

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

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Certiorari to Lee County

Honorable D. Craig Brown, Circuit Court Judge

—————
YANISHA CATILIA BARR,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001264

—————
APPENDIX
—————

TAYLOR D GILLIAM
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JULIE COLEMAN
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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

STATE OF SOUTH CAROLINA)
STATE,)

v.) TRANSCRIPT OF RECORD
) 14-GS-31-00066

YANISHA BARR,)
DEFENDANT.)

October 9, 2014
Bishopville, South Carolina

BEFORE :

THE HONORABLE CLIFTON B. NEWMAN, JUDGE

APPEARANCES:

JOHN R. GENTRY, ESQ.
Assistant Solicitor

SCOTT L. ROBINSON, ESQ.
Attorney for Defendant

FRANCES B. RAY, RPR
Circuit Court Reporter

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EXHIBITS

COURT'S:

No.	Description	I.D./EVD.
1	SCDMH report	39/39

1 MR. GENTRY: The next case before the
2 court is State versus Yanisha Cortelia Barr. It's
3 indictment number 2014-GS-31-0066. She's charged
4 with and indicted for murder. She's pleading guilty
5 to voluntary manslaughter. She's represented by
6 attorney Scott Robinson. The victim's daughters are
7 here. The victim's daughters are Ms. Martin, Tywana
8 Martin and Ms. Denise Hines. I will amend that,
9 obviously Scott McDonald.

10 THE COURT: Mr. Robinson, you represent
11 Ms. Yanisha Barr?

12 MR. ROBINSON: I do, Your Honor.

13 THE COURT: And the solicitor says she
14 wants to plead guilty to voluntary manslaughter in
15 this case, or she was indicted for murder; is that
16 right?

17 MR. ROBINSON: Yes, sir, that's correct,
18 Your Honor.

19 THE COURT: And are you in agreement with
20 that decision?

21 MR. ROBINSON: I am, Your Honor.

22 THE COURT: All right. Ms. Barr, how are
23 you today?

24 THE DEFENDANT: I'm okay.

25 THE COURT: All right. You're Yanisha

1 Cortelia Barr?

2 THE DEFENDANT: Yanisha.

3 THE COURT: Yanisha Cortelis Barr.

4 THE DEFENDANT: Yanisha.

5 THE COURT: Yanisha Cortelia Barr. And
6 you've been indicted by the grand jury of this
7 county charging you with the murder of George W.
8 Harman; is that right?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And do you want to plead
11 guilty to voluntary manslaughter?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Has anyone promised you
14 anything to get you to plead guilty?

15 THE DEFENDANT: No, sir.

16 THE COURT: And the solicitor's plea form
17 where it has the plea without negotiations,
18 negotiated a sentence for recommendation by the
19 State there's nothing checked on that space.

20 (Assistant Solicitor writes on document.)

21 MR. GENTRY: Other than the agreement to
22 allow her to plead guilty to voluntary manslaughter
23 there is no agreement, Your Honor, no recommendation
24 either.

25 THE COURT: Is that correct, Mr. Robinson?

1 MR. ROBINSON: That is correct, Your
2 Honor.

3 THE COURT: Is that right, Ms. Barr?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Has anyone promised you
6 anything to get you to plead guilty?

7 THE DEFENDANT: No, sir.

8 THE COURT: Under the law of 16-3-50 it
9 says a person convicted of manslaughter or unlawful
10 killing of another without malice either expressed
11 or implied must be imprisoned not more than 30 years
12 or less than two years. Do you understand the
13 possible penalties that you're facing if the Court
14 accepts this guilty plea?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And as you stand before me at
17 this moment in time, Ms. Barr, you're presumed to be
18 not guilty of this charge, and you have the right to
19 remain silent concerning this charge. You have the
20 right to have a jury trial concerning this charge.
21 You have a right to have a lawyer cross-examine any
22 witnesses who may appear against you to challenge
23 any evidence the State would have against you and to
24 put in any, to subpoena any witnesses you may have
25 and to present any defenses that you might have to

1 this charge. Do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And do you wish to give up
4 those rights and plead guilty?

5 (Attorney confers with defendant.)

6 THE DEFENDANT: I would like to plead
7 guilty.

8 THE COURT: And you understand pleading
9 guilty you give up the rights I just explained to
10 you?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And do you have any defenses
13 to this charge?

14 (Attorney confers with defendant.)

15 THE DEFENDANT: No, sir.

16 THE COURT: Are you satisfied with the
17 representation of your lawyer Mr. Robinson?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And Ms. Barr, how old are you?

20 THE DEFENDANT: 27.

21 THE COURT: Are you today under the
22 influence of any drugs, any alcohol, or anything
23 that might affect your ability to understand what
24 you're doing?

25 THE DEFENDANT: No, sir.

1 THE COURT: Have you had enough time to
2 make up your mind as to whether or not you want to
3 plead guilty?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And has anyone mistreated you
6 in any way in connection with the prosecution of
7 this case?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you had enough time to
10 discuss with your lawyer the fact that you want to
11 plead guilty to this charge?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you fully satisfied with
14 his representation?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And understanding the nature
17 of the charge and possible punishment, how do you
18 plead to voluntary manslaughter?

19 (Attorney confers with defendant.)

20 THE DEFENDANT: Guilty.

21 THE COURT: And ma'am, you understand that
22 this offense is classified under the law as a most
23 serious offense?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And under the State's most

1 serious offenses of the law, if you are convicted of
2 two most serious offenses you will be sentenced to
3 prison and can be sentenced to prison with life
4 without possibility of parole. Do you understand
5 that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And do you understand that you
8 have a right to appeal this guilty plea or sentence
9 but to do so you must do within ten days?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And you want to go forward
12 with this guilty plea?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right, Mr. Solicitor.

15 MR. GENTRY: Your Honor, Major Dellinger
16 is going to give you the facts of the case. I'm
17 gonna hand up some documents for the Court to
18 peruse. Number one is the relative layout of the
19 various houses that are involved here. Mr. Hardoman
20 is the victim in the case, lived in the house at [REDACTED]
21 South Lee Street 280. The defendant lived on the
22 house on the corner from there. The second exhibit
23 I will hand up is a Mr. Hardoman's house. Third is
24 a schematic of the house in which the defendant
25 lived. The third, fourth, fifth, and sixth are

1 represented photos of the scene of the crime.

2 THE COURT: All right. Yes, sir,

3 THE INVESTIGATOR: Your Honor, this
4 incident began on 7/20/2013 at [REDACTED] South Lee Street
5 which is the residence of George Hardoman. George
6 Hardoman's daughter, Tywana Martin, lived in
7 Maryland, spoke to her father three or four times a
8 week. On this particular occasion she hadn't been
9 able to get ahold of her father for a couple of
10 days. She contacted the Bishopville Police
11 Department and asked them to do a welfare check on
12 her father. The Bishopville Police Department went
13 to the residence of Mr. Hardoman, found the door
14 underneath the car port to be open, a large amount
15 of blood in the kitchen area, and Mr. Hardoman's
16 body in the kitchen. Chief Collins with Bishopville
17 Police Department requested the assistance of the
18 Sheriff's Office and the State Law Enforcement
19 Division and SLED was contacted and brought their
20 crime scene unit to process the crime scene,
21 photograph the crime scene, and collect the forensic
22 evidence inside the house. There's a significant
23 amount of forensic and DNA evidence collected inside
24 Mr. Hardoman's house. The Yanisha Barr was
25 identified as a suspect in the beginning of this

1 case. We received information that she had recently
2 befriended Mr. Hardoman and would spend time inside
3 his residence. She lived right next door.

4 Investigators went to her residence and saw what
5 appeared to be dried blood on the outside of the
6 door. We contacted the home owner, was able to make
7 entry into that home. We found Ms. Yanisha Barr
8 inside that residence, and she was taken to the
9 police department to be interviewed.

10 A second crime scene unit was called to
11 process that house for forensic evidence and
12 obtained a significant amount of forensic evidence
13 out of there. And ultimately, the DNA test would
14 show that the blood on the, the sand collected out
15 of Ms. Barr's residence matched Mr. Hardoman's blood
16 and probably the most damning evidence is while she
17 was at the interview room she had what appeared to
18 be a small amount of blood in her right ear. We
19 were able to swab that and the DNA test came back
20 positively that that was also Mr. Hardoman's blood
21 and her blood.

22 This was an extremely violent and gruesome
23 crime scene, Your Honor. At the autopsy we found
24 that he died as a result of several stab wounds. He
25 had a total of 82 stab wounds and an additional 14

1 inside wounds, one of which punctured his lung
2 leading to him bleeding to death.

3 MR. GENTRY: The autopsy also revealed,
4 Your Honor, that patterns were consistent with being
5 stabbed by a knife and a two prong fork, which is
6 one of the photos that I showed the Court before
7 which looks like a barbecue fork which people
8 normally think about a fork, think about a dinner
9 fork, but that is not a dinner fork.

10 THE COURT: All right.

11 MR. GENTRY: You want the record?

12 THE COURT: Yes, sir.

13 THE INVESTIGATOR: The only thing I show
14 for a criminal record, Your Honor, is a conviction
15 in 2012 for drinking in public conveyance.

16 THE COURT: Are all those facts true, Ms.
17 Barr?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And did you kill Mr. Hardoman?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. Anything else from
22 the State?

23 MR. GENTRY: No, sir. The victim's
24 daughters are here.

25 THE COURT: Happy to hear from anyone who

1 has something to say.

2 DAUGHTER OF THE VICTIM: Good morning,
3 Your Honor.

4 THE COURT: Good morning.

5 DAUGHTER OF THE VICTIM: I would like to
6 thank you for giving us the opportunity to speak on
7 behalf of my family, the Hardoman family. I would
8 like to speak a little bit first about who my father
9 was. He was raised, he was born in Florida, moved
10 to New York as a young man, spent most of his life
11 there. After he and his wife retired they planned
12 to come to small town America where they can get
13 away from crime and violation; however, Ms. Yanisha
14 Barr killed him at 81 years old. He was a vibrant
15 81 year old. He gardened. He put cabinets in his
16 house. He visited me. We spoke on multiple
17 occasions. He was naively fooled by the appearance
18 of Ms. Barr. She's young, small, he didn't
19 appear — he didn't believe she could do anything to
20 harm him. However, I warned him on many occasions
21 not to allow this woman in his house. Even the
22 night of, I warned him not to let her in his house,
23 but he was fooled again and I don't want the Court
24 to be fooled by her little voice, she's a cold
25 blooded murderer.

1 THE COURT: Why did you warn him about her
2 not coming in the house?

3 DAUGHTER OF THE VICTIM: Because I felt
4 like it was inappropriate. He told me, you know,
5 things she would do, and I just didn't think that
6 she should be coming over, especially at 1:00 in the
7 morning asking for money, can you take me this
8 place, can I use your phone. And I warned him that
9 one day you're gonna open up the door and something
10 awful is going to happen, which it did. My father
11 fought viciously for his life after being stabbed
12 over a hundred times. What kind of person stabs
13 somebody a hundred times and goes next door and sits
14 on her couch while his bloody body lay on the floor
15 next door. Who does that? My father will not be
16 allowed to see his children anyone, his grandkids,
17 his great grandson. She should not be allowed to
18 walk as a free woman again. She, she should spend
19 the rest of her life paying for the heinous crime
20 she did. I ask the Court today to not have mercy on
21 her. Let God have mercy on her soul. She should
22 spend the rest of her life thinking about what she
23 did and why she did it and have to deal with that in
24 prison, not walking around. She's 27 years old. If
25 she gets 20 years she only has to do 85 percent.

1 She can come out, have children, more children, live
2 the rest of 47 years after murdering someone. I
3 just can't imagine some -- my father fought for his
4 life from this woman. I can't imagine what his last
5 thoughts were. Like I said, let God have mercy on
6 her soul, not the Court. Thank you.

7 THE COURT: All right. Now you're aware
8 that the maximum penalty for ---

9 DAUGHTER OF THE VICTIM: Is 30 years.

10 THE COURT: ---is 30 years?

11 DAUGHTER OF THE VICTIM: I understand
12 that.

13 THE COURT: And you're, as a victim, the
14 daughter of the deceased, you agree with the
15 resolution of the case and having her plead guilty
16 to manslaughter?

17 DAUGHTER OF THE VICTIM: It wasn't my
18 choice. What I feel, that the sentence has already
19 been dropped. She was facing first degree murder
20 which has a life sentence without, I mean, up to
21 life in jail in prison so the sentence has already
22 been decreased to 30 years at the max so I beg the
23 Court to give her 30 years.

24 THE COURT: All right, thank you. Anyone
25 else?

1 (There was no response.)

2 THE COURT: Mr. Gentry?

3 MR. GENTRY: No, sir, that's it from the
4 State.

5 THE COURT: All right, Mr. Robinson.

6 MR. ROBINSON: Thank you, Your Honor.

7 First of all, Your Honor, I want to make it clear
8 that both Ms. Barr and I quite frankly are very
9 sorry about what happened and completely understand
10 how the family feels about this. But in mitigation,
11 quite frankly, Your Honor, not as an excuse but I do
12 want to offer some information that, number one, Ms.
13 Barr is not a cold blooded killer. The charge of
14 voluntary manslaughter is appropriate under these
15 circumstances because that in and, I guess in
16 layman's terms is best understood as a crime of
17 passion. This is not an act that Ms. Barr planned
18 to do, and quite frankly, did not intend to kill
19 Mr. Hardoman. She was a friend of his. They had a
20 bit of an unusual relationship, but he was never
21 particularly bad to her. This is not a situation,
22 Your Honor, we're gonna come up here and claim she
23 was acting in self-defense. And again, I want to
24 make this straight, that I am not in any way
25 belating the consequence of what's happened because

1 Mr. Hardoman certainly did not deserve to die, nor
2 to die in the plan in which he did. But there are
3 some things, Your Honor, that I would like to make
4 the Court aware of in mitigation because I do not
5 believe quite honestly that Ms. Barr is a cold
6 blooded killer on that the acts that occurred that
7 evening represent the true Yanisha Barr.

8 I have, first of all, Your Honor, let me
9 back up. When this crime first occurred and I was
10 appointed, based upon the number of wounds that the
11 Solicitor has mentioned, that the age in disparity
12 and, quite frankly, my first meeting with Ms. Barr I
13 was very concerned that she had some sort of mental
14 illness or mental defects. She has been examined by
15 the State of South Carolina by Department of Mental
16 Health for, number one, whether or not she's
17 competent. She was found competent and certainly
18 today I have no question about her competence. I
19 just want to put that on the record so.

20 THE COURT: Was there a hearing or did a
21 judge ---

22 MR. ROBINSON: No, sir.

23 THE COURT: ---participate in having her
24 evaluated or ---

25 MR. ROBINSON: It was by consent order,

1 court ordered evaluation. But there has been no
2 hearing once the report had come back. So again, if
3 Your Honor wants to do that out of abundance of
4 caution we can certainly do that. There was also a
5 McNaughton evaluation done and she was found
6 responsible and that she had capacity to conform.
7 But if Your Honor —

8 THE COURT: Is there a copy of the report
9 back from the folks who evaluated her for
10 competency?

11 MR. ROBINSON: Do you have an extra one,
12 John? I've just got one I can hand it up.

13 MR. GENTRY: I can find one.

14 MR. ROBINSON: I'll hand this up to you
15 which is the competency and McNaughton.

16 THE COURT: All right, I think it's
17 appropriate for the Court to rule on the issue since
18 the — she was sent to Columbia to be evaluated by
19 an order issued by Judge Young about two months.
20 All right, since Judge Young issued an order for her
21 to be evaluated the parties stipulate to
22 admissibility of the forensic evaluation report?

23 MR. ROBINSON: Yes, sir, Your Honor.

24 THE COURT: Anything else to offer in
25 addition to this report from the Department of

1 Mental Health?

2 MR. ROBINSON: Your Honor, not from the
3 Department of Mental Health; but just for the record
4 Your Honor, I also obtained an independent expert,
5 Doctor Amanda Solace to review and evaluate this
6 case on Ms. Barr's behalf privately. And she
7 concurred with the findings of the State, just for
8 the record.

9 THE COURT: Ms. Barr, do you agree that
10 you're competent to stand trial and also that you
11 knew the difference — you had criminal
12 responsibility at the time the acts were committed?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Well, the report
15 of Doctor Frierson is dated February 12th, 2014,
16 from — he's a clinical psychiatrist at the USC
17 School of Medicine and he evaluated Ms. Barr for
18 competency to stand trial. First, she was evaluated
19 based on the representation to the Court that she
20 has a history of mental illness and she's been
21 described psychotropic medication in the past and
22 during more discussion with her it did not appear
23 that she was thinking rationally, or she wasn't
24 having — it appeared to counsel — that she had
25 some stable mental condition. And the doctor got a

1 copy of the court order, arrest warrant, incident
2 report, death certificate, autopsy report, a copy of
3 the search warrant Lee County, EMS records,
4 Bishopville Police Department case summary and
5 medical records from the jail, social history from
6 Sandra Brown, the mother of defendant, medical
7 records of Tuomey in 2012 and '13, medical records
8 from Carolina Hospital Systems, Bruce Hall 2009, and
9 personal examination Bible pray book notebook
10 stating that the crime scene and a copy of the
11 forensic or report of forensics and a two hour ten
12 minute clinical forensic interview, and the history
13 of Doctor Zhen she had lost any history of alcohol
14 dependence and she denied having history of prior
15 mental health treatment, said she was at the
16 hospital for being bipolar and she had a discharge
17 diagnosis when she was in that hospital for cocaine,
18 cannabis, and other drug dependence. She was not
19 diagnosed with bipolar disorder. She documented
20 that she had been using a hundred dollars worth of
21 cocaine a day, half a pint of liquor a day, and DSS
22 was looking into removing her children. She
23 admitted to folks in Columbia that she had a severe
24 alcohol and drug problem, said she was doing all
25 right at the jail, was given medication there.

1 Doctor said she has no prior history of inpatient
2 psychiatric treatment. She had been outpatient
3 basis being seen by Santee Wateree Mental Health
4 Center while in jail. Taking mood stabilizing
5 drugs, maybe some other medication, history of heavy
6 use of alcohol. Reported to the doctors her
7 tolerance take she reported tolerance to the effects
8 of alcohol meaning that she could drink a lot. She
9 lost her children due to her drinking. She arrested
10 in the past for public drunkenness, tested positive
11 for cocaine, and medical problems including rectal
12 bleeding, tested positive for cocaine. As I stated,
13 family history treatment of mental health illness
14 involving including cousins and an aunt. Sumter --
15 raised in Bishopville and Manning. Said during how
16 she was teased by other children because she was
17 shy. Used to work at Ruby Tuesdays for one month.
18 Was living with Mr. Thomas, John Thomas, who she was
19 living with. At the time she got food stamps.
20 Three children with three different fathers. When
21 they examined her she looked well, had a child-like
22 demeanor, seemed to be much younger than her actual
23 age. Frequently covered mouth while talking.
24 Judgment to hypothetical situation support,
25 diagnosed basically with a drug problem and alcohol

1 problem. She understood the nature of the charge
2 she was facing, the way court works with guilty
3 pleas workings, the role of the judge, the jury, the
4 lawyers, the court. And they concluded that she had
5 adequate factual understanding of the legal system
6 and answer questions properly and that she had
7 sufficient understanding to assist in her defense.
8 Told the doctor she's -- I don't want to stand
9 trial. Based on the report of the doctor and
10 evaluation here today with Ms. Barr, I find she's
11 competent to stand trial.

12 She was also evaluated for criminal
13 responsibility which is a determination whether
14 she's, she has had ability, capability of conforming
15 her conduct, conforming to the requirements of the
16 law. In viewing the same information, just went
17 through some contained in the report, she explained
18 her relationship with the victim and she started
19 going over to his home a few months before her
20 arrest. He'd give her money. He liked to look at
21 her. She sometimes danced for him. In one
22 encounter with him provided him oral sex. She
23 denied she was on drugs or alcohol on the day that
24 he was killed. Did not relate symptoms of mental
25 illness or defected against and they found no

1 evidence of mental illness that potentially rise to
2 the level of impairing her ability to distinguish
3 legal or moral right from legal and moral wrong.
4 And the conclusion of the Doc is that she is
5 criminally responsible and that she had capacity to
6 conform her conduct to the requirements of the law,
7 and I find that she's criminally responsible
8 likewise, to conform likewise.

9 All right, Mr. Robinson, you may proceed.

10 MR. ROBINSON: Thank you, Your Honor.

11 Your Honor, she does have a large family contingent
12 with her here today. Her stepfather, her sister,
13 her mother, her father, her stepmother and the rest
14 of the family would raise their hands. A number of
15 aunts, uncles, cousins, all here today to support
16 her, Your Honor. And again, anything that I talk
17 about from this point forward, I mean in no way to
18 diminish or disrespect Mr. Hardoman because quite
19 honestly, Mr. Hardoman was just, I don't mean this
20 to sound callous or coy, in the wrong place at the
21 wrong time. That this was not an act that was
22 directed at Mr. Hardoman, that it was not
23 intentionally done to Mr. Hardoman. Mr. Hardoman
24 just happened to be the person within reach of
25 Ms. Barr when this happened. And again, we're not

1 contesting any of those findings; but what I would
2 like to do, Your Honor, is to kind of tell you about
3 what led up to this event based on my conversations
4 with the expert that I retained Doc Sol I have my
5 conversations with Ms. Barr and why I would say
6 that. And then again, Your Honor, as by way of
7 mitigation, not excuse, not defense, simply
8 mitigation, Your Honor. As was alluded to in the
9 report, Ms. Barr, other than being picked on a
10 little bit as a child was a fairly normal.
11 Apparently she was an A/B student until she was
12 about 13 years old. Some of this information I
13 don't think she has revealed to her family to
14 anybody, quite frankly, but myself and maybe the
15 evaluator.

16 At 13 she had a — and I don't know
17 exactly now to characterize it other than a very
18 traumatic sexual experience that involved a number
19 of young boys in Bishopville. She was living in
20 Manning at the time but was over here visiting with
21 some family in Bishopville. Got basically, caused
22 her some issues dealing with that. She's not
23 alleging that it was a rape situation, but it was
24 just situation that she was not prepared to deal
25 with and has haunted her her entire life quite

1 frankly. At that point as young men do, word got
2 out and she began -- and I think Your Honor saw some
3 information about that in the report -- that she was
4 teased quite considerably. Very close on the heels
5 of that incident is when she started fighting in
6 school. She had no real record of any trouble prior
7 to that and her grades were fine. After that she
8 couldn't stay in school. She was kicked out of a
9 number of schools for fighting. Her temper
10 basically was out of control. She went from Manning
11 to Bishopville to North Carolina where her father
12 lived trying to find somewhere where she could fit
13 in. And again, at this time she had not revealed
14 this information to her family because she was
15 embarrassed and ashamed and hadn't had anybody to
16 talk to and this was her way of dealing with it, or
17 I guess the consequence of her not dealing with it.
18 She began drinking and smoking cigarettes. Around
19 15 years old she had a number of bizarre traumatic
20 and some probably criminal sexual experiences that
21 she has not reported for various reasons to
22 authorities, things of that nature. Never was able
23 to finish school. She dropped out of the ninth
24 grade. She completed the eighth grade. She got
25 pregnant when she was 16 years old. She's got three

1 children, a son Isaiah who is 11, a son Trinity, who
2 is eight -- a daughter, I'm sorry. And a six year
3 old named Adrian. Those children are in Columbia
4 living with her cousin as was related in that report
5 because of her substance abuse problems. And
6 Ms. Barr was very honest with me and it was
7 difficult for her to relate some of this information
8 to me, Your Honor, but also I think it got a weight
9 off of her chest. She honestly has been trying to
10 confess this crime to me since the first time I met
11 her. Because of the serious nature of this crime
12 Your Honor, we had to go through the process of the
13 evaluation because I did have some concern about the
14 nature of the crime that her demeanor at the time I
15 met her. This is not a contrived act. This is just
16 how she is. She does have a high pitch voice. She
17 does appear to be young. She has been that way for
18 the past 14 months that I've known her. This is not
19 something she's putting it on for court to appear to
20 be innocent. This is Yanisha Barr. She can't help
21 the way she looks, the way she sounds. She is not
22 being in any way contrite or trying to mislead the
23 Court, Your Honor.

24 At age about 18 she started drinking
25 heavily. After she had some postpartum issues after

1 the birth of her second child started drinking
2 heavily. Again, was continuously to bounce around
3 from family. Everybody is trying to help Ms. Barr
4 and everybody is a little bit perplexed of why is
5 this continuing. She's got an excellent support
6 system with family. She's got two sisters by her
7 mother, three brothers and sister by her father.
8 Some, I think all of them except for one are in the
9 navy, and she's lived with various siblings and
10 parents, great grandparents, aunts, because nobody
11 could really figure out, you know, why this, what
12 everybody knew as a sweet young lady having these
13 problems, where is this temper coming from, where
14 are these issues, where's this depression? And she
15 told me that she typically preferred to be by
16 herself because of the picking and the teasing and
17 the embarrassment and things of that nature, Your
18 Honor. And over the years as the problems
19 compounded for her, the way that she tried to cope
20 with them through drugs and alcohol became worse to
21 the point where I think Your Honor saw she was
22 hospitalized four or five times, and one year with
23 extremely high blood alcohol levels. Cocaine in her
24 system. The amount of drugs and alcohol she's doing
25 on a daily basis almost defies logic. It's really

1 unbelievable, especially for her size and weight.
2 But that was her coaching mechanism. The only thing
3 that, again, that Mr. Hardoman did wrong was be in
4 the wrong place at the wrong time. They did, as
5 Your Honor has seen, have a bit of unusual
6 relationship but nothing to the point that we're
7 saying Mr. Hardoman provoked this attack, none of
8 that. What happened was something that evening, I
9 don't know what it was, I don't even Yanisha knows
10 what it was, but something that evening turned loose
11 all those years of her being controlled by men,
12 drugs, alcohol, whatever it was. And I'm not trying
13 to say this to mean she is a victim; a lot of that
14 was by her own creation. But she has spent her
15 entire life letting her surroundings and
16 circumstances and other things control her and she's
17 just kind of been in a catch 22 where she couldn't
18 help herself get out of it. And rather than getting
19 out of it she spiraled further down into dependence
20 on the drugs and alcohol.

21 I don't know what happened that night,
22 Judge, other than that she snapped and not to the
23 level it was temporary insanity. All those years
24 clearly, she's never related to me she had any ill
25 feelings toward Mr. Hardoman. 96 wounds is an

1 almost unfathomable amount of wounds for a person,
2 which shows either extreme anger and hatred or loss
3 of control. And my belief based on what she's told
4 me and based on conversations with my expert that
5 this is a case where she was not attacking Mr.
6 Hardoman, she was attacking her past and he simply
7 was the vessel that took the brunt of that. And I
8 don't say that to make light of it. That is
9 incredibly tragic because a man who really did
10 nothing to create that situation has lost his life,
11 and his family is suffering as a result of that and
12 I can't imagine what they're going through.

13 What I want Your Honor to understand
14 Yanisha Barr is not a cold hearted, cold blooded
15 killer. She did not go over that evening with
16 premeditation to do anything other than what she had
17 done. Any other time she'd gone over there to hang
18 out with Mr. Hardoman, whether it be just to enjoy
19 company, maybe she needed some money, I'm not sure
20 exactly what happened. But whatever transpired that
21 evening, her depression, frustration, self-hatred,
22 all that came out that night and was vented on
23 Mr. Hardoman unjustifiable, no question about it.
24 But Ms. Barr is today standing before you in
25 significantly better condition than she was when I

1 met her 14 months ago, Judge. She's gained a
2 significant amount of weight. I'm not saying she's
3 overweight by any means. As Your Honor is probably
4 familiar with in this line of work, somebody who
5 uses liquor and cocaine in that volume on a daily
6 basis was basically nothing more than skin and
7 bones. She was not a rational person. Her -- she
8 was a wreck physically and mentally. Today I can
9 stand before Your Honor and truly tell you that she
10 is not, and as I told you, this is something that
11 she has been -- the delay in this matter getting
12 resolved was her attorney making sure that
13 everything was done properly, that she was given
14 every opportunity, all the avenues were explored to
15 make sure that there was no defense, to make sure
16 that she got due process. But she has been trying
17 to get this off of her chest since the day I met
18 her. And so she has not had reluctance coming
19 before the Court. Certainly it's not a day that
20 she's excited about or happy about. But as I have
21 discussed with her and the family, she knew this day
22 was coming since this crime occurred and she's ready
23 to deal with this, Your Honor. She's ready to face
24 what she's done and unlike Mr. Hardoman's daughter
25 which I certainly understand her sentiments; but

1 based on what I know about Ms. Barr, I do ask the
2 Court to have mercy on her because I don't think
3 this act in any way was premeditated, in any way
4 represents the person that Ms. Barr is or can be.
5 It is a terribly tragic event that none of us can
6 change and she understands she has to be punished,
7 Your Honor. But I truly believe that because of all
8 of the circumstances, that Ms. Barr, that I would
9 ask Your Honor to consider some leniency for
10 Ms. Barr, something less than the maximum sentence
11 because this is not the kind of person she is. She
12 is not evil, cold. She is a person who quite
13 frankly had been dependent on something or someone
14 for the majority of her life and having great
15 difficulty coping and dealing with that, and
16 unfortunately, that night Mr. Hardoman was the
17 recipient of those years of frustration, depression,
18 and things of that nature, Your Honor. So I'd ask,
19 Your Honor to consider this crime in that context in
20 the proper context again, had really no slight on
21 Mr. Hardoman at all. He didn't provoke this. He
22 didn't cause this. Unfortunately, he was there when
23 Ms. Barr snapped that evening and that is something
24 that she and I'm sure his family and all of us quite
25 frankly will be sorry forever, but I do believe that

1 Ms. Barr is not that person and that I would ask
2 Your Honor to consider being as lenient as possible.
3 I do not think she deserves the maximum sentence
4 because I do not think that is reflected of who she
5 is or the way this crime was committed, that it
6 certainly bears punishment but something less than
7 the maximum, Your Honor.

8 THE COURT: All right. Anyone else?

9 MR. BARR: First from our family to yours
10 I offer condolences. For the record I'm Yanisha
11 Barr's stepfather Keith Barr. I'm from Manning.
12 I've known Yanisha since she been a baby. Coming up
13 she was quiet, she was good in school. We were
14 never aware of what happened in Bishopville, the
15 change of personality. When she started using drugs
16 and things of that nature we could tell there was a
17 difference in her, but we didn't know why. Drug
18 addiction is a sickness and during that time in her
19 life she was very sick. She spoke with her father,
20 spoke with her mother often. She spoke with her
21 mother often. They had a good relationship. I've
22 spoken with her. We knew Yanisha did have problems.
23 We tried our best to deal with them as we could.
24 She's tried herself and drugs is hard. Addiction is
25 hard. Sometimes it's the people around you no

1 matter how much you try, sometimes it's the people
2 around you that lead you back to that. But Yanisha
3 is not as cold as y'all think she is. She's not,
4 she wasn't like that before the drugs and alcohol
5 got involved. And like I say, I'm very sorry for
6 your loss. Your father did not deserve that; no one
7 did. And that's all I can just ask just for mercy.

8 THE COURT: All right.

9 MR. ROBINSON: Your Honor, this is Mr.
10 Ronald McLeod, this is Yanisha's father.

11 MR. MCLEOD: My name is Ron McLeod, father
12 of Yanisha. Yanisha is my baby, my first child.
13 There is a grand difference of her before and after.
14 Beautiful child, wonderful attitude, get along with
15 everybody and never was a bully. But at the same
16 time, the transition from alcohol to drugs and
17 incident from Bishopville seem to be a little early
18 at 12 years old it was a big, a big difference. I
19 couldn't even fathom on anyone else. She expressed
20 her sorrow about your father and we do too. And we
21 do not excuse it. She do not want me to excuse her
22 on that. She herself said she want to take
23 responsibility of that because he didn't deserve to
24 die like that. And I ask the Court to have her
25 mercy on her. She said that God have mercy on her

1 but today he can have mercy on her in the judgment
2 or whatever her sentence is. But I pray that there
3 is a healing from the family starting from now to
4 come on her behalf and his family because we're
5 hurting too because at some point feel like
6 something we didn't do or we could not do, we was
7 helpless. And that's the way I feel sometime. But
8 my daughter on her own was to take responsibility
9 and not lie about it and own up to it, and I respect
10 that highly. And there's nothing more that I would
11 ever ask of her because she have done with her
12 father, ask her to be true.

13 MR. ROBINSON: And Your Honor, just to put
14 that in context, what he's talking about Ms. Barr
15 sent him a letter very shortly, probably within a
16 few weeks of incarceration, basically giving him a
17 full confession to what had happened and expressed
18 this is not something that he prepared to today
19 because it's a guilty plea. This is a letter that
20 she sent to him 13 plus months ago addressing the
21 issues, that she said admitting what she had done
22 and confessing, expressing her remorse and basically
23 saying she wanted to come, and again, the delay was
24 on my part to make sure that everything was done
25 properly legally, mental health issues, things of

1 that nature. So I just want that to be clear that
2 wasn't a canned bit for Your Honor here today.
3 Other than the family wanting to know that, again,
4 they're all very sorry for what happened to
5 Mr. Hardoman and that they are here to support
6 Yanisha, her decision to take responsibility for
7 what has happened and ask for mercy. I don't think
8 any of the other family members want to say
9 anything. I think Ms. Barr may want to.

10 THE COURT: Ms. Barr.

11 (Attorney confers with defendant.)

12 THE DEFENDANT: I just want to apologize
13 to the family because he did not deserve that. I
14 was hurt, but he didn't deserve that. I don't know
15 why I did that, but I did do it and that action
16 consequences and I'm prepared and ready. It hurts
17 to look at you because I know I hurt you, but I know
18 I've changed. I feel good about my decision and I
19 just, I take full responsibility and I can't say
20 sorry enough. I'm not coldhearted and I'm not a
21 murderer, but I did kill someone. If you could
22 forgive me I would love that. God has forgiven me
23 already so that's why I'm at peace, and I pray that
24 you all forgive me too. Okay.

25 THE COURT: All right. Anything else,

1 Mr. Robinson?

2 MR. ROBINSON: I think that's it, Your
3 Honor.

4 THE COURT: All right, anything in
5 response by the State?

6 DAUGHTER OF THE VICTIM: As like I do
7 forgive her, I can't forget, I can't forget. And I
8 kept hearing you say he was in the wrong place at
9 the wrong time; he was in his house. He was not at
10 the wrong place at the wrong time; she was. The
11 allegation you're making about what happened to her
12 childhood, there's no documentation, there's no
13 proof, there's just your word and just her word.
14 She's fighting for her life. What else is she
15 supposed to do? I'm not saying it happened or
16 didn't happen. What's gonna stop it from happening
17 again if that same thing happened to her 13 years
18 old, what is going to change her from acting the
19 same way ten years from now. Her family members
20 couldn't help, the hospital couldn't help. I
21 understand that addiction is a horrible thing. But
22 if you have an addiction you get help for it. She
23 was living next door with a 60 something old man.
24 Where was her family then? I have children her age
25 I would never allow my daughter to live next door

1 with a man old enough to be her father or
2 grandfather, I would not. So again, I forgive the
3 act because that's what God tells me to do, but I
4 still believe the Court should have no mercy on her.
5 Let God have mercy on her soul.

6 THE COURT: All right. Ms. Barr was
7 indicted for murder and the murder is a willful
8 killing of another person with malice, an unlawful
9 killing of person with malice. Manslaughter is the
10 same as murder except that its killing is without
11 malice, and the difference in sentence, possible
12 sentences is that murder is 30 years to life and
13 manslaughter 2 to 30. And the difference between
14 murder and manslaughter, again, being murder is the
15 killing with malice manslaughter, killing without
16 malice. And the question of what is malice. Malice
17 is hatred, ill will, or hostility toward another
18 person, and malice must exist in the mind of the
19 person doing the killing just before and at the time
20 the act is committed. So there is no period of time
21 in advance that a person must have malice in the
22 traditional notion of what people think of as
23 premeditation. Premeditation is not an element of
24 murder. It's killing with malice is murder and
25 malice must exist at the time just before the act.

1 So in this case you examine whether malice existed
2 at the time that Ms. Barr started stabbing
3 Mr. Hardoman and continued to do so, the question is
4 whether that malice existed at that time, not the
5 day before, week before, or month before. And so
6 certainly consider the gruesome nature of what
7 occurred there on that day and that night, and the
8 number of wounds inflicted and all. And this is all
9 that a jury would have, would have had to consider
10 had the case gone to trial for murder. The plea is
11 for manslaughter so given the nature of the act and
12 the evidence Ms. Barr has gotten a great benefit of
13 mercy from the State in allowing a plea. The
14 problem to the Court a plea of manslaughter as
15 opposed to trying her or her pleading guilty to
16 murder so she's gotten that benefit. Now with
17 respect to manslaughter with the offense being two
18 to 30 versus 30 to life. Is manslaughter 85 percent
19 or day to day like murder?

20 MR. GENTRY: 85 percent.

21 THE COURT: So the benefit of manslaughter
22 plea even if she got the maximum sentence is that
23 she would not have to do 30 years as if she got
24 minimum sentence for murder, or, of course for
25 murder she could get a hundred years, whatever the

1 judge decide, or life. But with manslaughter with
2 good time and other and the fact it's 85 percent,
3 that's rather day for day. That's additional
4 benefit of representation and State's plea. The
5 Court has wide latitude in sentencing a person for
6 manslaughter as evidenced by the fact that the range
7 is from 2 years to 30 years. Based on the great
8 disparity of different types of traffics that can
9 occur that results in a person killing someone else.
10 Typically the manslaughter is come up with someone
11 coming in and kills someone in heat of passion where
12 it's not a lawful killing but the person doesn't
13 kill malice they kill because they whatever reason
14 is short of there being malice. The question is how
15 do we evaluate this type killing this nature victim.
16 You know, this murder, this manslaughter was killing
17 is not lower end of the case it's on the extreme end
18 of the scale and it appears from the, all the
19 comments today given the nature of the problems
20 issues Ms. Barr had in her occurrence, in her
21 situation at the time being over here in Bishopville
22 living next door to Mr. Hardoman seemed inevitable
23 that she would find herself in a case like this.
24 Perhaps at a timeline in facing charges like these
25 given her lifestyle, and you know, it it's

1 impressive that she has such a showing of support
2 here today. But it's the only thing folks here
3 today could be is witnesses to her sentencing
4 because the deeds have been done. The man is dead
5 and he was killed in, you know, the most gruesome
6 facts that anyone could ever imagine in his own
7 home. So I see no basis to any mercy. In addition
8 to that she has already been shown by the State in
9 this case. Ms. Barr has accepted her fact that she's
10 guilty and said she's prepared to suffer the
11 consequences of her acts and to move to another
12 phase of her life behind bars. She may be in
13 greater peace than she was on the streets of
14 Bishopville, Sumter, Manning, wherever.

15 But the just sentence in this case is the
16 maximum sentence. I sentence you to the Department
17 of Corrections for a period of 30 years. That's the
18 order of the Court.

19 (Court's Exhibit Number 1, report of DMH,
20 was marked and made a part of the
21 record.)

22

23 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

24

25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 12th day of January, 2016.

S/Frances B. Ray

FRANCES B. RAY, RPR

FORM 5

STATE OF SOUTH CAROLINA

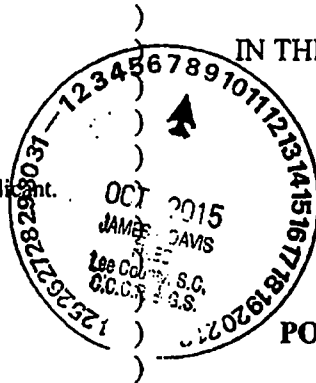
COUNTY OF

IN THE COURT OF COMMON PLEAS

Full name and prison number (if any) of Applicant.

v.

State of South Carolina



15-CR-31-231

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 Lee County Detention Center
2. Name and location of Court which imposed sentence Lee County Court house
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2013A3110100323
 - (b) /
 - (c) /
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Oct. 9, 2014
 - (b) 30 years

(c) NONE

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty

(c) after a plea of nolo contendere

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

NO

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

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

- i.
- ii. NONE
- iii.

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

- i.
- ii. NONE
- iii.

(c) the date of each such result:

- i.
- ii. NONE
- iii.

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

- i.
- ii. NONE
- iii.

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

(a) I am mentally ill.

(b)

(c)

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

- (a) Ineffective counsel
- (b) Unconstitutional plea
- (c)

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

- (a) failure to bring forth severe abuse
- (b) lawyer failed to explain plea and its consequences of plea
- (c)

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

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

- i.
 - ii.
 - iii.
 - iv.
- NONE

(b) the name and location of the Court in which each was filed:

- i.
 - ii.
 - iii.
 - iv.
- NONE

(c) the disposition thereof:

- i.
 - ii.
 - iii.
- NONE

iv. _____
(d) the date of each such disposition:

i. _____
ii. _____
iii. _____
iv. _____

NONE

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

i. _____
ii. _____
iii. _____
iv. _____

NONE

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

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

(a) which grounds have been presented:

i. _____
ii. _____
iii. _____

NONE

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

i. _____
ii. _____
iii. _____

NONE

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____
(b) _____
(c) _____

none

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? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO
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. ~~write attorneys NAME & ADDRESS,~~
- ii. ~~_____~~
- iii. ~~_____~~
- (b) the proceedings at which each such attorney represented you:
- i. ~~* General Sessions Court,~~
- ii. ~~* Mental Incompetence.~~
- iii. ~~_____~~
19. State clearly the relief you seek in filing this application:
To receive a P.C.R. to return to court for a retrial.
20. Are you now under sentence from any other court that you have not challenged?
NO

STATE OF SOUTH CAROLINA)
County of Lee CO.)

VERIFICATION

I, , 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.

Yvonne Barr

SWORN to and subscribed before me this 29th
day of September, 2015.

Dina W. Sold (L.S.)
Notary Public

My Commission Expires: May 24, 2016

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

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

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

X Yvette Barr
Applicant

SWORN or affirmed to and subscribed before me this
29th day of September, 2015.

Jana W. Gold
Notary Public

My Commission Expires: May 24, 2016

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEE)	FOR THE THIRD JUDICIAL CIRCUIT
)	
Yanisha C. Barr, #361645,)	2015-CP-31-231
)	
Applicant,)	
)	
v.)	RETURN
)	
State of South Carolina,)	
)	
Respondent.)	
<hr/>		

The Respondent, making its Return to the application for post conviction relief (PCR) filed October 8, 2015, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lee County Clerk of Court. The Applicant was true bill indicted at the June 2014 term of the Lee County Grand Jury for murder (2014-GS-31-0066). Scott Robinson, Esquire represented Applicant. On October 9, 2014, Applicant pled guilty to the lesser included offense of voluntary manslaughter before the Honorable Clifton Newman. Judge Newman sentenced Applicant to a thirty year term of imprisonment for voluntary manslaughter. Applicant did not appeal her guilty plea or sentence.

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

II.

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

1. Ineffective assistance of counsel
 - a. "failure to bring forth severe abuse."
2. Involuntary guilty plea
 - a. "lawyer failed to explain plea and its consequences of plea."

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

III.

The Respondent asserts the Applicant's allegation that her attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

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 690, 104 S. Ct. at 2066. The Applicant must

overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Applicant's assertion that her guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by

showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal 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." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000).

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).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248.

V.

Applicant must specify any claims she intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VI.

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

VII.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

DANIEL GOURLEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

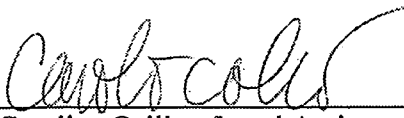
December 18, 2015.

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEE)	
)	
)	2015-CP-31-231
)	
YANISHA C. BARR, #361645,)	
)	
Applicant,)	
)	
vs)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	

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

The Honorable Stephen Bryan Doby
Jennings & Jennings, PA
Post Office Box 106
Bishopville, SC 29010

DATED this 18th day of December, 2015.



 Caroline Collins, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA

IN THE CIVIL COURT

2 COUNTY OF LEE

3

4

5 YANISHA CATILIA BARR,)

6 Applicant,)

7 -vs-)

8 STATE OF SOUTH CAROLINA,)

9 Respondent.)

TRANSCRIPT OF RECORD

15-CP-31-00231

10

11

March 28, 2017
Sumter South Carolina

12

13

14 B E F O R E:

15 HONORABLE D. CRAIG BROWN, Judge.

16

17

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

19 S. BRYAN DOBY, Esquire
Attorney for the Applicant

20

21 JULIE A. COLEMAN, Asst. Attorney General
Attorney for the State

22

23

L. COCONUT PANTSARI, R.P.R.
Circuit Court Reporter

24

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RESPONDENT'S EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
1	Competency eval (sealed)		27

1 (The following proceedings are reported on
2 March 28, 2017.)

3 THE COURT: Are you ready to proceed?

4 MS. COLEMAN: Yes, Your Honor.

5 THE COURT: Call your case, please. Hold on a
6 minute.

7 Mr. Doby, are you ready to proceed?

8 MR. DOBY: Ready, Your Honor.

9 THE COURT: Call your case, please, ma'am.

10 MS. COLEMAN: Thank you, Your Honor. This is
11 Yanisha Barr versus the State of South Carolina, Docket
12 Number 2015-CP-31-231. The applicant is presently
13 confined to the South Carolina Department of Corrections
14 pursuant to orders of commitment of the Lee County Clerk
15 of Court.

16 Applicant was true bill indicted at the
17 June 2014 term of the Lee County Grand Jury for murder.
18 Scott Robinson, Esquire represented, the applicant. On
19 October 9, 2014, applicant pled guilty to a
20 lesser-included offense of voluntary manslaughter before
21 the Honorable Clifton Newman.

22 Judge Newman sentenced applicant to a 30-year
23 term of imprisonment for voluntary manslaughter.
24 Applicant did not appeal her guilty plea or sentence.
25 Applicant filed a timely application for post conviction

1 relief on October 8, 2015, alleging that she was being
2 held in custody unlawfully based on the following
3 allegations: Ineffective assistance of counsel and
4 involuntary guilty plea.

5 The State filed its return on December 18,
6 2015; and she is present today and represented in this
7 matter by Brian Doby.

8 THE COURT: Mr. Doby.

9 MR. DOBY: Your Honor, I would call the
10 applicant.

11 THE COURT: Ma'am, if you could come around to
12 be sworn, please.

13 (The witness comes forward.)

14 YANISHA CATILIA BARR, being
15 first duly sworn, testifies as follows:

16 CLERK: State your name for the record and
17 spell your last name, please.

18 THE WITNESS: Yanisha Catilia Barr, B-A-R-R.

19 MR. DOBY: May it please the Court.

20 DIRECT EXAMINATION

21 BY MR. DOBY:

22 Q Yanisha, you are going to need to keep your voice
23 good and loud. You are a little soft spoken.

24 Okay?

25 A Okay.

1 Q Can you hear me okay?

2 A Yes, sir.

3 Q You filed this application for post conviction
4 relief asking for certain things; correct?

5 A Yes, sir.

6 Q You and I have had a discussion about what a post
7 conviction relief application can do for you, have
8 we not?

9 A Yes, sir.

10 Q How many times have we had that conversation?

11 A Twice.

12 Q Three times?

13 A Two.

14 Q Okay. At least two times?

15 A Yes.

16 Q Okay. You understand that this Court cannot find
17 you not guilty. This Court can't reduce your
18 sentence. This Court can't do anything except give
19 you a new trial in regards to the murder case. You
20 understand that?

21 A Yes, sir.

22 Q So if you are successful today, the only thing the
23 judge can do is to remand your case back to Lee
24 County General Sessions court where you will face a
25 murder charge. Do you understand that?

1 A Yes, sir.

2 Q So there are at least some risks in asking for that
3 post conviction relief in this matter. Do you
4 understand that?

5 A Yes, sir.

6 Q Knowing that you want to go forward anyway?

7 A Yes, sir.

8 Q You were arrested on June -- on July 23, 2013. Do
9 you recall that?

10 A Yes, sir.

11 Q You pled guilty on October the 9th of 2014. Do you
12 recall that?

13 A Yes, sir.

14 Q Mr. Robinson was appointed to represent you in
15 regards to that case; is that correct?

16 A Yes, sir.

17 Q Between your time of your arrest on July 23rd of
18 2013, and your plea October 9, 2014, how many times
19 did you meet with Mr. Robinson?

20 A One time.

21 Q One time. And where was that?

22 A In Clarendon County.

23 Q Do you recall where in Clarendon County?

24 A It was the courthouse.

25 Q Is that what you remember?

- 1 A Yes. Yes, sir.
- 2 Q And how long did you talk to Mr. Robinson there at
3 the Clarendon County Courthouse?
- 4 A About an hour.
- 5 Q Do you recall what you discussed on that initial
6 meeting with Mr. Robinson?
- 7 A Yes, sir.
- 8 Q What did y'all talk about?
- 9 A I told him about what happened.
- 10 Q So you told him about the facts of the case?
- 11 A Yes.
- 12 Q And when was the next time after that that you had
13 an opportunity to speak with Mr. Robinson?
- 14 A In court.
- 15 Q Do you recall the date that you talked to him next?
- 16 A I don't remember the date.
- 17 Q Would it have been the same week that you had pled
18 guilty?
- 19 A Yes -- well, before that week I saw him in Lee
20 County at the preliminary hearing, but it was
21 rescheduled. We didn't have it that day. So I
22 didn't really speak with him. So the next time I
23 saw him was the week of the plea.
- 24 Q Did you have a preliminary hearing?
- 25 A Yes, sir.

1 Q Who was the lawyer representing you at the
2 preliminary hearing?

3 A Cutter.

4 Q Mr. Cutter?

5 A Mr. Cutter.

6 Q Did you talk with Mr. Cutter about the facts of the
7 case?

8 A I don't remember telling him the facts of the case.
9 I don't remember.

10 Q All right. Did you go to court when there was a
11 competency evaluation ordered for you?

12 A Did I go to court?

13 Q Did you go to court when there was a competency
14 evaluation ordered for you?

15 A I had the competency test done in Columbia, not at
16 the courthouse.

17 Q Did you go to court when the judge ordered a
18 competency evaluation for you or were you simply
19 taken from the jail to Columbia to have that
20 evaluation?

21 A I was taken from the jail to Columbia.

22 Q Had you had a discussion with Mr. Robinson about
23 any prior mental health issues that you were
24 suffering from prior to that competency evaluation?

25 A I did.

- 1 Q What did you tell him?
- 2 A About medications that I have taken and some
3 hospital visits.
- 4 Q All right. Would that have been prior to your
5 arrest in 2013?
- 6 A Yes, sir.
- 7 Q And how many visits or inpatient treatments did you
8 receive prior to your arrest in 2013? How many
9 times have you been admitted to the hospital?
- 10 A Over 20.
- 11 Q Did you tell Mr. Robinson that?
- 12 A I remember saying that, "I have been to the
13 hospital a lot."
- 14 Q That's what you told him?
- 15 A Yes.
- 16 Q Did you tell him where you had been admitted to the
17 hospital?
- 18 A I don't remember. If he asked me, I told him; but
19 I don't remember. I don't remember.
- 20 Q Do you know whether Mr. Robinson got a medical
21 authorization from you to be able to obtain those
22 medical records on your behalf?
- 23 A What does that mean?
- 24 Q Did he get your permission to get those reports
25 from the hospitals or doctors?

1 A If he asked then I did.

2 Q Do you recall him asking to do that?

3 A I don't remember. I don't remember.

4 Q All right. So at some point did you talk to
5 Mr. Robinson about any discovery that had been
6 provided to him from the State? And do you know
7 what I mean by discovery?

8 A No, sir.

9 Q Reports from the police or statements, evidence
10 that they had gathered, anything like that. Do you
11 recall ever talking to Mr. Robinson about what he
12 had received?

13 A No, sir.

14 Q Would that mean that you did not or you simply
15 don't recall one way or the other?

16 A Can you explain the question?

17 Q Yes, ma'am. Mr. Robinson received certain evidence
18 in this case from the State: Police reports, some
19 evaluation of blood, DNA, those type of things.
20 Did Mr. Robinson go over with you any of those
21 kinds of reports?

22 A I seen papers about that. That was the week of the
23 plea.

24 Q So during the week of the plea is when you recall
25 talking to him about that particular evidence?

1 A I don't remember.

2 Q When you talked to Mr. Robinson the week of the
3 plea, do you remember what you talked about?

4 A Well, he told me what the plea was, zero to 30
5 years.

6 Q Had you talked to him about a plea prior to the
7 week that you pled?

8 A No, sir.

9 Q Had you had any discussion with Mr. Robinson about
10 a trial in this case?

11 A Well, after he told me about the plea, I thought at
12 that time that was the best.

13 Q Why did you think it was best?

14 A Because he -- it sounded like the best.

15 Q Well, did Mr. Robinson tell you something that led
16 you to believe that that was the best thing to do?

17 A Well, he said that I probably wouldn't get 30 years
18 and that it was an offer.

19 Q Did he promise you what you were going to receive
20 as a sentence?

21 A No promise but he said that he didn't think that
22 the judge would give me 30, but he didn't promise
23 me anything.

24 Q Did he explain to you that you could have gotten up
25 to 30 years on the voluntary manslaughter plea?

- 1 A That I have could have gotten 30?
- 2 Q Yes, ma'am.
- 3 A Yes.
- 4 Q Did he also indicate to you he didn't think that
5 you were going to get 30?
- 6 A (Witness nods.) Yes, sir.
- 7 Q Did that lead you to believe that you ought to plea
8 under that circumstance?
- 9 A I believe that if I did plea that I wouldn't have
10 gotten 30, and I thought that having a trial would.
11 He said that it's possible that it would be a life
12 sentence.
- 13 Q If you got convicted of murder, you could have
14 gotten a life sentence?
- 15 A Yes, sir.
- 16 Q Did you understand those conversations?
- 17 A A little bit.
- 18 Q Did you tell Mr. Robinson the things that
19 Mr. Hardiman had done to you prior to July 22,
20 2013?
- 21 A Yes, sir.
- 22 Q What did you tell him that Mr. Hardiman had been
23 doing to you?
- 24 A That he hit me, that he -- basically that he put
25 his hands on me.

- 1 Q How many times had he done that prior to July 22,
2 2013?
- 3 A About three.
- 4 Q Mr. Hardiman was a neighbor of yours where you were
5 living at the time; is that correct?
- 6 A Yes, sir.
- 7 Q And Mr. Hardiman was a good bit older than you?
- 8 A Yes, sir.
- 9 Q Did he threaten you?
- 10 A He has, yes, sir.
- 11 Q Why did you go over there on July 22, 2013?
- 12 A I just went over there; no particular reason. I
13 just went over there.
- 14 Q Did he ask you to go there or did you go on your
15 own?
- 16 A That night he didn't ask but I went over there.
- 17 Q On prior occasions would he ask you to come and do
18 certain things for him, like dance?
- 19 A Yes, sir.
- 20 Q Would he pay you money to do that?
- 21 A Yes, sir, but I didn't go over there to do things
22 like that.
- 23 Q Did he threaten you on July 22, 2013?
- 24 A Yes, sir.
- 25 Q And what did he do? I mean, what did he do that

1 resulted in you being or feeling like he was
2 threatening you?

3 A Because he asked me to do something and I didn't
4 want to.

5 Q Okay.

6 A So he started calling me names, and he said, "I
7 will kill you," and he was calling me, like, names.

8 Q I know you don't like to tell me what kind of names
9 or say that, but what kind of names was he calling
10 you on that night?

11 A Like W-H-O-R-E and B-I-T-C-H.

12 Q Did he hit you that night?

13 A That night, no, he didn't.

14 Q Did you tell Mr. Robinson these things?

15 A I told him that he was calling me names. Yes, I
16 told him he was calling me names.

17 Q Did he ask you the same things that you and I just
18 talked about?

19 A About what happened?

20 Q About what happened.

21 A Yes, sir.

22 Q Did you and Mr. Robinson ever discuss the
23 possibility of a trial with self-defense being set
24 forth for you?

25 A No, sir.

- 1 Q Did you ever have a discussion with Mr. Robinson or
2 anyone from the Public Defender's Office about a
3 trial in this matter?
- 4 A No, sir.
- 5 Q Even after you told Mr. Robinson what you have just
6 told us, you still didn't have a conversation about
7 a trial?
- 8 A About having a trial?
- 9 Q Yes, ma'am.
- 10 A No, sir.
- 11 Q Other than the doctors for the mental health
12 evaluation for the competency evaluation, did you
13 talk to any other doctors that Mr. Robinson had
14 asked to have a discussion with you?
- 15 A No, sir, I never talked to him.
- 16 Q Did you talk to Mr. Robinson about the evaluation
17 that you had received through the Department of
18 Mental Health?
- 19 A Yes, sir. I told him about the questions that they
20 asked me.
- 21 Q But did you and Mr. Robinson have any discussion
22 about what the findings of that evaluation were?
- 23 A That I was competent?
- 24 Q That you were competent is what that evaluation
25 showed?

1 A Yes, sir.

2 Q Was that the week of the trial also -- or the week
3 of your plea?

4 A That I found out what they said?

5 Q Yes, ma'am.

6 A Yes, sir.

7 Q Okay.

8 A Because they asked me questions like: I knew,
9 like, who is the president and things like that.

10 Q Now, based on our conversations in your application
11 that you filed, we talked about a couple of issues
12 that you wanted to have the Court address. One of
13 them is Mr. Robinson not visiting you, except on
14 that one occasion in the week of the plea; is that
15 correct?

16 A Yes, sir.

17 Q Did you -- and you told Mr. Robinson about the
18 prior mental health evaluations or trips to the
19 hospital or doctors that you had had before your
20 arrest in July of 2013?

21 A I don't remember getting into detail, but I told
22 him about the times when I went to the hospital or
23 was admitted to the hospital.

24 Q And you told Mr. Robinson about Mr. Hardiman's
25 actions towards you before July the 22nd, 2013?

1 A I told him that he used to hit me.

2 Q Those are the things that you and I have discussed
3 as part of your PCR application, your post
4 conviction relief application; is that correct? Do
5 you understand what the question is?

6 A No, sir.

7 Q Okay. A post conviction application, as you and I
8 have discussed, alleges that Mr. Robinson did not
9 do certain things or did things that you don't
10 agree with; is that correct?

11 A Yes, sir.

12 Q Have we talked about all of the issues or things
13 that you wanted to bring to the judge's attention,
14 being all of the things that you had complaints
15 about Mr. Robinson?

16 A Yes, sir.

17 Q Are you sure?

18 A Could you explain it?

19 Q Yes, ma'am. When you file a post conviction relief
20 application, you are alleging that Mr. Robinson did
21 not do certain things that he should have done or
22 that he did certain thing that he should not have
23 done. Okay? Do you understand that?

24 A Yes, sir.

25 Q So today have we talked about all of the complaints

1 that you have about Mr. Robinson?

2 A I wanted my medical history to be brought up.
3 Because the day that I plead, they were reading
4 some things that I went to the hospital for; but
5 they didn't say anything about those hospital
6 visits and treatments.

7 Q So those prior hospital visits or treatment, you
8 believe would have been important in Mr. Robinson
9 being able to represent you?

10 A I believe that I needed that.

11 Q Why did you need that?

12 A Because it's the truth. And I felt like what they
13 were reading that day was only bad, like, nothing
14 to help me. Like, I remember one was that I tested
15 positive for cocaine. I felt like that everything
16 should have...

17 Q All of your medical records should have been there?

18 A Yes.

19 Q And you wanted those presented to the Court as
20 well?

21 A In that there was a problem.

22 Q Yes, ma'am. Okay. So have you told everything
23 that you wanted to tell this judge, this Court,
24 about what Mr. Robinson did wrong in this case?

25 A Yes, sir.

1 Q Thank you.

2 MR. DOBY: That's all for this witness, Your
3 Honor.

4 THE COURT: Ms. Coleman.

5 MS. COLEMAN: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MS. COLEMAN:

8 Q Hi, Ms. Barr. How are you?

9 A I'm well or pretty well.

10 Q The victim in this case, Mr. Hardiman -- is that
11 correct -- did you live together?

12 A No, ma'am.

13 Q You testified he was your neighbor?

14 A Yes, ma'am.

15 Q And when this happened were you in his house or
16 yours? Where did the event happen?

17 A His house.

18 Q His house. You testified earlier that he did not
19 hit you that night; is that correct?

20 A Yes, ma'am.

21 Q Did he have any weapons on him?

22 A There was a knife in front of him.

23 Q But was he holding the knife?

24 A No, ma'am.

25 Q Were you afraid for your life that night?

1 A Only when he stood up, yes. We were sitting down;
2 only when he stood up.

3 Q And you testified that he told you that he was
4 going to kill you that night; is that right?

5 A Yes.

6 Q Did you think --

7 A Not when he stood up but he said it.

8 Q Did you think that he really would kill you?

9 A I didn't know because I didn't think he would hit
10 me. And the times that he did, I never called
11 9-1-1 because I didn't think that they would
12 believe it because he was so much older. But he
13 wasn't weak, you know, he wasn't -- he was very
14 strong.

15 Q Were you on cocaine or any other kind of drugs the
16 night of the event?

17 A No, ma'am.

18 Q Do you recall pleading guilty to this?

19 A Yes, ma'am.

20 Q And do you remember waiving your constitutional
21 rights, like your right to a jury trial and your
22 right to remain silent?

23 A That day?

24 Q Yes.

25 A I remember.

- 1 Q And did your attorney explain all that to you
2 before the plea?
- 3 A I think so.
- 4 Q Do you remember telling the judge that you were
5 satisfied with your attorney's services?
- 6 A I remember telling him.
- 7 Q And you had no complaints against him at the time?
- 8 A I didn't want to say.
- 9 Q Do you remember telling the plea judge that you
10 wished to plead guilty to this crime?
- 11 A When he asked me?
- 12 Q Uh-huh.
- 13 A Yes, ma'am.
- 14 Q And you told the plea judge that you killed
15 Mr. Hardiman, didn't you?
- 16 A Yes, ma'am.
- 17 Q And you apologized to the victim's family?
- 18 A Yes, ma'am.
- 19 Q Now, when you pled you got a 30-year sentence. So
20 you only have to serve 85 percent on it; right?
- 21 A Yes, ma'am.
- 22 Q And you would get more than that if you were
23 convicted at trial; right? You could get a life
24 sentence?
- 25 A Yes, ma'am.

1 Q Do you still want a trial on these charges?

2 A Yes, ma'am.

3 Q Thank you. Nothing further.

4 MR. DOBY: Nothing further. Thank you, Your
5 Honor.

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

8 (The witness leaves the witness stand.)

9 MR. DOBY: That is the applicant's case, Your
10 Honor.

11 MS. COLEMAN: The State calls Scott Robinson.

12 (The witness comes forward.)

13 SCOTT L. ROBINSON, being
14 first duly sworn, testifies as follows:

15 CLERK: State your name for the record and
16 spell your last name, please.

17 THE WITNESS: Scott L. Robinson,
18 R-O-B-I-N-S-O-N.

19 THE COURT: Ms. Coleman.

20 MS. COLEMAN: Thank you, Your Honor.

21 **DIRECT EXAMINATION**

22 BY MS. COLEMAN:

23 Q Good morning, Mr. Robinson.

24 A Good morning -- afternoon.

25 Q Sorry, afternoon. How long have you been

1 practicing law?

2 A Twenty-one plus years.

3 Q And do you recall whether you were appointed or
4 retained in this case?

5 A I'm sure I was appointed. I was public defender.

6 Q How long did you represent the applicant before the
7 plea came about?

8 A I think that I got on the case within a week or two
9 of her arrest. When she was talking about meeting
10 me at the Clarendon County courthouse, that was --
11 we had to have the bond hearing there because
12 that's where we had a judge. Lee only has one term
13 a month and we didn't have a judge. It was within
14 a couple of weeks of her being arrested when I
15 started.

16 Q How many times did you meet with the applicant
17 before the guilty plea?

18 A I don't recall an exact number but probably five or
19 six at least.

20 Q Can you just kind of briefly tell us the fact
21 pattern of this case?

22 A Well, it's bad facts and a sad case quite frankly.
23 Ms. Barr was a young lady, and I think as she
24 described, she was a neighbor to this man. They
25 had some sort of relationship. I don't know

1 exactly the extent of it, but sometimes it was good
2 and sometimes it was bad.

3 I think he would give her money on occasions
4 to do things that she wasn't particularly
5 comfortable with. On that night in question,
6 she -- I do not recall honestly her ever telling me
7 that he threatened to kill her.

8 She talked about everything else that she
9 talks about in her direct but never that quite
10 frankly. She was pretty intent from the very
11 beginning on wanting to tell her story.

12 I think she even wrote a letter to her parents
13 that they brought -- either they brought me or
14 somehow I got a copy of it where she talked about
15 it.

16 It was sad and concerning that basically what
17 she told me happened is that night they were over
18 there, and I think she was eating. That's where
19 the steak knife came into play.

20 He asked her to dance or something, and she
21 didn't feel like it, and he became belligerent with
22 her. Then all of sudden she just snapped, and
23 years of anger and aggression came out of her.

24 When I asked her about that, she ended up
25 stabbing and/or cutting him 96 times. It bent the

1 steak knife and apparently picked up a meat fork, a
2 two-prong meat fork, according to the autopsy.
3 There were multiple injuries with that as well.

4 She had related to me that she was raped when
5 she was -- I think she had told me 12 years old,
6 give or take. Then on a number of occasions after
7 that, that led to her having some pretty serious
8 mental health issues, as well as a substantial
9 substance abuse problem.

10 I think that she would go over there on
11 occasion to the neighbor's house and do things so
12 she could get money to buy drugs or alcohol or
13 things of that nature. That was basically it.

14 She never mentioned anything, like I said,
15 about him killing her or her being in fear on that
16 particular night. Just the way he was talking to
17 her triggered all of these memories in her life of
18 being sexually abused and depressed and all these
19 things.

20 Basically a lifetime worth of anger and
21 vengeance got unleashed unfortunately on this
22 particular gentlemen, which led to me asking for
23 her to be evaluated, both by the Department of
24 Mental Health and by Amanda Salas.

25 MS. COLEMAN: Since you bring that up, Your

1 Honor, may I approach the witness?

2 THE COURT: Yes.

3 BY MS. COLEMAN:

4 Q Do you recognize this document?

5 A Yes, ma'am.

6 Q What is that?

7 A That is the written report from her competency
8 evaluation.

9 Q And was this presented as an exhibit at the guilty
10 plea?

11 A I'm assuming it was. I'm sure.

12 Q I believe it was.

13 A Well, I wouldn't think the judge would take the
14 plea if there was a competency evaluation ordered
15 and at least at some point there had been a Blair
16 hearing or a stipulation, yes..

17 MS. COLEMAN: Your Honor, I have shown this to
18 opposing counsel. I move at this time to admit it as
19 Exhibit Number 1.

20 THE COURT: Any objection?

21 MR. DOBY: Your Honor, it was admitted as
22 court's exhibit. I don't know if that was part of the
23 package that the Court has received; but certainly if it
24 is not, it needs to be admitted.

25 THE COURT: I will allow it to be admitted.

1 MS. COLEMAN: Thank you, your Honor.

2 THE COURT: I want it under seal, not to be
3 open absent a court order.

4 (Respondent's Exhibit Number 1 is received
5 into evidence.)

6 BY MS. COLEMAN:

7 Q Will you explain to us again the process of having
8 her evaluated for mental competency?

9 A Well, it obviously became pretty clear to me in my
10 first meeting with her at the courthouse that this
11 wasn't just a run-of-the-mill type case where it
12 was a drug deal gone bad or a domestic dispute or
13 something of that nature.

14 The way that she talked about it and her
15 eagerness -- because, quite frankly, the first time
16 I met with her, all she wanted to do was just kind
17 of get it out and tell anybody and everybody.

18 I wanted her to slow down and take things in
19 progression. So we had the bond hearing. Again,
20 there was never any contention. There was a lot of
21 DNA evidence that linked her. I don't think she
22 ever confessed to the police but certainly was
23 willing to.

24 I believe there was a roommate or a friend
25 that was a witness in the case. It was never any

1 contention about how or even quite frankly why it
2 happened. The only issue that became apparent to
3 me was whether or not she had a mental health
4 defense, whether it was guilty but mentally ill or
5 not guilty by reason of insanity or something of
6 that nature.

7 Because, again, it was just the circumstances
8 surrounding it. Honestly the self-defense,
9 although I did ask her the questions that Mr. Doby
10 asked her, in that discussion she never mentioned
11 to me him ever threatening her that evening.

12 I think she did tell me they had some bumps in
13 the road in the past and that when he drank
14 sometimes, he got a little bit angry. But mostly
15 it was that he was belligerent and disrespectful to
16 her and especially that evening. It triggered some
17 emotion in her.

18 Q Based on the mental competency evaluation that you
19 had, was this a defense you believe you could
20 pursue?

21 A No. The problem is, as bad as I wanted it to be,
22 quite frankly -- because I really, really, really
23 felt bad for Ms. Barr -- I really don't think that
24 she went over there with any type of malice or
25 intention to kill her neighbor.

1 I believe what she said was that she just
2 snapped. But none of the experts, whether they
3 were from the South Carolina Department of Mental
4 Health or Dr. Salas, who I got ex parte funding to
5 look at it independently, could find or could
6 present me with anything that I could -- I wouldn't
7 have an expert to go before the jury to try to sell
8 that quite frankly.

9 Q And based on her testimony today about the threats,
10 do you believe that she could have been successful
11 on any kind of defense regarding these threats?

12 A That is quite honestly very difficult to say
13 looking back. He was much taller than her. There
14 was certainly an obvious age difference. And given
15 his age, a jury may have perceived that she was a
16 young girl taking advantage of an elderly man
17 versus our prospective of an elderly man taking
18 advantage of a young girl. You never really know
19 how that would have played out.

20 Certainly had she told me that, we would
21 probably have had some more investigation. But,
22 again, the problem is her allegation and the fact
23 that she testified to earlier that when he had
24 allegedly hit her in the past, she never reported
25 it, never called 9-1-1.

1 We didn't really have a pattern of anything to
2 build up to. Again, it would be hard to sell that
3 she was afraid of him because, as she said, she
4 went to his house voluntarily that night. She
5 didn't allege that he kidnapped her or threatened
6 her to get her over there.

7 It was only that they had a dispute while they
8 were over there. So it would have been difficult.
9 I can't say for sure what that have might have
10 fleshed out, but that's my impression of it based
11 on what I have heard today.

12 Q Can you describe the State's evidence against the
13 applicant?

14 A Well, it was damaging. I don't want to ever say
15 overwhelming, but there was no question, there was
16 no way we were going to say it wasn't her. She
17 wasn't there.

18 I believe, if I remember correctly, there was
19 blood, his blood, found on her porch, on her door.
20 His keys were found somewhere in her bedroom under
21 her bed. There was some other DNA, like a
22 cigarette butt with her DNA on it that connected
23 not only her being at his house but then his blood
24 and property being at her house after the fact.

25 Again, as I told you, I seem to recall that

1 there was a witness, whether it was a roommate or a
2 friend that came by and saw her bloody and asked
3 her about the keys or something to that effect. So
4 they had a lot of physical evidence in this
5 particular case.

6 Q This is just based on my reading of the transcript.
7 I think I've got it right. Was there ever any
8 evidence of the victim's blood in her ear?

9 A Yes, there was some dried blood on her. But, yes,
10 there was a lot of blood slash DNA evidence, as
11 well as his property, in her house.

12 Q Did the applicant admit to you that she had killed
13 him?

14 A Oh, absolutely. Like I said, I honestly had to
15 reign her in from doing that. I was scared she was
16 going to do that at the bond hearing. She just
17 wanted to get it off of her conscience quite
18 frankly.

19 Q Before the guilty plea, did you review the
20 applicant's constitutional rights?

21 A Oh, yeah.

22 Q Did she seem to understand all that?

23 A Yeah, she did. I mean, you know, some of it I may
24 have had to explain more than one time and go
25 through exactly what that meant, not just the

1 verbiage that the judges use when they are doing a
2 guilty plea.

3 But, yeah, we talked enough where I was
4 satisfied she understood her options and the
5 possible consequences, both of a plea and of a
6 trial. She ended up doing what I thought was in
7 her best interest.

8 Q Did the applicant ever indicate that she wanted to
9 go to trial?

10 A We talked about going to trial. I don't think so.
11 Really what sticks out in any mind is her being
12 insistent about it. She wanted to tell the Court
13 what happened and to apologize to the family, that
14 she wanted to explain. We talked about that in the
15 context of a trial and a guilty plea.

16 Q Whose decision was it to plead guilty?

17 A It was hers. I make that clear that regardless of
18 what my opinion is, number one, I work for them.
19 It is never my final decision because at the end of
20 whether it's trial or a plea, I go home.

21 The only person that has to serve any jail
22 time or potential jail time is the defendant. For
23 that reason the decision absolutely has to be
24 theirs because I don't really have any skin in the
25 game.

1 Q Do you agree with that decision to plead guilty?

2 A Yes, I do.

3 Q Do you still agree with that?

4 A Yes.

5 Q Thank you. Nothing further.

6 THE COURT: Mr. Doby.

7 MR. DOBY: May it please the Court.

8 CROSS EXAMINATION

9 BY MS. COLEMAN:

10 Q Mr. Robinson, when you were presented with the
11 facts of this case, it would appear to me being a
12 defense lawyer, I would have thought about: Well,
13 the first thing is what about a self-defense sort
14 of issue? You had a conversation with Ms. Barr
15 about the self-defense issue?

16 A Well, I don't know if I necessarily used those
17 particular words. I probably did. I explored
18 whether there was the possibility for one when we
19 were talking about what happened.

20 Like I said, until I heard in the courtroom
21 today that she said that the victim threatened to
22 kill her, there was never any mention of any threat
23 or anything before that that she told me that I
24 thought would give rise to a legitimate
25 self-defense claim.

1 Q If she, in fact, had told you that, do you believe
2 that it would have been prudent then to investigate
3 that self-defense angle as to this case?

4 A Absolutely, no question.

5 Q Did you ever do anything to explore that
6 self-defense issue?

7 A Other than discussing with her whether there was
8 anything to explore, no, sir.

9 Q Now, obviously then the second issue that would
10 have popped up would have been a mental health
11 defense or mental health issues in this case. I
12 did note in the transcript that there was not a
13 Blair hearing that was held. I mean, there were no
14 doctors that were called to testify in this case,
15 were there?

16 A No.

17 Q There was simply reports that were submitted to the
18 Court and received as court's exhibit outlining the
19 evaluation that Ms. Barr did receive; is that
20 correct?

21 A That's correct.

22 Q Did you ever obtain any mental health records on
23 behalf of Ms. Barr?

24 A I honestly don't remember. I know that I talked
25 with her about her history, and I know that I

1 relayed that. I think I discussed that in the
2 guilty plea itself.

3 I am sure I talked to Dr. Salas about it. I
4 really don't recall, quite frankly, whether I ever
5 physically obtained some or just made the mental
6 health examiners aware of her history.

7 Q I did note in the mental health or the competency
8 to stand trial evaluation that the psychiatric
9 history obtained in regards to Ms. Barr would have
10 been normal; is that right?

11 A Yes.

12 Q Let me ask you -- that's at least the first three
13 pages of that. I am specifically looking at page
14 number 3 when it talks about psychiatric history in
15 regards to Ms. Barr. Do you recall seeing that
16 document?

17 A I mean, I know that I have seen it before, yes.

18 Q If you will read that first line of that
19 psychiatric history.

20 A It says, "As mentioned previously she has no
21 history of prior inpatient or psychiatric
22 treatment."

23 Q That was not factually accurate, was it?

24 A Not according to what she told me.

25 Q So when you received that evaluation, did you make

1 an attempt then to obtain prior psychiatric records
2 to refute that competency evaluation?

3 A I am trying to accurately recall that. I know I
4 had some discussions with her family and again with
5 Dr. Salas. Whether I passed that information on to
6 her or whether I actually attempted to obtain any,
7 I really do not recall.

8 Q As you have previously mentioned and in the guilty
9 plea, there was a mention of another doctor that
10 you had consulted in this case; is that correct?

11 A That's correct.

12 Q And was that doctor hired to give an evaluation, a
13 competency to stand trial evaluation, of Ms. Barr?

14 A No.

15 Q What was the reason for hiring that particular
16 doctor?

17 A That was to ascertain -- once she was determined
18 competent, because I had some initial concerns, I
19 guess it was to do both. I basically got her to
20 give me a second opinion on the competency issue
21 but more specifically to determine whether or not
22 there was a not guilty by reason of insanity or a
23 guilty but mentally ill defense based on basically
24 Ms. Barr snapping, as she related to me, whether or
25 not we had a mental health defense.

1 Q I obtained a copy of your file when I got appointed
2 to represent Ms. Barr, did I not?

3 A Yes.

4 Q There were no written evaluations from this other
5 doctor in your file at any point?

6 A That is correct. She didn't generate any or not
7 anything that she -- I'm sure she made some notes
8 to herself, but she did not generate a report for
9 me.

10 Q Was that at your request or her assistance or what
11 was the reason for no evaluation being generated?

12 A Kind of more of, I guess, a mutual understanding.
13 Because what she generated would not have been
14 helpful for me. Had we gone to trial, I would not
15 want, quite frankly, the State to have a
16 opportunity to have something in writing that not
17 only didn't bolster my defense but totally
18 undermined it from my own expert.

19 Q Did Dr. Salas ever talk to Ms. Barr?

20 A I honestly do not recall.

21 Q What reports did Dr. Salas receive from you?

22 A From me?

23 Q From you.

24 A She got the competency evaluation. Then she has
25 done this before -- I think she contacted somebody

1 that she knows there to review the records that
2 they reviewed.

3 Again, like I said, I can't remember if I sent
4 her a HIPAA form. I seem to recall, quite
5 frankly -- and maybe y'all have suggested it to my
6 memory -- I got Ms. Barr to sign a HIPAA form, but
7 I can't tell you 100 percent that I recall that.

8 Q Why not have Dr. Salas meet with Ms. Barr for a
9 second opinion as to her competency to stand trial?

10 A I think she did that also. I really don't recall
11 what Dr. Salas did because I don't have a written
12 report to remind me. I don't know what she did or
13 don't remember what she did.

14 Q Are you aware of any written report that Dr. Salas
15 issued?

16 A No, she did not issue a written report.

17 Q So we are sure that she didn't issue a written
18 report?

19 A Yes.

20 Q Her evaluation of the -- I guess of the evaluation
21 by the Department of Mental Health would be sort of
22 a correct way to put it then?

23 A Well, like I said, to make sure she agreed with the
24 competency determination and then further to
25 determine whether or not there was criminal

1 responsibility, to do both aspects. I only
2 requested that the State do one.

3 Q Would you agree with me that there was prior mental
4 health inpatient or outpatient treatment received
5 by Yanisha Barr prior to July of 2013?

6 A According to her. I can't say she brought me
7 records or that I recall seeing any, but according
8 to her there were.

9 Q And this evaluation from the Department of Mental
10 Health is incorrect because it indicates she didn't
11 have any prior treatment; is that correct?

12 A It said prior inpatient. It says she has been seen
13 on an outpatient basis.

14 Q All right.

15 A But, yeah, I mean, if she was seen inpatient, they
16 were mistaken in believing that she didn't. I
17 would assume -- and I guess I shouldn't do that --
18 but that they asked her about that as well.

19 Q Thank you.

20 MR. DOBY: That's all I have from this
21 witness, Your Honor.

22 THE COURT: Ms. Coleman?

23 MS. COLEMAN: Nothing further.

24 THE COURT: Sir, you may step down.

25 THE WITNESS: Thank you, Your Honor.

1 (The witness leaves the witness stand.)

2 MS. COLEMAN: And that's the State's case.

3 THE COURT: Anything by way of argument?

4 MR. DOBY: Nothing, Your Honor. I think the
5 issues are very clear for the Court to decide in this
6 case.

7 THE COURT: I will take a look at it and let
8 you all know.

9 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Third Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal, in the Civil Court for Lee County, South Carolina, on the 28th day of March, 2017.

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

July 18, 2017

s/L. Coconut Pantsari

Court Reporter

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STATE OF SOUTH CAROLINA)
COUNTY OF LEE)
Yanisha C. Barr, #361645,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

2015-CP-31-231

RECEIVED
JUN 06 2017

ORDER OF DISMISSAL SUPREME COURT

RECEIVED
JUN 02 2017

SC Court of Appeals

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on October 8, 2015. Respondent made its Return on December 18, 2015. An evidentiary hearing was convened on March 28, 2017, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by S. Bryan Doby, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

Applicant testified on her own behalf at the evidentiary hearing. Applicant's plea counsel, Scott Robinson, Esquire ("Plea Counsel") also testified. The Court had before it a copy of the guilty plea transcript, the records of the Lee County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, and the pleadings. The Court finds as follows:

I. PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lee County Clerk of Court. Applicant was true bill indicted at the June 2014 term of the Lee County Grand Jury for murder (2014-GS-31-0066). Scott Robinson, Esquire represented Applicant. On October 9,

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2014, Applicant pled guilty to the lesser included offense of voluntary manslaughter before the Honorable Clifton Newman. Judge Newman sentenced Applicant to a thirty year term of imprisonment for voluntary manslaughter. Applicant did not appeal her guilty plea or sentence.

II. ALLEGATIONS

In her current application, Applicant alleges that she is being held in custody unlawfully based on the following allegations:

- 1. Ineffective assistance of counsel
 - a. "failure to bring forth severe abuse."
- 2. Involuntary guilty plea
 - a. "lawyer failed to explain plea and its consequences of plea."

III. APPLICABLE LAW

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness

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under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty pleas, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

V. SUMMARY OF RELEVANT TESTIMONY

Applicant testified that she met with Plea Counsel one time at the Clarendon County Courthouse and they talked for an hour. She stated that she was evaluated for mental competency, and she discussed her mental health with Plea Counsel, including her hospital visits and the medications she was taking. She stated that she had been to the hospital more than twenty times before the crime occurred, but she does not recall telling Plea Counsel exactly how many times she had been to the hospital. She testified that she did not recall reviewing discovery with Plea Counsel.

Applicant testified that, at the time she pled guilty, she thought it was in her best interest because Plea Counsel told her she probably would not get a thirty year sentence. She stated that if she had been convicted at trial, she would have gotten a life sentence, and she understood this a little bit. Applicant testified that she told Plea Counsel about the history of abuse between her and the victim, including three occasions before the murder when he put his hands on her and hit her. She stated that on the night of the crime, she went over to his house for no particular reason; he did not ask her to come over, but she was his neighbor and she often visited him. She stated that he would sometimes pay her money to dance for him, and the night of the murder, he asked

her to do something that she did not want to do. She stated that he called her names and told her that he would kill her, but she was not afraid of him when he told her he would kill her. She stated that she was afraid of him when he stood up at one point, but he did not hit her and he did not have any weapons. She stated that she did not discuss a self-defense strategy for trial with Plea Counsel, but she wanted him to bring up her medical history to the judge at the plea.

Plea Counsel testified that he met with Applicant five or six times before the guilty plea. Regarding the facts of the case, he stated that Applicant and the victim were eating dinner, he asked her to dance for him, she refused and he got belligerent, and Applicant then stabbed the victim 96 times with a steak knife and a meat fork. Plea Counsel testified that Applicant later wrote a letter to her parents to explain what happened, because she wanted to tell her story. He stated that Applicant had an abusive background and mental health problems. He stated that he had Applicant evaluated for mental competency twice, once by the State and once by an independent evaluator, and both evaluations found her mentally competent. He stated that the second evaluator never generated a written report at his instruction because it was not helpful and the State could use it against her at trial.

Plea Counsel testified that a self-defense strategy would be difficult to argue at trial, even based on the testimony she presented at the evidentiary hearing. He stated that there was quite a bit of damaging evidence against her, including the victim's blood that was found on her porch and door, his dried blood in her ear, his keys under her bed, and her DNA on a cigarette butt at his house. Plea Counsel testified that Applicant never told him that the victim threatened to kill her on the night of the murder, but if she had he would have investigated it. Plea Counsel testified that he explained all of Applicant's constitutional rights prior to the guilty plea a few times, and she understood everything. He stated that Applicant did not indicate that she wanted

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to go to trial, but she was insistent on apologizing to the victim's family and explaining what happened.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant has asserted an allegation of ineffective assistance of counsel. This Court finds this claim to be meritless and it should be denied and dismissed with prejudice. This Court finds that Plea Counsel's representation did not fall below the standards of professional norms in any manner. He met with Applicant at least five times, communicated properly with her and reviewed all discovery materials with her. Based on this testimony and the record before the court, this Court finds that Plea Counsel's representation was not ineffective in any regard.

Plea Counsel credibly testified that Applicant never told him that the victim threatened to kill her on the night of the murder. He clearly offered Applicant's abusive history to the plea judge as mitigation, and he credibly testified that a self-defense argument likely would not have been successful at trial. He testified that Applicant understood what was happening at all times, and it was Applicant's decision to plead guilty. Plea Counsel explained Applicant's constitutional rights and the possible outcomes of sentencing. It is clear that Plea Counsel was well within the professional standards of representation in this case. Plea Counsel was not

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deficient in any regard, and there was no prejudice to Applicant from any of Plea Counsel's actions or inactions. Therefore, this allegation is denied and dismissed with prejudice.

INVOLUNTARY GUILTY PLEA

Applicant argues her plea was not given freely and voluntarily. This Court finds otherwise and concludes that Applicant's plea was entered freely and voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). 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 court and defendant, between 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)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

This Court finds that the record reflects that Applicant was fully advised of the rights she was giving up by pleading guilty. Applicant presented no credible evidence as to why she should be able to depart from her statements at the plea hearing. This Court finds very credible Plea Counsel's testimony that he advised Applicant of all facts and risks of pleading guilty.

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The record reflects Applicant fully admitted her guilt to the plea court. "A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). Notably the South Carolina Supreme Court has held "[a] guilty plea represents a break in the chain of events which has preceded it in the criminal process." Id. (citations omitted). "When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." Id. (citing Rice, 401 S.C. at 332, 737 S.E.2d at 486). Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made. Accordingly, this allegation must be denied and dismissed with prejudice.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

VII. CONCLUSION

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

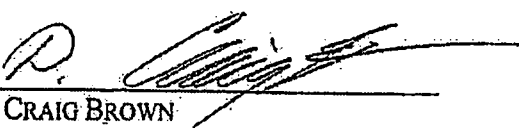
DCB
9/16
P

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel 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 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 2 day of May, 2017.



 D. CRAIG BROWN
 Presiding Judge
 Third Judicial Circuit

Florence, South Carolina

PCB
P-878

The South Carolina Court of Appeals

Yanisha C. Barr, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2017-001264

ORDER

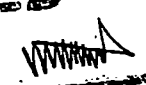
This case is transferred to the Supreme Court of South Carolina pursuant to Rule 204(a) of the South Carolina Appellate Court Rules.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:
Stephen Bryan Doby, Esquire
Julie Amanda Coleman, Esquire
The Honorable Daniel E. Shearouse

FILED
6/5/17 

WITNESSES

Russell Richardson Bishopville Police Dept.
J. D. Dellinger Lee County Sheriff's Office

DOCKET NO. 2014-GS-31-0066

The State of South Carolina

County of LEE

COURT OF GENERAL SESSIONS

June TERM 2014

THE STATE

vs.

YANISHA CATILIA BARR

ARREST WARRANT NUMBER

2013A3110100323

Indictment for

Murder / Murder

ACTION OF GRAND JURY

true bill

[Signature]

Foreperson of Grand Jury

Date: *6-12-14*

VERDICT

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)

INDICTMENT FOR

Murder / Murder

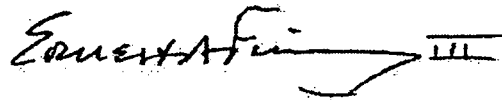
At a Court of General Sessions, convened on June 12, 2014 the Grand Jurors of Lee County present upon their oath:

COUNT ONE
MURDER

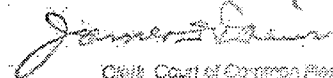
That Yanisha Catilia Barr, did in Lee County, on or about between July 20, 2013, and July 22, 2013, willfully, feloniously, and intentionally kill George W. Hardoman with malice aforethought, by means of stabbing George W. Hardoman multiple times, such multiple stabbings being the proximate cause of the death of George W. Hardoman, in violation of Section 16-03-0010, 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.

Solicitor



Certified as a True Copy



Clerk, Court of Common Pleas
and General Sessions, Lee
County, South Carolina