, but y'all went in a side room and talked?

22 A: No. I don't know if he was here for a plea or not. I
23 don't know if on that date where he and Mr. Jepertinger and
24 myself met whether he was incarcerated at that time and
25 whether he was brought over from the jail that day to talk.

B. SCOTT SUGGS - DIRECT BY MR. YARBOROUGH

1 I just have a record that the three of us talked here at the
2 courthouse on that day.

3 Q: Did you sign him up that day?

4 A: I don't recall.

5 Q: Okay. And do you remember if his mother was there that
6 day?

7 A: I don't recall.

8 Q: Do you recall the circumstances of that discussion, what
9 was discussed?

10 A: Between the solicitor, myself, and Mr. Lacy?

11 Q: Yes.

12 A: I would -- I would suspect it was talking about the --
13 the lesser-included offense and the negotiated time.

14 Q: Okay. And do you have any notes of that discussion?

15 A: No, sir.

16 MR. YARBOROUGH: One second.

17 I don't have any further questions. Thank you, Your
18 Honor.

19 THE COURT: Any questions?

20 MS. MCCALLISTER: Yes, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. MCCALLISTER:

23 Q: Mr. Suggs, in terms of a YOA, youthful offender
24 sentence, did you ever discuss that with Mr. Lacy?

25 A: I don't know if I specifically did or not, but I think

B. SCOTT SUGGS - CROSS BY MS. MCCALLISTER

1 at the time of the plea he was too old.

2 Q: Okay. And this was indicted for attempted murder?

3 A: Yes.

4 Q: Correct?

5 A: Yes.

6 Q: Does that qualify for a YOA sentence?

7 A: No. No, it does not.

8 Q: And does ABHAN qualify for an attempted -- or a YOA
9 sentence to your knowledge?

10 A: No. And I think -- yeah, you're -- I think that is the
11 reason why. He may -- he may have been the right age, but
12 that's right. Class A, Class B, Class C felonies ineligible
13 for being sentenced under the Youthful Offender Act. So that
14 would have been the reason why.

15 Q: And did you talk -- do you recall if you ever talked to
16 him about why he wasn't eligible for a YOA sentence?

17 A: If he were of the correct age --

18 Q: Yeah.

19 A: -- and that conversation did come up, then yes, I would
20 have told him that -- that none of the -- none of these
21 crimes are YOA eligible.

22 Q: Okay. And you've testified -- you've testified a little
23 bit about -- about the facts of this case and how -- how this
24 incident happened.

25 A: Yes.

B. SCOTT SUGGS - CROSS BY MS. MCCALLISTER

1 Q: Was there ever any discussion that Saquawn wasn't the
2 shooter?

3 A: No.

4 Q: Okay. So -- so the only then possible investigatory
5 issue or defense would have been whether it was the self-
6 defense?

7 A: That's right.

8 Q: Okay. And you did -- you did look into that?

9 A: Yes.

10 Q: And your -- your conclusion after doing an investigation
11 was that that did not apply in this case?

12 A: And that's right. And that -- that might have been one
13 of the reasons why his brother was not able to remember any
14 of the facts to help us in that regard and, you know, he told
15 me that he had been knocked out and, of course, I believed
16 him, but also that -- that does serve as a convenient excuse
17 for not -- not being able to assist law enforcement with
18 their case on -- on the attempted murder charge.

19 Q: Okay. And do you recall whether you explained that to
20 Mr. Lacy?

21 A: I'm certain that I did.

22 Q: Okay.

23 A: It's not -- it wasn't self-defense because I had never
24 heard anything about him being charged by Mr. Parks with a
25 pool cue. I had never heard that until today.

B. SCOTT SUGGS - CROSS BY MS. MCCALLISTER

1 And it couldn't be defense of others. If Mr. Parks had
2 struck his brother and knocked him out with his fist, I don't
3 know how pulling a weapon and shooting the victim in this
4 case would qualify for self-defense.

5 And on top of that, it was three shots that were fired.
6 The third shot was fired by Mr. Lacy at Mr. Parks while he
7 was cowering under the pool table.

8 MS. MCCALLISTER: I beg the Court's indulgence, Your
9 Honor.

10 I think that's all the questions I have.

11 THE COURT: All right.

12 REDIRECT EXAMINATION

13 BY MR. YARBOROUGH:

14 Q: Mr. Lacy would have been -- he would have been YOA
15 eligible?

16 A: He would have been. Yes, I think by about one year.

17 Q: By about one year?

18 A: Yes, sir.

19 Q: And you -- you were not able to get any information from
20 his brother about the case because of that?

21 A: That's right. And I tend to believe that Judge Nettles
22 was correct in his assessment on that.

23 Q: All right. Did you -- did you talk to him about
24 specifically what happened out there that night?

25 A: Sure.

B. SCOTT SUGGS - REDIRECT BY MR. YARBOROUGH

1 Q: And he didn't tell you that the guy had come after him
2 with a pool stick?

3 A: Absolutely not.

4 Q: Didn't you know there was a fight that had taken place
5 that he didn't have anything to do with?

6 A: I did know about that. It was a fight between Mr. Parks
7 and his brother, yeah.

8 Q: And so there was obviously something going on?

9 A: Uh-huh.

10 Q: And so you didn't -- you didn't ever get that out of
11 him?

12 A: I didn't understand why he would -- would shoot Mr.
13 Parks other than he was angry that he had knocked his brother
14 out.

15 Q: Okay. So I mean that's the start of -- I mean wouldn't
16 that have raised some question to make you ask more about
17 what had happened?

18 A: No. I mean I understand why he responded the way he
19 did. I think that he responded sort of over-the-top and
20 inappropriately. I would understand coming to the defense of
21 my brother, but not with a weapon if the other person were
22 armed.

23 Q: Okay. And all these people are -- were friends; right?

24 A: As far as I know, they were friends and may still be
25 friends. I don't know.

B. SCOTT SUGGS - REDIRECT BY MR. YARBOROUGH

1 Q: Yeah. I mean Parks didn't have a -- I mean besides
2 having gotten hurt, in the courtroom didn't express a lot of
3 animosity towards him?

4 A: I got that impression as well.

5 Q: Okay.

6 MR. YARBOROUGH: Thank you.

7 THE WITNESS: Yes, sir.

8 MR. YARBOROUGH: I don't have anything else, Your Honor.

9 THE COURT: You may step down.

10 THE WITNESS: Thank you.

11 THE COURT: Any -- any -- anything further from the
12 applicant?

13 MR. YARBOROUGH: No, sir, Your Honor.

14 THE COURT: Anything from the State?

15 MS. MCCALLISTER: Your Honor, I would just ask to make
16 the transcript an exhibit.

17 THE COURT: Very good.

18 (WHEREUPON, the transcript was marked as Court's Exhibit
19 Number 1.)

20 MS. MCCALLISTER: Thank you, Your Honor.

21 THE COURT: All right. I'll be glad to hear from you,
22 Mr. Yarborough.

23 MR. YARBOROUGH: Your Honor, there seems to have been
24 some type of misunderstanding or something at the -- at the
25 guilty plea. I think that -- that Mr. Lacy testified and his

1 mother testified that -- that they believed that there was a
2 -- a five-year deal. And if -- if Mr. Lacy didn't understand
3 the terms of the plea, then I think that would raise to the
4 level of ineffective assistance of counsel.

5 But I'd also say that it seems like that there were a
6 lot going on here that could have changed the outcome if he
7 would've developed more of a defense of self-defense on
8 having there been a fight and --

9 THE COURT: Do you think that's -- if someone is
10 involves in a fistfight, it allows you to pull out a gun and
11 shoot them?

12 MR. YARBOROUGH: I don't think that, Your Honor, but I
13 think that maybe if somebody is coming at you with a -- with
14 a pool stick that had turned into a projectile weapon that
15 that may raise to the level, but I haven't been in -- I
16 haven't been in one of those in 25 or 30 years. So I --

17 THE COURT: Okay. I wonder why he -- the contention is
18 here today and, of course, Mr. Suggs indicated there was
19 never any assertion of self-defense until today, but he hit
20 one fellow with his fist and knocked him out cold. Why do
21 you think he had to pick up a pool cue to go after his
22 brother?

23 MR. YARBOROUGH: You know, Judge, I didn't --

24 THE COURT: I'm just -- I'm just asking whether or not
25 -- I'm just exploring and thinking out loud with regard to

1 the scene.

2 MR. YARBOROUGH: I think what my client said was that he
3 feared for his brother's life after his brother was knocked
4 out.

5 THE COURT: All right.

6 MR. YARBOROUGH: I mean I think that's what he said on
7 the stand.

8 THE COURT: Okay.

9 MR. YARBOROUGH: So I think that, you know, it could
10 have been developed. I mean I think that exploring it would
11 have -- we wouldn't be sitting here today. We'd know more
12 about it.

13 That didn't happen. And so I think that does rise to
14 the level of ineffective assistance of counsel in Strickland
15 v. Washington.

16 I also think that at least the -- the intent to look
17 into possible pleas that might have led to a youthful
18 offender sentence would have also helped.

19 THE COURT: All right. Very good.

20 MR. YARBOROUGH: Thank you, Your Honor.

21 THE COURT: Yes, ma'am?

22 MS. MCCALLISTER: Thank you, Your Honor.

23 In the transcript on page 11 and 12, Your Honor, I think
24 the judge goes into a lot of this, this issue about
25 presenting a defense and calling his own witnesses. She

1 specifically asked Mr. Lacy if he understood that he was
2 giving up that right when he -- when he went to enter the
3 plea, and he said that he understood and he wants to give
4 them up.

5 Your Honor, I think Mr. Suggs is clear that he did
6 investigate the issue of self-defense. He talked to the
7 brother. He got Mr. Lacy's side of the story, and his
8 conclusion was that there was no way to raise it as a self --
9 as self-defense.

10 Your Honor, during the course of the plea, the
11 solicitor, Mr. Suggs [sic], explained, you know, the
12 situation, the background of why they were here today. Mr.
13 Lacy was asked if he -- if he heard, you know, the
14 solicitor's recitation of facts, did he disagree with it, did
15 anything need to be changed, and he said no, Your Honor, and
16 I think the facts as presented were what Mr. Suggs testified
17 to that he fired three shots, one of which was through the
18 pool table while the victim was crouched down underneath it.

19 And so, you know, even -- even if his version that he's
20 telling today for the first time about the pool cue is true,
21 Your Honor, I think there's still -- I think it's still quite
22 clear that there's an issue here with whether that would be a
23 viable defense.

24 I think the record is clear that all of these issues
25 were known to Mr. Suggs and Mr. Lacy at the time they had

1 those discussions to talk about it, and he willingly went
2 forward with this plea.

3 MR. YARBOROUGH: Your Honor, briefly, I think that my
4 client testified there were -- there were two shots fired and
5 -- and so I don't know where the three comes from. I mean
6 there seems to be a discrepancy.

7 THE COURT: I think the -- the transcript indicates
8 three, doesn't it?

9 MS. MCCALLISTER: Yes, Your Honor. That's -- that's
10 what I'm -- my contention is that the transcript reflects
11 three shots were fired.

12 MR. YARBOROUGH: But my --

13 THE COURT: I think her point is that they said three at
14 the plea and they asked him if he agreed with the facts and
15 he said he did.

16 MR. YARBOROUGH: All right. He did testify here today
17 that -- excuse me.

18 (WHEREUPON, there was a pause in the proceedings for the
19 applicant and counsel to confer, after which the
20 proceedings resumed as follows.)

21 MR. YARBOROUGH: He says, Your Honor, they took pictures
22 and everything, and he just wants the record to reflect that
23 he thinks it was two.

24 THE COURT: Okay.

25 MR. YARBOROUGH: I think we may be beating a dead horse.

1 And also, for the -- for the record, I did want to argue
2 just about -- my client did state that he hired Mr.
3 Etheridge. I don't -- I don't know what the relationship was
4 with him and Mr. Suggs, but he did want me to make that as
5 part of the record.

6 RULING

7 THE COURT: Very good. All right.

8 I've reviewed the transcript of record and paid close
9 attention to the testimony here today and, Ms. McCallister,
10 I'm going to ask that you prepare an order.

11 The first issue is the failure to investigate self-
12 defense. Mr. Suggs clearly indicated that he checked into
13 that. He did an investigation as to what transpired. He
14 looked at the reports. He also spoke with the applicant's
15 brother about this issue.

16 And there was never any contention -- well, first of
17 all, there was never anything in his investigation of the
18 case that seemed to indicate self-defense was appropriate and
19 -- and additionally, the facts were set forth in the
20 transcript, which does not indicate that there was any charge
21 of the victim in the case, that he did not charge the
22 applicant here today.

23 As a matter of fact, I think it's important to note that
24 Mr. Suggs indicated that there was really never any real
25 discussion about self-defense and that the applicant did not

1 even bring that issue up to him. However, he indicates that
2 he did thoroughly investigate how this matter transpired.

3 As far as the -- the plea negotiations, I'm looking at
4 the sentencing sheet and it says -- on the sentencing sheet
5 itself, it says that right -- where is it?

6 Just one second.

7 Well, at one point in time, I did look at the sentencing
8 sheet, and I can't put my hands on it right now. Here it is
9 right here.

10 MR. YARBOROUGH: I'm looking at it.

11 THE COURT: And it does indeed say on the sentencing
12 sheet itself right above the defendant's signature a cap of
13 ten years. And it seemed to indicate that that was discussed
14 with him.

15 The transcript clearly states that there is an agreed
16 upon ten-year -- a cap of ten years. Not only that, there
17 was discussion of the fact that the maximum sentence was zero
18 to 20. That was discussed in here.

19 I think it's important to note that there is some
20 discussion about whether or not Mr. Etheridge was the one who
21 was retained and, of course, the Court asked Mr. Suggs if he
22 represented Mr. Lacy, and he indicated that he did.

23 The question was specifically asked of Mr. Lacy have you
24 been satisfied with your lawyer's services?

25 And the answer was, yes, ma'am.

1 It says: Have you understood your talks with him?

2 Yes, ma'am.

3 Do you have any complaints about his services?

4 No, ma'am.

5 Has anyone used any threats, coercion, force, pressure,
6 intimidation, or duress to cause you to plead guilty?

7 The answer was, no, ma'am.

8 It says: Are you pleading freely and voluntarily?

9 And the answer was yes.

10 There's a -- you know, we're talking about the
11 possibility of self-defense and, of course, Judge Jefferson
12 went through a thorough recitation of his right to a jury
13 trial. He indicated that he intelligently waived that and as
14 far as any -- any time expenditure, the -- Mr. Lacy said that
15 he'd had enough time to make up his mind about pleading
16 guilty and -- and affirmatively indicated that to the Court.

17 As far as youthful offender, I do find that assault and
18 battery of a high and aggravated nature is not eligible for
19 youthful offender.

20 I can understand -- well, first of all, defense counsel
21 and the defendant can't control what the State offers, and --
22 and it was ineligible. And that was actually a lesser-
23 included offense of what he was charged with.

24 As far as there being some allegation of an actual
25 conflict by virtue of the fact that Mr. Suggs represented Mr.

1 Lacy's brother, I specifically find under these circumstances
2 there was no conflict because the representation had to do
3 with a different offense.

4 Obviously, if he had represented his brother with regard
5 to this particular altercation, that would be a classic
6 conflict case, but there is no conflict with regard to the
7 way this transpired. As a matter of fact, it probably worked
8 to his benefit that he had a rapport with his brother, and I
9 specifically find there is, indeed, no conflict.

10 And I'm going to ask that you prepare an order to that
11 effect with those findings and send a copy of that to Mr.
12 Yarborough and ensure that what you've written down in the
13 order complies with my ruling here today.

14 And I wish you the best of luck, Mr. Lacy. Good luck to
15 you.

16 MR. YARBOROUGH: Thank you, Your Honor.

17 MS. MCCALLISTER: Thank you, Your Honor.

18 THE COURT: Very good.

19 MR. YARBOROUGH: Nice to see you.

20 (WHEREUPON, the proceedings ended at 12:17 p.m.)

21

22 --- END REQUESTED TRANSCRIPT ---

23

24

25

1 State of South Carolina)
2) Certificate
3 County of Florence)
4

5 I, the undersigned, Krystal J. Smith, Notary Public and
6 Official Court Reporter for the Twelfth Judicial Circuit of
7 the State of South Carolina, do hereby certify that the
8 foregoing pages, numbered 1 through 54, constitute a true,
9 accurate, and complete Transcript of Record of all the
10 proceedings had and evidence introduced in the hearing of the
11 above captioned case, relative to appeal, in the Court of
12 Common Pleas for Florence County, South Carolina, on the 15th
13 day of November, 2017.

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

18 _____
19 Court Reporter

20 Florence, South Carolina

21 September 27, 2018

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(Please note that page rates will be increasing on October 15, 2018.)

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Saquawn Monte Lacy, #361317,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

C.A. No. 2015-CP-21-0997

ORDER OF DISMISS

2016 JUL 12 PM 2:41
DORIS POULOS O'HARA
C.C.P. & G.S.
FLORENCE COUNTY, SC

FILED

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed by Saquawn Monte Lacy (Applicant) on April 6, 2015. Respondent made its Return on August 18, 2016. An evidentiary hearing into the matter was convened on November 15, 2017, at the Florence County Courthouse before the undersigned. William G. Yarborough, III, Esquire, represented Applicant. Lindsey A. McCallister, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. Applicant's mother, Silvia Ann Lacy, and plea counsel B. Scott Suggs, Esquire (Counsel), also testified. 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, Respondent's Return, and the guilty plea transcript.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. Applicant was indicted at the April 2014 term of the Florence County Grand Jury for one count of attempted murder. Applicant

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CERTIFIED: A TRUE COPY
Doris Poulos O'Hara
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

was represented by B. Scott Suggs, Esquire. On September 8, 2014, Applicant pleaded guilty as indicted and was sentenced by the Honorable Deadra L. Jefferson to a term of imprisonment of nine years for attempted murder. Applicant did not appeal this conviction.

ALLEGATIONS

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

1. "I am not guilty. There are witnesses who would say I acted in self-defense."
 - a. "My brother was prepared to testify that this was self-defense."
2. "My lawyer did not investigate the case or call witnesses that I asked him to have appear in court."
 - a. "My brother was prepared to testify that this was self-defense"
3. "My lawyer did not act effectively, so I am being held illegally pursuant to United States v. Strickland."
 - a. "A review of the transcript clearly shows that I could have qualified for a YOA."
4. "My lawyer should have tried to get me a YOA"
 - a. "My attorney should have tried to help me get a Youthful Offender Sentence."

At the call of the case, Applicant's PCR counsel explained Applicant would proceed on allegations of ineffective assistance of counsel for failure to investigate and present a defense of self-defense, ineffective assistance of counsel for failure to pursue a YOA sentence, and involuntary guilty plea due to Applicant's belief the sentence would be a maximum of five years. Applicant also added an allegation, over Respondent's objection, of ineffective assistance of counsel due to a conflict of interest.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly.

Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

1. Ineffective assistance of counsel for failure to investigate and present a defense of self-defense, and conflict of interest

Applicant alleges he received ineffective assistance of counsel. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 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 counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. 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 plea counsel. Id. at 117, 625. First, the applicant must prove 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 (1984)). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable

probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). When there has been a guilty plea, the applicant must prove counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

A. Self-defense

"[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012) (reversed on other grounds by Walker v. State, 407 S.C. 400, 755 S.E.2d 144 (2014)). "Decisions primarily involving trial strategy and tactics may be made by trial counsel. Examples of such decisions include 'which jurors to accept or strike, which witnesses should be called on the defendant's behalf, what evidence should be introduced, whether to object to the admission of evidence, [and] whether and how a witness should be cross-examined.'" Abney v. State, 408 S.C. 41, 48, 757 S.E.2d 544, 547 (Ct. App. 2014) (quoting Sexton v. French, 163 F.3d 874, 885 (4th Cir.1998)).

Applicant testified he originally hired John Etheridge, and they spoke once, but did not review discovery together. Applicant testified he then met with Counsel, and Applicant informed him of the self-defense issue. According to Applicant, he and the victim were friends, and the victim and Applicant's brother got into a fight over a pool game. Applicant testified the victim punched Applicant's brother, knocking him out, and then charged Applicant with the pool cue in his hand. Applicant further testified he felt threatened, so he shot at the victim. Applicant testified

he told this version of the story to Counsel, and he wanted Counsel to investigate it as a possible defense. On cross-examination, Applicant confirmed Counsel did interview his brother about what happened. Applicant further claimed he only fired two shots at the victim, not three, and the victim was not under the pool table at the time of the second shot.

Counsel testified he became involved in Applicant's case through his Of Counsel relationship with Mr. Etheridge. Counsel testified Applicant was out on bond for some time prior to his guilty plea, and they met at least four times. Counsel also testified he interviewed Applicant's mother and then-girlfriend, and he confirmed he talked to Applicant's brother regarding his memory of the events. Counsel testified the evidence showed Applicant's brother and the victim got into a fight over a game of pool, and the victim struck Applicant's brother in the face, which knocked him out. Applicant then pulled out a gun and shot at the victim three times, while the victim hid underneath the pool table. Counsel testified with certainty that Applicant never told him the victim had charged with the pool cue, and the first time Counsel heard that testimony was at the evidentiary hearing. Counsel further testified Applicant's brother claimed he heard the shots but did not see anything because he was knocked out when the shooting took place. According to Counsel, after reviewing the discovery and talking to Applicant's brother, he did not see a viable defense of self-defense or defense of others because Applicant's response was out of proportion to the fistfight.

This Court has reviewed the plea transcript and finds the facts presented by the solicitor on the record confirm Counsel's version of events. Therefore, this Court finds Applicant's testimony on this issue is not credible while also finding Counsel's testimony is credible. The recitation of the facts at the guilty plea makes no mention of the victim charging Applicant with the pool cue, and although Applicant was given the opportunity to dispute the facts as recited by the solicitor,

he failed to do so; in fact, he expressly agreed with the solicitor's summary and told the judge nothing needed to be changed or added. Tr. pp. 11-12.

Additionally, Counsel clearly articulated on the record that he initially pursued self-defense as a possible defense to these charges, he had spoken to Applicant's brother, and concluded self-defense was not viable based on the combination of that interview and the fact that Applicant had shot three times while the victim attempted to hide under the table. Tr. p. 18. The plea judge herself commented, "I haven't heard anything in terms of [self] defense or defense of others that would warrant the use of deadly force under these circumstances." Tr. p. 23. Further, Applicant indicated to the court he understood by entering the plea he was giving up his constitutional rights to a jury trial, to challenge the State's witnesses, and to call his own witnesses and present a defense to these charges. Tr. pp. 11-12. Applicant also indicated he was satisfied with Counsel's representation and felt Counsel had done everything Applicant asked of him. Tr. p. 13.

This Court finds Applicant has failed to prove Counsel's performance was deficient in any way. Counsel investigated self-defense as a potential defense, interviewed the witness as requested by Applicant, and concluded—based on his review of the discovery, his conversations with Applicant, and his interview of the witness—neither self-defense nor defense of others was viable in this situation. Counsel credibly testified he explained his conclusion to Applicant prior to the plea. The Court further finds Applicant never mentioned the victim charging him with the pool cue to Counsel during the course of Counsel's representation. Accordingly, this allegation is denied and dismissed.

B. Conflict of interest

"An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendant's." Staggs v. State, 372 S.C. 549, 551, 643 S.E.2d 690, 692

(2007). The South Carolina Supreme Court has further stated that a conflict of interest occurs when “a defense attorney places himself in a situation inherently conducive to divided loyalties.” Lomax v. State, 379 S.C. 93, 101, 665 S.E.2d 164, 168 (2008). Until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for a claim of ineffective assistance of counsel arising from multiple representation. Langford v. State, 310 S.C. 357, 359, 426 S.E.2d 793, 795 (1993) (citing Cuyler v. Sullivan, 446 U.S. 335, 350 (1980)). “The mere possibility defense counsel may have a conflict of interest is insufficient to impugn a criminal conviction.” State v. Gregory, 364 S.C. 150, 152-53, 612 S.E.2d 449, 450 (2005).

Applicant alleges Counsel had a conflict of interest because he previously represented Applicant’s brother on other charges. Applicant, however, was unable to articulate how Counsel’s representation of his brother on an unrelated matter constitutes a conflict of interest. On cross-examination, Applicant admitted he was aware of Counsel’s representation at the time of the plea and never indicated to the court that he had any reservations or hesitations about a potential conflict of interest. As discussed above, a review of the transcript shows Applicant indicated he was satisfied with Counsel’s representation. Tr. p. 13. Additionally, Counsel testified he did not believe his representation of Applicant’s brother created a conflict.

Applicant has failed to prove Counsel was deficient, and this Court specifically finds Counsel did not have a conflict of interest simply due to his representation of Applicant’s brother on unrelated charges. Counsel testified there was never any doubt as to whether or not Applicant was the shooter, and the record clearly shows the brother was merely a witness. If anything, Counsel’s relationship with Applicant’s brother was likely beneficial to Applicant. Accordingly, this allegation is denied and dismissed.

2. Involuntary guilty plea due to Applicant's belief he would receive a maximum sentence of five years and/or a YOA sentence

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced. However, a defendant has no constitutional right to plea bargain." Reed v. Becka, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999) (citing State v. Armstrong, 263 S.C. 594, 597, 211 S.E.2d 889, 890 (1975); State v. Easler, 322 S.C. 333, 471 S.E.2d 745 (Ct. App. 1996), aff'd as modified, 327 S.C. 121, 489 S.E.2d 617 (1997)). "Under the separation of powers doctrine, which is the basis for our form of government, the Executive Branch is vested with the power to decide when and how to prosecute a case. Both the South Carolina Constitution and South Carolina case law place the unfettered discretion to prosecute solely in the prosecutor's hands. Prosecutors may pursue a case to trial, or they may plea bargain it down to a lesser offense, or they can simply decide not to prosecute the offense in its entirety." State v. Thrift, 312 S.C. 282, 291-92, 440 S.E.2d 341, 346-47 (1994).

When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe, 345 S.C. at 20, 546 S.E.2d at 419. An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Id. An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56.

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44 (1969);

Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). 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, 395 U.S. at 242). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, 376 S.C. at 137-38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). "In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing." Dalton, 376 S.C. 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)).

At the evidentiary hearing, Applicant testified although the plea agreement was zero to ten years, Counsel and the solicitor met with him in a back room at the courthouse and told him he would not receive more than five years. According to Applicant, his mother was also present for the conversation. Applicant testified he agreed to the plea because he thought it was "a done deal" that he would only receive five years. He also testified he wanted a YOA sentence and thought he might get one, and he did not know he was ineligible at the time. On cross-examination, Applicant confirmed he understood the plea deal was a range of zero to ten years, and he never told the judge he thought he was only getting a five year sentence.

Over Respondent's objection, Applicant's mother testified she also thought Applicant would receive five years based on what he told her about the alleged meeting with Counsel and the solicitor. Ms. Lacy denied being present for the meeting, although she claimed Counsel showed her a piece of paper with "0-5" written on it. Ms. Lacy testified she was in the courtroom during the plea and agreed she never heard anyone say the agreement was five years, and although she spoke to the judge, she did not tell her she thought her son was only going to receive a five-year sentence. Ms. Lacy testified "everything changed" once the victim spoke, and she felt the sentence her son received was too harsh.

Counsel testified he engaged in plea negotiations with the solicitor, but he was not familiar with any five-year plea deal and denied writing that down and showing it to Applicant and/or Applicant's mother. Counsel further testified he and Applicant did not have a meeting the solicitor on the day of the plea. Counsel testified he and Applicant met on August 25, 2014, approximately two weeks before the plea, and likely discussed the agreement and the negotiation at that meeting. Counsel testified he could not recall whether Ms. Lacy was present for that meeting or not. Finally, Counsel testified he did recall ever discussing a YOA sentence with Applicant, and noted

Applicant's offenses made him ineligible for such a sentence anyway, so even if Applicant was within the age range, Counsel would have advised him he was not eligible. Counsel testified Applicant was originally indicted for attempted murder and the victim had serious injuries, so he felt a plea agreement to a cap of ten years was an "excellent" result.

This Court finds the record fully supports the knowing and voluntary nature of Applicant's guilty plea. See Roddy, 339 S.C. at 34, 528 S.E.2d at 421 (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."). 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 has reviewed the transcript and finds the plea court engaged in a thorough plea colloquy with Applicant, in which the judge clearly explained the terms of the plea agreement were that Applicant was pleading guilty to assault and battery of a high and aggravated nature, a violent offense, with a negotiated sentence cap of ten years. Tr. pp. 8-9. In addition, the sentencing sheet reflects Applicant's understanding of a plea to a negotiated cap of ten years directly above Applicant's signature.

The Court finds Applicant was never offered a YOA sentence, and in fact, Applicant was ineligible for such a sentence under the statute. See S.C. Code Ann. § 24-19-10 (defining criteria by which offenders under twenty-five years of age charged with certain non-violent crimes may be eligible for a reduced sentence pursuant to the Act). Defense counsel cannot control whether the State extends an offer to a defendant, nor can defense counsel require the State to agree to the

particular terms. This Court finds Counsel was not deficient, as he clearly explained the terms of the agreement to Applicant, and Applicant entered into the plea freely and voluntarily, with a full understanding of the consequences.

For these reasons this Court finds Applicant has failed to satisfy his burden of proving ineffective assistance of counsel induced his guilty plea. Accordingly, this allegation is denied and dismissed.

CONCLUSION

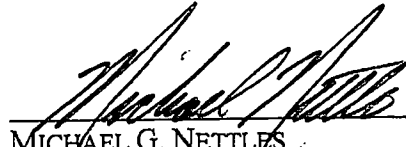
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by counsel's representation. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall be remanded to the custody of the Respondent.

AND IT IS SO ORDERED.


MICHAEL G. NETTLES
Presiding Circuit Court Judge
Twelfth Judicial Circuit

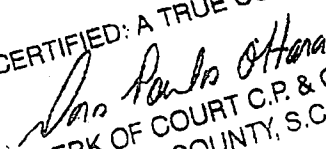
7-3, 2018

Florence, South Carolina

2018 JUL 12 PM 2:41
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

FILED

104

CERTIFIED: A TRUE COPY

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

WITNESSES

Jay McLaurin

Florence County Sheriff

John C. Jeperfinger

ARREST WARRANT NUMBER

2013A2110201873

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-21-00492

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

APRIL

TERM

2014

THE STATE

vs.

SAQUAWN MONTE LACY

Indictment for

ATTEMPTED MURDER

FILED

2014 APR -3 AM 11:45

CORRE RECT-SHEARIN
CLERK & GS
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on APRIL 3, 2014 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ATTEMPTED MURDER

That SAQUAWN MONTE LACY did in Florence County, on or about December 18, 2013, with malice aforethought attempt to murder Jeremiah Park by shooting him with a firearm, causing great bodily injury and substantial risk of death; in violation of Section 16-03-0029, 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

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Florence

VS.

Saquawn Monte Lacy

AKA:

victim 1

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014-GS-21-00492

A/W#: 2013A2110201673

Date of Offense: 12/18/2013

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Assault/ Assault & Battery of a High & Aggravated Nature (2-20)

☐ CONVICTED OF or ☒ PLEADS

In violation of § 16-03-0600(BX1)

of the S.C. Code of Laws, bearing CDR Code # 3411

☐ NON-VIOLENT☒ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS/CSC
w/minor 1st or Lewd Act)☐ § 17-25-45The charge is: ☐ As Indicted. ☒ Lesser Included Offense.The plea is: ☐ Without Negotiations or Recommendation.☐ Defendant Waives Prosecution to Grand Jury.☒ Negotiated Sentence☐ Recommendation by the State.

ATTEST:

John C. Jefferinger, John C.

9826
SC Bar#Saquawn M. Lacy
DefendantB. Myers
Attorney for Defendant012896
SC Bar#

WHEREFORE, the Defendant is committed to the

State Department of Corrections,

☐ County Detention Center,

for a determinate term of 9

days/months/years or

☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____

plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL		\$ 105.00

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter: K. Smith

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2128

Sentence Date: September 8, 2014

107

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

v.)

SAQUAWN MONTE LACY)
DEFENDANT.)
_____)

IN THE COURT OF GENERAL SESSIONS
TWELFTH JUDICIAL CIRCUIT

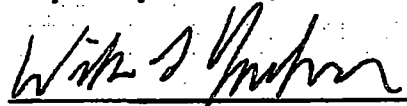
MOTION TO RECONSIDER
INDICTMENT # 2014-GS-21-00492

The Defendant, through his undersigned attorney, does respectfully move before this Honorable Court for a reconsideration hearing of his sentences in the above referenced matters. Mr. Lacy was sentenced on September 8, 2014 in Florence County on the charge of Assault and Battery of a High and Aggravated Nature. Defendant understood that it was a negotiated plea of five (5) years, yet he received a nine (9) year sentence. His brother was prepared to testify that it was self-defense since the alleged victim was attacking the Defendant before he shot him. Under South Carolina law, this should have been addressed as a sentencing issue.

The Defendant suffers from limited comprehension skills that hindered him greatly in his understanding of the process, and he should have been allowed to argue that he was eligible for a Youthful Offender Sentence, yet he was informed he did not qualify.

The Court should have addressed his slow processing skills during the Sentence Colloquia. Defendant would ask for a hearing on the above matter.

Respectfully submitted,



William G. Yarbrough
Attorney for the Defendant
522 North Church Street
Greenville, SC 29601
(864) 331-1612
SC Bar No.: 10271

Greenville, SC
September 16, 2014

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

PLAINTIFF,

VS.

Saquawn Monte Lacy,

DEFENDANT.

IN THE COMMON PLEAS COURT OF
THE TENTH JUDICIAL CIRCUIT
CASE NO.: 2014-GS-21-00492

AFFIDAVIT OF SERVICE
BY MAILING

I, Traci Trouton-Burr, certify on this date September 16, 2014, I served a Motion to Reconsider in this action, dated September 16, 2014 on The Clerk of Court, Florence County, by mailing it to her at her work address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Clerk of Court
Florence County Court of General Sessions
180 N. Irby Street, MSC-E
Florence, South Carolina 29501

Respectfully submitted,

Traci Trouton-Burr
Traci Trouton-Burr
Paralegal to William G. Yarborough, Esquire

SWORN TO before this 16th
Day of September, 2014

Joann Hayes (SEAL)
Notary Public for South Carolina
My Commission expires: 12/31/2023

14-492

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

State of South Carolina,

Plaintiff,

-VS-

Saquawn Monte Lacy,

Defendant

IN THE COURT OF GENERAL SESSIONS
FOR THE TWELFTH JUDICIAL CIRCUIT

ORDER SUBSTITUTING COUNSEL

Warrant No.: 2013A2111020-698

FILED
2014 JUN 18 AM 11:34
CLERK OF COURT
FLORENCE COUNTY, SC

Upon motion by B. Scott Suggs, of *The Suggs Law Firm, P.C.*, with consent of the Twelfth Judicial Circuit Public Defender's Office, and the attorney for the State of South Carolina, the Twelfth Judicial Circuit Public Defender's Office shall be relieved of counsel for the above named Defendant as it relates to the above referenced charge, and Mr. Suggs shall be substituted as counsel of record.

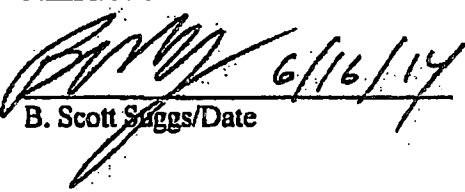
AND IT IS SO ORDERED.


Presiding Judge
Florence County General Sessions
Twelfth Judicial Circuit

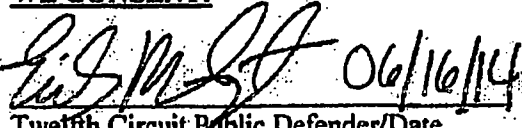
Florence, South Carolina

6-16, 2014

I SO MOVE:


B. Scott Suggs/Date

WE CONSENT:


Twelfth Circuit Public Defender/Date


Twelfth Circuit Solicitor/Date

THE STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

THE STATE

v.

SAQUAWN MONTE LACY,

DEFENDANT.

) IN THE COURT OF GENERAL SESSIONS
) TWELFTH JUDICIAL CIRCUIT
) Warrant No.: 2013A2110201673
)

) NOTICE OF MOTION AND MOTION TO
) PRODUCE PURSUANT TO RULE 5 OF THE
) RULES OF CRIMINAL PROCEDURE
) (Rule 5 Disclosure)
)

To: Edgar L. Clements, III, Solicitor, Twelfth Judicial Circuit

YOU WILL PLEASE TAKE NOTICE that the above named Defendant by and through undersigned counsel, Wallace H. Jordan, Jr. requests compliance by the State with the provisions of Rule 5 of the Rules of Criminal Procedure regarding any and all charges presently pending against the Defendant and/or any and all criminal charges which the State intends to introduce as evidence in the trial of the Defendant.

Respectfully submitted,

TWELFTH CIRCUIT PUBLIC DEFENDER

By: Wallace H. Jordan, Jr.

Wallace H. Jordan, Jr., Esq.
Attorney for Defendant
180 N. Irby Street, MSC-N
Florence, SC 29501
(843) 665-3055

FILED

2014 JAN 22 PM 4:15

CONNIE R. JORDAN
CCCP & GS
FLORENCE COUNTY, SC

Date: January 21, 2014

///

THE STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

THE STATE)

v.)

SAQUAWN MONTE LACY,)

DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS

TWELFTH JUDICIAL CIRCUIT

Warrant No.: 2013A2110201673

NOTICE OF MOTION AND MOTION FOR
THE PRODUCTION AND INSPECTION OF
EVIDENCE AND INFORMATION WHICH
MAY LEAD TO EVIDENCE
(Brady Disclosure)

To: Edgar L. Clements, III, Solicitor, Twelfth Judicial Circuit

YOU WILL PLEASE TAKE NOTICE that as counsel for the above named Defendant, we are requesting, under the authority of Brady v. Maryland, 373 U.S. 83 (1963); Napue v. Illinois, 360 U.S. 364 (1959); Alcorta v. Texas, 355 U.S. 28 (1957); Mooney v. Holohan, 294 U.S. 103 (1935); Giglio v. U.S., 405 U.S. 150 (1972); Moore v. Illinois, 408 U.S. 786 (1972); and, State v. Brvant, 307 S.C. 458 (1992), that your office supply to us, all information in the custody, possession, control or knowledge of the State, private parties retained by the State, or any law enforcement agency involved in the investigation of the above captioned case which may be favorable to the Defendant with regard to the offense with which he has been charged.

Respectfully submitted,

TWELFTH CIRCUIT PUBLIC DEFENDER

By: Wallace H. Jordan, Jr.

Wallace H. Jordan, Jr., Esq.
Attorney for Defendant
180 N. Irby Street, MSC-N
Florence, SC 29501
(843) 665-3055

Date: January 21, 2014

FILED
2014 JAN 22 PM 4:15
CONNIE B. BEARIN
CCCP & GS
FLORENCE COUNTY, SC

ARREST WARRANT

2013A2110201673

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Florence

THE STATE
againstSaguawn Monte Lacy
Victim 1

Prosecuting Agency: SC0210000
 Prosecuting Officer: John McLaurin - 1027
 Offense: Murder / Attempted Murder

Offense Code: 3410
 Code/Ordinance Sec: 16-03-0029

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

is to be arrested and brought before me to be
 dealt with according to the law.

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
 defendant Saguawn Monte Lacy
 on 12-18-2013

RETURN WARRANT TO:

General Sessions Court
 M S C-E 180 North Irby Street
 Florence, SC 295013456

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Florence

AFFIDAVIT

ORIGINAL

Form Approved by
 U.S. Attorney General
 April 21, 2003
 SCSA 518

Personally appeared before me the affiant John McLaurinbeing duly sworn deposes and says that defendant Saguawn Monte Lacy whodid within this county and state on or about 12/18/2013State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Florence

violate the criminal laws of the

in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

Further state that there is probable cause to believe that the defendant named above did commit
 a crime set forth and that probable cause is based on the following facts:

ON 12/18/13, THE DEFENDANT, SAQUAWN MONTE LACY DID COMMIT THE CRIME OF ATTEMPTED MURDER BY
 FIRING A WEAPON MULTIPLE TIMES AND STRIKING THE VICTIM ONCE IN HIS LEFT HIP CAUSING GREAT BODILY
 INJURY. THE DEFENDANT AND THE VICTIM ARE ACQUAINTANCES AND THE VICTIM IDENTIFIED THE DEFENDANT
 FROM A PHOTO LINE UP. THIS INCIDENT OCCURRED AT 1408 CAST ST. IN FLORENCE COUNTY AND HAS BEEN
 INVESTIGATED BY THE FCSO. CASE# 13-12-440

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Florence

Affiant's Address 6719 Friendfield Road
Efingham, SC 29541-

Affiant's Telephone: (843)665-2121

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY
 If appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/18/2013defendant Saguawn Monte Lacy

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Florence

as set forth below:

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
 soon thereafter as is practicable.

Sworn to and subscribed before me

on 12/19/2013

Belinda B Timmons
 Judge

Judge Code: 7065

ORIGINAL

ORIGINAL

Judge's Address 6719 Friendfield Rd
Efingham, SC 29541-

Judge's Telephone: (843)665-6690Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Judge _____
on _____
Type and Amount: _____
Name of Surety: _____

Judge _____
on _____
Independent Attorney: _____
Decision: _____

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. prods., etc.)

Disposition: _____

Signature: _____

Name: _____
Address: _____
Telephone: _____

Nome: _____
 Address: _____

 Telefono: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

1



STATE OF SOUTH CAROLINA
COUNTY OF Florence

BAIL PROCEEDING
FORM II

Criminal Charging Document No.

FILED

IN THE General Sessions Court

STATE OF SOUTH CAROLINA

2014 JAN -6 PM 12:20

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

Lacy, Saquawn Monte **ONNIE REEL-SHEARIN**
NAME OF DEFENDANT

CCCP & GS

Offense Charged: Murder / Attempted Murder (2015A2170201873)
FLORENCE COUNTY, SC

- At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):
- ☐ The release of the defendant on recognizance will not reasonably assure his appearance as required.
 - ☐ The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact:

Nature of Circumstances of Offense; Must Notify Court Immediately of Change of Address

(Considerations: Nature and Circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.)

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows (check all that apply):

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of \$ _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of \$ _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits \$ _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the state.

APPEARANCE RECOGNIZANCE WITH SURETY

- ☒ The defendant will provide good and sufficient surety, approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of \$ 50,000

3. That the defendant shall appear at (check one):
 - ☒ the term of COURT OF GENERAL SESSIONS beginning on February 05, 2014 at 9:00 o'clock AM,
at General Sessions Court - M S C-E 180 North Irby Street/Florence, SC 2950134567 (843) 665-3031
and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.
 - ☐ the session of ☐ MAGISTRATE COURT ☐ MUNICIPAL COURT beginning on _____ at _____ o'clock _____

If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

Bond Amount(s): \$50,000.00 (CS) or \$50,000.00 (SB)

No Contact with Victim/Victim's Family Directly/Indirectly

INITIALS OF DEFENDANT

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

SIGNATURE OF JUDGE

DATE

12/11/17

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED
SCCA/511A (Revised 3/2012)
Original Copy For The Trial Court - Copy For The Defendant

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ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

1410 Old Mars Bluff Rd.

ADDRESS

Florence, SC 29506-3534

(843) 667-9998

CITY/STATE/ZIP

247-87-4483

TELEPHONE

102120023 (SC)

SOCIAL SECURITY NUMBER

DRIVER'S LICENSE OR ID NUMBER

SIGNATURE OF DEFENDANT

DATE

ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SPECIAL CONDITIONS OF RELEASE

a. ☐ Placement in custody. The defendant is placed in the custody of:

NAME OF PERSON OR ORGANIZATION

ADDRESS

CITY/STATE

ZIP

TELEPHONE

who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED)

DATE

b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. ☐ Part-time Release. The defendant will be released from custody from

TIME

o'clock

AM/PM

to

TIME

o'clock

AM/PM

on

DATE(S)

on condition that he return to the custody of

NAME OF PERSON OR ORGANIZATION

at

LOCATION

as designated.

d. ☐ Other conditions: The defendant will comply with the following other conditions of release:

No Contact with Victim/Victim's Family Directly/Indirectly

APPEARANCE RECOGNIZANCE WITH SURETY

On the 23 day of Dec 2013, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$ 50,000 such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

Birchmont BB

346 9575

Theresa Tindal

NAME OF SURETY BONDSMAN COMPANY

TELEPHONE

SIGNATURE OF SURETY BONDSMAN

ADDRESS OF SURETY BONDSMAN

909 W. Evans St
FLORENCE, SC 29505

CITY/STATE/ZIP

SENECA INSURANCE

NAME OF INSURANCE COMPANY

160 WATER ST

ADDRESS OF INSURANCE COMPANY

NEW YORK, NY

CITY/STATE/ZIP

SIGNATURE OF JUDGE

DATE



POWER OF ATTORNEY

VALID IF POSTED BY:
November 15, 2014

POWER AMOUNT \$ 101,000

POWER NO. **FILED** 02177398

KNOW ALL MEN BY THESE PRESENTS that Seneca Insurance Company, Inc., a corporation duly organized and existing under the laws of the State of New York, has constituted and appointed, and does hereby constitute and appoint the named Executing Agent its true and lawful Attorney-in-Fact, with full power and authority to sign the company's name and affix its corporate seal to, and deliver on its behalf as surety, any and all obligations as herein provided, and the execution of such obligations in pursuance of these Powers shall be as binding upon the company as fully and to all intents and purposes as if done by the regularly elected officers of said company at its home office in their own proper persons, and the said company hereby ratifies and confirms all and whatsoever its said Executing Agent may lawfully do and perform in the premises by virtue of these presents.

The obligation of the company shall not exceed the sum of

ONE HUNDRED ONE THOUSAND DOLLARS

The authority of the Executing Agent under this Power of Attorney is limited to appearance bonds only and cannot be construed in general to authorize the agent to conduct, interfere in travel limitation, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance. This Power of Attorney is for use with Bail Bonds only and is void if altered, erased, or used with other powers of this company. It is not valid if used in connection with Federal Immigration Bonds or Civil Agency A separate Power of Attorney must be attached to each bond executed. **STACKING OF POWERS IS STRICTLY PROHIBITED!** No more than one power from this Surety may be used to execute any one bond. Powers of Attorney must not be returned to Executing Agent, but should remain a permanent part of the court records.

IF BOND FORFEITS, attach a copy of this Power of Attorney to the forfeiture notice and mail to SENECA INSURANCE COMPANY, INC., ATTN: BAIL BOND DEPT., 160 WATER ST., 16TH FL., NEW YORK, NY 10038 and the Executing Agent named below at:

IN WITNESS WHEREOF, Seneca Insurance Company, Inc. has caused these presents to be signed by its duly authorized Executing Agent and Attorney-in-Fact, proper for the purpose and its corporate seal to be hereunto affixed this 23 day of Dec

Bond Amount \$ 50000 Premium Charged \$ 5000 Appearance Date 2/5/14 2013

Defendant SHAWN LACY Court GS D.O.B. 10/15/91 Time 900

City EFFINGHAM State SC County PILGRIMAGE Case No. 2013A211020107

Charge ATT. MURDER Charge If rewrite, Original No.

Executing Agent Theresa Tindel License No. 333521 Amount \$

Secretary MARC T.A. WOLBY Chairman DOUGLAS M. LINDBY

FOR STATE USE ONLY
NOT VALID IF USED IN FEDERAL COURT



COURT COPY

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STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

State of South Carolina

v.

Saquawn Monte Lacy

) IN THE COURT OF GENERAL SESSIONS
)
)

) NOTICE OF DATES AND TIMES OF
) INITIAL AND DOCKET APPEARANCES
)
)

Case Number(s): 2013A2110201673

You are a defendant in the above criminal case(s). You are required to appear at the City-County Complex, 11th Floor Court Room, 180 North Irby Street, Florence, South Carolina.

These dates and times CANNOT be changed for any reason.

Your INITIAL APPEARANCE is set for 02/05/2014 @ 9:00am.

Your DOCKET APPEARANCE is set for 03/27/2014 @ 9:00am.

FAILURE TO APPEAR WILL RESULT IN YOUR ARREST

You MUST be present at BOTH THE INITIAL APPEARANCE AND THE DOCKET APPEARANCE. If you FAIL TO APPEAR for your INITIAL APPEARANCE OR DOCKET APPEARANCE, a Bench Warrant will be issued for your ARREST; you will be placed in Jail and may be held there until the trial of your case.

- ☐ I waive any right to the services of a Public Defender. I understand that I must either hire a private attorney or represent myself.
- ☐ You have not qualified for a Public Defender. You MUST hire your own attorney before your Initial Appearance date, if you wish to be represented by an attorney. You must have your attorney contact the Solicitor who is prosecuting your case before the Initial Appearance date.
- ☒ You have qualified for a Public Defender. YOU MUST PAY A \$40 APPLICATION FEE and you should contact your attorney as soon as possible at Florence County Public Defender's Office, 180 N. Irby Street, Florence, SC 29501, (843) 665-3055.

FAILURE TO CONTACT YOUR ATTORNEY MAY RESULT IN YOUR BOND BEING REVOKED, BEING HELD IN CONTEMPT OF COURT, FINES AND/OR JAIL.

I HAVE READ THIS FORM OR HAVE HAD IT READ TO ME. I UNDERSTAND THESE INSTRUCTIONS AND I HAVE BEEN GIVEN A COPY.

Saquawn Lacy
Defendant's Signature

1/22/13
Date

[Signature]
Judge's Signature
1/22/13
Date

FILED
JAN 24 10:41 AM
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY/CITY OF FLORENCE

Saquawn Monte Lacy
Name of Defendant

CASE NUMBER/CHARGE:
2013A2110201673 Murder / Attempted Murder

CHECKLIST

- TRIAL COURT:
☒ GENERAL SESSIONS COURT
☐ MAGISTRATE COURT
☐ MUNICIPAL COURT

CHECKLIST FOR MAGISTRATE AND MUNICIPAL JUDGES

DIRECTIONS: Magistrate and Municipal Court Judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE. The judge shall attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections. Defendant must be provided a completed copy of this form.

☒ BAIL PROCEEDING/☐ FIRST APPEARANCE (NON-BAILABLE OFFENSES)

1. Form used at bail proceeding
 - a. Bond Form I (personal recognizance)
 - b. Bond Form II (surety, cash, percentage)
 - c. None (Non-Bailable Offense)
2. For cases in which bond was set, defendant was informed:
 - a. Warrant for arrest will be issued for violation of any condition of bail bond order.
 - b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.
 - c. Failure to appear in court as required will result in institution of additional criminal charges. Failure to appear in connection with a felony, or while awaiting sentence after conviction, additional charge has penalty of not more than \$5,000 or imprisonment for not more than 5 years, or both. Failure to appear in connection with a charge for a misdemeanor for which the maximum possible sentence is at least one year, additional charge has penalty of not more than \$1,000 or imprisonment for not more than one year, or both. Failure to appear in court as required on any charge not specified above will result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.
3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:
 - a. Orally
 - b. In writing [NOTE: Defendant must be informed of right both orally and in writing]
4. Defendant was informed of the right to trial by jury.
5. In all general sessions cases, in all criminal domestic violence cases, and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:
 - a. Charges against defendant and nature of the charges.
 - b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.
 - c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court appointed counsel if indigent (must meet federal poverty guidelines) and instructions on how to obtain court appointed counsel. In order to apply for court appointed counsel, defendant is required to appear before _____ located at _____
6. _____ for indigency screening. Defendant is responsible for a statutory fee of \$_____ for indigency screening.
6. In all criminal domestic violence cases and any case where defendant is subject to an Order of Protection or Restraining Order, defendant signed and was provided a document explaining that entering the grounds or property of a domestic violence shelter in which the person's household member resides constitutes an additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.
7. If the charges that have been brought against you are discharged, dismissed, or nolle prossed or if you are found not guilty, you may have your record expunged.

2013-12-21

First Appearance or Bond Hearing Date

JUDGE'S SIGNATURE

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STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

SAQUAWN MONTE LACY)

Plaintiff,)

vs.)

THE STATE OF SOUTH CAROLINA)

Defendant.)

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

CASE NO.: ____-CP-____-

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

FILED
2015 APR -6 PM 4:06
CLERK JEFF-SHEAR
CCCP & CS
FLORENCE COUNTY, SC

Plaintiff's Attorney:

William G. Yarborough, III, Bar No. 10271

Address:

522 N. Church Street Greenville, SC 29601

Phone: 864-331-1612 Fax 864-370-0022

E-mail: wgyarborough@gmail.com Other: _____

Defendant's Attorney:

_____, Bar No. _____

Address:

Phone: _____ Fax: _____

E-mail: _____ Other: _____

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Post-Conviction Relief

Estimated Time Needed: 1.0 hr

Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached

☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

William G. Yarborough
Signature of Attorney for ☒ Plaintiff / ☐ Defendant

Date submitted _____

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$ _____

☒ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☒ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

FILED

FORM 4

IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP2100997

Saquawn Monte Lacy

2015 JUL 13 AM 9:06

South Carolina State Of

DORIS POULOS O'HARA

CCCP & GS

FLORENCE COUNTY, SC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

7/13/2018

Date

For Clerk of Court Office Use Only

This judgment was entered on **July 12, 2018**, and a copy mailed first class or placed in the appropriate attorney's box on **July 12, 2018**, to attorneys of record or to parties (when appearing pro se) as follows:

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CERTIFIED: A TRUE COPY
Doris Poulos O'Hara
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Jonathan D Waller 1116 Blanding Street Suite 2B
Columbia, SC 29201
William G. Yarborough III 522 North Church Street
Greenville, SC 29601

Lindsey Ann McCallister PO Box 11549 Columbia, SC
29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Doris P. O'Hara

Court Reporter

Doris Poulos O'Hara - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
